

## HOUSE BILL No. 2786

By Representative Campbell

2-10

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AN ACT concerning taxation; relating to alcoholic beverages; amending K.S.A. 79-4101 and 79-41a02 and K.S.A. 2003 Supp. 41-501 and repealing the existing sections.

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

Section 1. K.S.A. 2003 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~~ \$.25 per gallon on beer and cereal malt beverage; ~~\$.20~~ \$.26 per gallon on all wort or liquid malt; ~~\$.10~~ \$.13 per pound on all malt syrup or malt extract; ~~\$.30~~ \$.40 per gallon on wine containing 14% or less alcohol by volume; ~~\$.75~~ \$1.00 per gallon on wine containing more than 14% alcohol by volume; and ~~\$2.50~~ \$3.50 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   alent, 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 ~~440~~ 7.14% of the moneys collected from taxes  
3 imposed upon alcohol and spirits under subsection (b)(1) to the com-  
4 munity alcoholism and intoxication programs fund created by K.S.A. 41-  
5 1126, and amendments thereto, and shall credit the balance of the mon-  
6 eys collected to the state general fund.

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

13 (k) The tax provided for by this section is not imposed upon alcohol  
14 or wine used by any school or college for scientific, chemical, experimen-  
15 tal or mechanical purposes or by hospitals, sanatoria or other institutions  
16 caring for the sick. Any school, college, hospital, sanatorium or other  
17 institution caring for the sick may import alcohol or wine for scientific,  
18 chemical, experimental, mechanical or medicinal purposes by making ap-  
19 plication to the director for a permit to import it and receiving such a  
20 permit. Application for the permit shall be on a form prescribed and  
21 furnished by the director, and a separate permit shall be required for  
22 each purchase of alcohol or wine. A fee of \$2 shall accompany each ap-  
23 plication. All permits shall be issued in triplicate to the applicant and shall  
24 be under the seal of the office of the director. Two copies of the permit  
25 shall be forwarded by the applicant to the microbrewery, farm winery,  
26 manufacturer or distributor from which the alcohol or wine is purchased,  
27 and the microbrewery, farm winery, manufacturer or distributor shall  
28 return to the office of the director one copy of the permit with its shipping  
29 affidavit and invoice. Within 10 days after receipt of any alcohol or wine,  
30 the school, college, hospital or sanatorium ordering it shall file a report  
31 in the office of the director upon forms furnished by the director, showing  
32 the amount of alcohol or wine received, the place where it is to be stored,  
33 from whom it was received, the purpose for which it is to be used and  
34 such other information as required by the director. Any school, college,  
35 hospital, sanatorium or institution caring for the sick, which complies with  
36 the provisions of this subsection, shall not be required to have any other  
37 license to purchase alcohol or wine from a microbrewery, farm winery,  
38 manufacturer or distributor.

39 Sec. 2. K.S.A. 79-4101 is hereby amended to read as follows: 79-  
40 4101. (a) For the purpose of providing revenue which may be used by  
41 the state, counties and cities in the enforcement of the provisions of this  
42 act, from and after the effective date of this act, for the privilege of en-  
43 gaging in the business of selling alcoholic liquor by retailers or farm win-

1 eries to consumers in this state or selling alcoholic liquor or cereal malt  
2 beverage by distributors to clubs, drinking establishments or caterers in  
3 this state, there is hereby levied and there shall be collected and paid a  
4 tax at the rate of ~~8%~~ 15% upon the gross receipts received from: (1) The  
5 sale of alcoholic liquor by retailers, microbreweries or farm wineries to  
6 consumers within this state; and (2) the sale of alcoholic liquor or cereal  
7 malt beverage by distributors to clubs, drinking establishments or caterers  
8 in this state.

9 (b) The tax imposed by this section shall be in addition to the license  
10 fee imposed on distributors, retailers, microbreweries and farm wineries  
11 by K.S.A. 41-310 and amendments thereto.

12 Sec. 3. K.S.A. 79-41a02 is hereby amended to read as follows: 79-  
13 41a02. (a) There is hereby imposed, for the privilege of selling alcoholic  
14 liquor, a tax at the rate of ~~10%~~ 15% upon the gross receipts derived from  
15 the sale of alcoholic liquor by any club, caterer, drinking establishment  
16 or temporary permit holder.

17 (b) The tax imposed by this section shall be paid by the consumer to  
18 the club, caterer, drinking establishment or temporary permit holder and  
19 it shall be the duty of each and every club, caterer, drinking establishment  
20 or temporary permit holder subject to this section to collect from the  
21 consumer the full amount of such tax, or an amount equal as nearly as  
22 possible or practicable to the average equivalent thereto. Each club, caterer,  
23 drinking establishment or temporary permit holder collecting the  
24 tax imposed hereunder shall be responsible for paying over the same to  
25 the state department of revenue in the manner prescribed by K.S.A. 79-  
26 41a03 and amendments thereto and the state department of revenue shall  
27 administer and enforce the collection of such tax.

28 New Sec. 4. On July 1, 2004, a tax at the rate of \$.07 per gallon on  
29 all beer and cereal malt beverage, \$.10 per gallon for wine containing  
30 14% or less of alcohol by volume, \$.25 per gallon for wine containing  
31 more than 14% alcohol by volume, \$1.00 per gallon on alcohol and spirits,  
32 \$.06 per gallon on wort and liquid malt and \$.03 per pound on malt syrup  
33 and malt extract, is hereby imposed on the manufacture, use, sale, storage  
34 or purchase of such alcoholic liquors owned at 12:01 a.m. on July 1, 2004,  
35 by a licensed distributor or retail dealer as to which the tax has been  
36 imposed as provided in K.S.A. 41-501, and amendments thereto. Such  
37 tax shall be paid by the licensed distributor or retail dealer owning such  
38 alcoholic liquors, cereal malt beverage or beer at such time and date. On  
39 or before June 25, 2004, every such distributor and retail dealer shall  
40 make a report to the director on a form prescribed and furnished by the  
41 director showing the total number of gallons of such alcoholic liquors,  
42 cereal malt beverage or beer so owned at 12:01 a.m. on July 2, 2004, and  
43 such report shall be accompanied by a remittance of the tax due. The

1 license of any licensed distributor or retail dealer who fails to make such  
2 report or pay such tax, within the time prescribed, shall be subject to  
3 suspension or revocation as provided by K.S.A. 41-320, and amendments  
4 thereto. All taxes collected by the director under this section shall be paid  
5 into the state treasury and the state treasurer shall credit the same to the  
6 state general fund.

7 Sec. 5. K.S.A. 79-4101 and 79-41a02 and K.S.A. 2003 Supp. 41-501  
8 are hereby repealed.

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

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