

HOUSE BILL No. 2414

By Committee on Appropriations

2-25

AN ACT concerning alcohol gallonage taxation; increasing the rate imposed thereon; amending K.S.A. 2002 Supp. 41-501 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2002 Supp. 41-501 is hereby amended to read as follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and amendments thereto:

(1) "Gallon" means wine gallon.

(2) "Federal area" means any lands or premises which are located within the exterior boundaries of this state and which are held or acquired by or for the use of the United States or any department, establishment or agency of the United States.

(3) "Malt product" means malt syrup, malt extract, liquid malt or wort.

(b) (1) For the purpose of raising revenue a tax is imposed upon the manufacturing, using, selling, storing or purchasing alcoholic liquor, cereal malt beverage or malt products in this state or a federal area at a rate of ~~\$.18~~ \$.20 per gallon on beer and cereal malt beverage; ~~\$.20~~ \$.22 per gallon on all wort or liquid malt; ~~\$.10~~ \$.11 per pound on all malt syrup or malt extract; ~~\$.30~~ \$.33 per gallon on wine containing 14% or less alcohol by volume; \$.75 per gallon on wine containing more than 14% alcohol by volume; and ~~\$2.50~~ \$2.77 per gallon on alcohol and spirits.

(2) The tax imposed by this section shall be paid only once and shall be paid by the person in this state or federal area who first manufactures, uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt beverage. The tax shall be collected and paid to the director as provided in this act. If the alcoholic liquor or cereal malt beverage is manufactured and sold in this state or a federal area, the tax shall be paid by the manufacturer, microbrewery or farm winery producing it. If the alcoholic liquor or cereal malt beverage is imported into this state by a distributor for the purpose of sale at wholesale in this state or a federal area, the tax shall be paid by the distributor, and in no event shall such tax be paid by the manufacturer unless the alcoholic liquor or cereal malt beverage is manufactured in this state. If not to exceed one gallon, or metric equiv-

1 alant, per person of alcoholic liquor has been purchased by a private
2 citizen outside the borders of the United States and is brought into this
3 state by the private citizen in such person's personal possession for such
4 person's own personal use and not for sale or resale, such import is lawful
5 and no tax payment shall be due thereon.

6 (c) Manufacturers, microbreweries, farm wineries or distributors at
7 wholesale of alcoholic liquor or cereal malt beverage shall be exempt from
8 the payment of the gallonage tax imposed on alcoholic liquor and cereal
9 malt beverage, upon satisfactory proof, including bills of lading furnished
10 to the director by affidavit or otherwise as the director requires, that the
11 liquor or cereal malt beverage was manufactured in this state but was
12 shipped out of the state for sale and consumption outside the state.

13 (d) Wines manufactured or imported solely and exclusively for sac-
14 ramental purposes and uses shall not be subject to the tax provided for
15 by this section.

16 (e) The tax provided for by this section is not imposed upon:

17 (1) Any alcohol or wine, whether manufactured in or imported into
18 this state, when sold to a nonbeverage user licensed by the state, for use
19 in the manufacture of any of the following when they are unfit for bev-
20 erage purposes: Patent and proprietary medicines and medicinal, anti-
21 septic and toilet preparations; flavoring extracts and syrups and food prod-
22 ucts; scientific, industrial and chemical products; or scientific, chemical,
23 experimental or mechanical purposes; or

24 (2) the privilege of engaging in any business of interstate commerce
25 or otherwise, which business may not be made the subject of taxation by
26 this state under the constitution and statutes of the United States.

27 (f) The tax imposed by this section shall be in addition to all other
28 taxes imposed by the state of Kansas or by any municipal corporation or
29 political subdivision thereof.

30 (g) Retail sales of alcoholic liquor, sales of beer to consumers by mi-
31 crobreweries and sales of wine to consumers by farm wineries shall not
32 be subject to the tax imposed by the Kansas retailers' sales tax act but
33 shall be subject to the enforcement tax provided for in this act.

34 (h) Notwithstanding any ordinance to the contrary, no city shall im-
35 pose an occupation or privilege tax on the business of any person, firm
36 or corporation licensed as a manufacturer, distributor, microbrewery,
37 farm winery, retailer or nonbeverage user under this act and doing busi-
38 ness within the boundaries of the city except as specifically authorized by
39 K.S.A. 41-310, and amendments thereto.

40 (i) The director shall collect the taxes imposed by this section and
41 shall account for and remit all moneys collected from the tax to the state
42 treasurer in accordance with the provisions of K.S.A. 75-4215, and
43 amendments thereto. Upon receipt of each such remittance, the state

1 treasurer shall deposit the entire amount in the state treasury and the
2 state treasurer shall credit ~~1/10 of~~ the moneys collected from taxes im-
3 posed upon alcohol and spirits under subsection (b)(1) ~~to the community~~
4 ~~alcoholism and intoxication programs fund created by K.S.A. 41-1126,~~
5 ~~and amendments thereto, and shall credit the balance of the moneys~~
6 ~~collected to the state general fund. as follows: (1) A sum equal to 10% of~~
7 ~~the moneys collected from taxes imposed upon beer and cereal malt bev-~~
8 ~~erage to the alcoholic beverage control special revenue fund and the bal-~~
9 ~~ance of such moneys collected shall be credited to the state general fund:~~
10 ~~(2) A sum equal to 9.09% of the moneys collected from taxes imposed~~
11 ~~upon all wort or liquid malt to the alcoholic beverage control special~~
12 ~~revenue fund and the balance of such moneys collected shall be credited~~
13 ~~to the state general fund: (3) A sum equal to 10% of the moneys collected~~
14 ~~from taxes imposed on malt syrup or malt extract and the balance of such~~
15 ~~moneys collected shall be credited to the alcoholic beverage control special~~
16 ~~revenue fund to the state general fund: (4) A sum equal to 10% of the~~
17 ~~moneys collected from taxes imposed upon wine containing 14% or less~~
18 ~~alcohol by volume to the alcoholic beverage control special revenue fund~~
19 ~~and the balance of such moneys collected to the state general fund: (5)~~
20 ~~100% of the moneys collected from taxes imposed upon wine containing~~
21 ~~more than 14% alcohol by volume to the state general fund: (6) A sum~~
22 ~~equal to 9.025% of moneys collected from taxes imposed on alcohol and~~
23 ~~spirits to the community alcoholism and intoxication programs fund cre-~~
24 ~~ated by K.S.A. 41-1126, and amendments thereto, a sum equal to 9.747%~~
25 ~~to the alcoholic beverage control fund, and the balance of such moneys~~
26 ~~collected shall be credited to the state general fund.~~

27 (j) If any alcoholic liquor manufactured in or imported into this state
28 is sold to a licensed manufacturer or distributor of this state to be used
29 solely as an ingredient in the manufacture of any beverage for human
30 consumption, the tax imposed upon the manufacturer or distributor shall
31 be reduced by the amount of the taxes which have been paid under this
32 section as to the alcoholic liquor so used.

33 (k) The tax provided for by this section is not imposed upon alcohol
34 or wine used by any school or college for scientific, chemical, experimen-
35 tal or mechanical purposes or by hospitals, sanatoria or other institutions
36 caring for the sick. Any school, college, hospital, sanatorium or other
37 institution caring for the sick may import alcohol or wine for scientific,
38 chemical, experimental, mechanical or medicinal purposes by making ap-
39 plication to the director for a permit to import it and receiving such a
40 permit. Application for the permit shall be on a form prescribed and
41 furnished by the director, and a separate permit shall be required for
42 each purchase of alcohol or wine. A fee of \$2 shall accompany each ap-
43 plication. All permits shall be issued in triplicate to the applicant and shall

1 be under the seal of the office of the director. Two copies of the permit
2 shall be forwarded by the applicant to the microbrewery, farm winery,
3 manufacturer or distributor from which the alcohol or wine is purchased,
4 and the microbrewery, farm winery, manufacturer or distributor shall
5 return to the office of the director one copy of the permit with its shipping
6 affidavit and invoice. Within 10 days after receipt of any alcohol or wine,
7 the school, college, hospital or sanatorium ordering it shall file a report
8 in the office of the director upon forms furnished by the director, showing
9 the amount of alcohol or wine received, the place where it is to be stored,
10 from whom it was received, the purpose for which it is to be used and
11 such other information as required by the director. Any school, college,
12 hospital, sanatorium or institution caring for the sick, which complies with
13 the provisions of this subsection, shall not be required to have any other
14 license to purchase alcohol or wine from a microbrewery, farm winery,
15 manufacturer or distributor.

16 New Sec. 2. On July 1, 2003, a tax at the rate of \$.02 per gallon on
17 all beer and cereal malt beverage, \$.03 per gallon for wine containing
18 14% or less of alcohol by volume, \$.27 per gallon on alcohol and spirits,
19 \$.02 per gallon on wort and liquid malt and \$.01 per pound of malt syrup
20 and malt extract, is hereby imposed on the manufacture, use, sale storage
21 or purchase of such alcoholic liquors owned at 12:01 a.m. on July 1, 2003,
22 by a licensed distributor or retail dealer as to which the tax has been
23 imposed as provided in K.S.A. 41-501, and amendments thereto. Such
24 tax shall be paid by the licensed distributor or retail dealer owning such
25 alcoholic liquors, cereal malt beverage or beer at such time and date. On
26 or before June 25, 2003, every such distributor and retail dealer shall
27 make a report to the director on a form prescribed and furnished by the
28 director showing the total number of gallons of such alcoholic liquors,
29 cereal malt beverage or beer so owned at 12:01 a.m. on July 2, 2003, and
30 such report shall be accompanied by a remittance of the tax due.

31 The license of any licensed distributor or retail dealer who shall fail to
32 make such report or pay such tax, within the time prescribed, shall be
33 subject to suspension or revocation as provided by K.S.A. 41-320, and
34 amendments thereto. All taxes collected by the director under this section
35 shall be paid into the state treasury and the state treasurer shall credit
36 the same as prescribed by subsection (i) of K.S.A 41-501, and amend-
37 ments thereto.

38 New Sec. 3. (a) There is hereby established in the state treasury the
39 alcoholic beverage control special revenue fund which shall be adminis-
40 tered by the secretary of revenue.

41 (b) All money credited to the alcoholic beverage control special rev-
42 enue fund shall be used to pay for enforcement and administrative activ-
43 ities of the division of alcoholic beverage control of the department of

1 revenue. All expenditures from the alcoholic beverage control special rev-
2 enue fund shall be made in accordance with appropriation acts upon
3 warrants of the director of accounts and reports issued pursuant to vouch-
4 ers approved by the secretary of revenue or the secretary's designee.

5 Sec. 4. K.S.A. 2002 Supp. 41-501 is hereby repealed.

6 Sec. 5. This act shall take effect and be in force from and after its
7 publication in the statute book.

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