

## HOUSE Substitute FOR SENATE BILL No. 295

By Committee on Federal and State Affairs

3-22

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9 AN ACT concerning alcoholic beverages; relating to the regulation  
10 thereof; amending K.S.A. 41-208, 41-301, 41-302, 41-303, 41-710, 41-  
11 712, 41-714 and 41-2704 and K.S.A. 2003 Supp. 19-101a, 41-347 and  
12 41-719 and repealing the existing sections; also repealing K.S.A. 41-  
13 1111, 41-1112, 41-1114 through 41-1121.

14

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

16 Section 1. K.S.A. 2003 Supp. 19-101a is hereby amended to read as  
17 follows: 19-101a. (a) The board of county commissioners may transact all  
18 county business and perform all powers of local legislation and adminis-  
19 tration it deems appropriate, subject only to the following limitations,  
20 restrictions or prohibitions:

21 (1) Counties shall be subject to all acts of the legislature which apply  
22 uniformly to all counties.

23 (2) Counties may not consolidate or alter county boundaries.

24 (3) Counties may not affect the courts located therein.

25 (4) Counties shall be subject to acts of the legislature prescribing  
26 limits of indebtedness.

27 (5) In the exercise of powers of local legislation and administration  
28 authorized under provisions of this section, the home rule power con-  
29 ferred on cities to determine their local affairs and government shall not  
30 be superseded or impaired without the consent of the governing body of  
31 each city within a county which may be affected.

32 (6) Counties may not legislate on social welfare administered under  
33 state law enacted pursuant to or in conformity with public law No. 271—  
34 74th congress, or amendments thereof.

35 (7) Counties shall be subject to all acts of the legislature concerning  
36 elections, election commissioners and officers and their duties as such  
37 officers and the election of county officers.

38 (8) Counties shall be subject to the limitations and prohibitions im-  
39 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,  
40 prescribing limitations upon the levy of retailers' sales taxes by counties.

41 (9) Counties may not exempt from or effect changes in statutes made  
42 nonuniform in application solely by reason of authorizing exceptions for  
43 counties having adopted a charter for county government.

1 (10) No county may levy ad valorem taxes under the authority of this  
2 section upon real property located within any redevelopment project area  
3 established under the authority of K.S.A. 12-1772, and amendments  
4 thereto, unless the resolution authorizing the same specifically authorized  
5 a portion of the proceeds of such levy to be used to pay the principal of  
6 and interest upon bonds issued by a city under the authority of K.S.A.  
7 12-1774, and amendments thereto.

8 (11) Counties shall have no power under this section to exempt from  
9 any statute authorizing or requiring the levy of taxes and providing sub-  
10 stitute and additional provisions on the same subject, unless the resolution  
11 authorizing the same specifically provides for a portion of the proceeds  
12 of such levy to be used to pay a portion of the principal and interest on  
13 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
14 ments thereto.

15 (12) Counties may not exempt from or effect changes in the provi-  
16 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

17 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101  
18 through 12-1,109, and amendments thereto, counties may not levy and  
19 collect taxes on incomes from whatever source derived.

20 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
21 430, and amendments thereto.

22 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
23 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

24 (16) (A) Counties may not exempt from or effect changes in K.S.A.  
25 13-13a26, and amendments thereto.

26 (B) This provision shall expire on June 30, 2005.

27 (17) (A) Counties may not exempt from or effect changes in K.S.A.  
28 71-301a, and amendments thereto.

29 (B) This provision shall expire on June 30, 2005.

30 (18) Counties may not exempt from or effect changes in K.S.A. 19-  
31 15,139, 19-15,140 and 19-15,141, and amendments thereto.

32 (19) Counties may not exempt from or effect changes in the provi-  
33 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
34 1226, and amendments thereto, or the provisions of K.S.A. 12-1260  
35 through 12-1270 and 12-1276, and amendments thereto.

36 (20) Counties may not exempt from or effect changes in the provi-  
37 sions of K.S.A. 19-211, and amendments thereto.

38 (21) Counties may not exempt from or effect changes in the provi-  
39 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

40 (22) Counties may not regulate the production or drilling of any oil  
41 or gas well in any manner which would result in the duplication of reg-  
42 ulation by the state corporation commission and the Kansas department  
43 of health and environment pursuant to chapter 55 and chapter 65 of the

1 Kansas Statutes Annotated and any rules and regulations adopted pur-  
2 suant thereto. Counties may not require any license or permit for the  
3 drilling or production of oil and gas wells. Counties may not impose any  
4 fee or charge for the drilling or production of any oil or gas well.

5 (23) Counties may not exempt from or effect changes in K.S.A. 79-  
6 41a04, and amendments thereto.

7 (24) Counties may not exempt from or effect changes in K.S.A. 79-  
8 1611, and amendments thereto.

9 (25) Counties may not exempt from or effect changes in K.S.A. 79-  
10 1494, and amendments thereto.

11 (26) Counties may not exempt from or effect changes in subsection  
12 (b) of K.S.A. 19-202, and amendments thereto.

13 (27) Counties may not exempt from or effect changes in subsection  
14 (b) of K.S.A. 19-204, and amendments thereto.

15 (28) Counties may not levy or impose an excise, severance or any  
16 other tax in the nature of an excise tax upon the physical severance and  
17 production of any mineral or other material from the earth or water.

18 (29) Counties may not exempt from or effect changes in K.S.A. 79-  
19 2017 or 79-2101, and amendments thereto.

20 (30) Counties may not exempt from or effect changes in K.S.A. 2-  
21 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d; or  
22 65-1,178 through 65-1,199 or ~~K.S.A. 2003 Supp. 17-5909~~, and amend-  
23 ments thereto.

24 (31) Counties may not exempt from or effect changes in K.S.A. 2003  
25 Supp. 80-121, and amendments thereto.

26 (32) Counties may not exempt from or effect changes in K.S.A. 19-  
27 228, and amendments thereto.

28 (33) (A) *Counties may not exempt from or effect changes in the Kan-*  
29 *sas liquor control act, except as provided by paragraph (B).*

30 (B) *Counties may adopt resolutions which are not in conflict with or*  
31 *contrary to the Kansas liquor control act.*

32 (34) (A) *Counties may not exempt from or effect changes in the Kan-*  
33 *sas cereal malt beverage act, except as provided by paragraph (B).*

34 (B) *Counties may adopt resolutions which do not conflict with or are*  
35 *more restrictive than or supplemental to the Kansas cereal malt beverage*  
36 *act.*

37 (b) Counties shall apply the powers of local legislation granted in  
38 subsection (a) by resolution of the board of county commissioners. If no  
39 statutory authority exists for such local legislation other than that set forth  
40 in subsection (a) and the local legislation proposed under the authority  
41 of such subsection is not contrary to any act of the legislature, such local  
42 legislation shall become effective upon passage of a resolution of the  
43 board and publication in the official county newspaper. If the legislation

1 proposed by the board under authority of subsection (a) is contrary to an  
2 act of the legislature which is applicable to the particular county but not  
3 uniformly applicable to all counties, such legislation shall become effective  
4 by passage of a charter resolution in the manner provided in K.S.A.  
5 19-101b, and amendments thereto.

6 (c) Any resolution adopted by a county which conflicts with the re-  
7 strictions in subsection (a) is null and void.

8 Sec. 2. K.S.A. 41-208 is hereby amended to read as follows: 41-208.

9 *(a) Except as specifically provided in the Kansas liquor control act, the*  
10 *power to regulate all phases of the control of the manufacture, distribu-*  
11 *tion, sale, possession, transportation and traffic in alcoholic liquor and the*  
12 *manufacture of beer regardless of its alcoholic content, except as specif-*  
13 *ically delegated in this act, is hereby is vested exclusively in the state and*  
14 *shall be exercised as provided in this act. No city shall enact any ordinance*  
15 *in conflict with or contrary to the provisions of this act and any ordinance*  
16 *of any city in effect at the time this act takes effect or thereafter enacted*  
17 *which is in conflict with or contrary to the provisions of this the Kansas*  
18 *liquor control act. Any ordinance or resolution enacted by a city or county*  
19 *which is in conflict with or contrary to the provisions of the Kansas liquor*  
20 *control act shall be null and void.*

21 *(b) Nothing contained in this section shall be construed as preventing*  
22 *any city from enacting ordinances declaring acts prohibited or made un-*  
23 *lawful by this act as unlawful or prohibited in such city and prescribing*  
24 *penalties for violation thereof, but the minimum penalty in any such or-*  
25 *dinance shall not exceed be less than the minimum penalty prescribed by*  
26 *this act for the same violation, nor shall the maximum penalty in any such*  
27 *ordinance exceed the maximum penalty prescribed by this act for the*  
28 *same violation.*

29 *(c) Nothing in this section shall be construed as prohibiting cities and*  
30 *counties from enacting ordinances and resolutions which are not in con-*  
31 *flict with or contrary to the Kansas liquor control act.*

32 *(d) The provisions of this act are severable. If any provision of this*  
33 *act is held to be invalid or unconstitutional, it shall be presumed conclu-*  
34 *sively that the legislature would have enacted the remainder of this act*  
35 *without such invalid or unconstitutional provision.*

36 Sec. 3. K.S.A. 41-301 is hereby amended to read as follows: 41-301.

37 *(a) Except as provided by subsection (b), the director shall issue to qual-*  
38 *ified applicants, who have filed the bond and paid the registration and*  
39 *license fees required by this act, licenses to sell at retail alcoholic liquor*  
40 *at retail in the original package at premises within the corporate limits of*  
41 *cities and outside the corporate limits of cities in certain townships as*  
42 *provided in this act. Provided, That no such retailer's license shall be*  
43 *issued for any premises within any city of the first or second class wherein*

1 a majority of the qualified electors of such city who voted on the propo-  
2 sition to amend section 10 of article 15 of the constitution of the state of  
3 Kansas at the general election held in November, 1948, shall have voted  
4 against the adoption of such proposition or in cities of the third class  
5 located in a township, or townships, wherein a majority of the qualified  
6 electors of such township, or townships, who voted on said proposition  
7 to amend the constitution at said election shall have voted against its  
8 adoption, until a majority of the qualified electors of such city voting at  
9 an election held as provided by K.S.A. 41-302, and amendments thereto,  
10 shall have declared by their votes to be in favor of the licensing of the  
11 sale of alcoholic liquor by the package in such city any city.

12 (b) No retailer's license shall be issued for premises within a city if  
13 the governing body of such city, within 90 days after the effective date of  
14 this act, adopts an ordinance prohibiting the licensing of the sale at retail  
15 of alcoholic liquor in the original package within such city. Upon adoption  
16 of such ordinance, the city clerk promptly shall transmit a copy of such  
17 ordinance to the director and the director shall refuse to issue licenses to  
18 sell at retail alcoholic liquor in the original package in such city. If the  
19 governing body adopts such an ordinance, the holder of any valid existing  
20 retailer's license for premises in such city shall have the right to continue  
21 to operate under such license for a period of 90 days after the effective  
22 date of the ordinance or until the expiration of such license, whichever  
23 period of time is shorter. If such period of time expires before the expi-  
24 ration of the term for which the retailer's license was issued, the licensee  
25 shall be entitled to a refund of the license fee for the unexpired portion of  
26 the license period which remains, in accordance with rules and regula-  
27 tions adopted by the secretary.

28 (c) No retailer's license shall be issued for premises within a city if,  
29 after the effective date of this act, a majority of the qualified voters of  
30 such city voting at an election held as provided by K.S.A. 41-302, and  
31 amendments thereto, votes against the licensing of the sale at retail of  
32 alcoholic liquor in the original package within such city unless, at a sub-  
33 sequent election, a majority of the qualified voters of such city voting at  
34 such election votes in favor of the licensing of the sale at retail of alcoholic  
35 liquor in the original package within such city.

36 Sec. 4. K.S.A. 41-302 is hereby amended to read as follows: 41-302.

37 (a) The question of licensing the ~~retail~~ sale at retail of alcoholic liquors  
38 ~~by the liquor in the original package~~ shall be submitted by the governing  
39 body of ~~any~~ a city at any regular general city election occurring in such  
40 city whenever a sufficient petition requesting such submission has been  
41 filed with the city clerk of ~~any~~ such city as ~~hereinafter~~ provided in this  
42 section. ~~In cities of the first and second class, any~~ Such petition shall be  
43 signed by ~~such number of electors~~ qualified voters of such city which

1 ~~equals equal in number to not less than 30%~~ or more of the total vote  
 2 cast in such city at the last general election for the office of secretary of  
 3 state. ~~In cities of the third class, any such petition shall be signed by such~~  
 4 ~~number of electors of such city which equals 40% or more of the total~~  
 5 ~~vote cast at the last general city election held in such city of the third class~~  
 6 ~~for candidates for the city office for which the greatest number of total~~  
 7 ~~votes were cast.~~ Each sheet of each petition shall comply with the provisions of K.S.A. 25-3601 through 25-3607, and amendments thereto. No signature on such petition shall be valid unless appended to the petition within the last 90 days prior to the date of filing the petition with the city clerk. Such petition shall be filed not less than 40 nor more than 60 days prior to the date of the election. After any such petition has been filed, no signature shall be withdrawn and no signature shall be added. ~~The governing body of the city shall have the power to determine the sufficiency of any such petition.~~

16 Any person who signs a ~~proposal or~~ petition authorized by this section and who knowingly is not a qualified elector ~~in the place where such proposal or petition is made~~ voter of the city where submission of the question is sought, or who aids or abets ~~any other persons in doing any of the acts mentioned~~ another in so doing, or any person who bribes, gives or pays any money or thing of value to any person directly or indirectly to induce such person to sign such ~~proposal or~~ petition shall be guilty of a misdemeanor ~~and~~. Upon conviction thereof, *such person* shall be punished by a fine of not more than \$300 or by imprisonment of not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

27 ~~(b) Upon the ballot the proposition shall be stated as follows:~~  
 28 ~~—“Shall the sale of alcoholic liquors by the package \_\_\_\_\_ YES~~   
 29 ~~be licensed in (here insert the name of the city)?” \_\_\_\_\_ NO~~   
 30 ~~—Voters desiring to vote in favor of the sale of alcoholic liquors by the~~  
 31 ~~package shall place a cross or check mark in the square opposite the word~~  
 32 ~~“Yes” and those desiring to vote against the sale of alcoholic liquor by the~~  
 33 ~~package shall place a cross or check mark in the square opposite the word~~  
 34 ~~“No.”~~

35 ~~—(c) (b) Upon the filing of a sufficient petition, the governing body~~  
 36 ~~shall call any an election required by this section and notice of such election~~  
 37 ~~shall be given in the manner provided by the general bond law. The~~  
 38 ~~provisions of the laws of this state relating to election officers, voting~~  
 39 ~~places, election places and blanks, preparation and form of ballots, information to voters, delivery of ballots, calling of elections, conduct of elections, manner of voting, counting of votes, records and certificates of election, and recounts of votes, so far as applicable, shall apply to voting~~  
 42 ~~on the proposition under the provisions of this act. Such election shall be~~

1 *called and held in the manner provided by law for question submitted*  
2 *elections.*

3 ~~(d) The majority of those voting on the proposition shall be manda-~~  
4 ~~tory upon the director insofar as licensing the sale of such liquors therein~~  
5 ~~by the package is concerned. In the absence of any vote on the question~~  
6 ~~of licensing the sale of such liquors in cities of the first and second class~~  
7 ~~wherein a majority of the qualified electors of such city who voted on the~~  
8 ~~proposition to amend section 10 of article 15 of the constitution of the~~  
9 ~~state of Kansas at the general election held in November, 1948, shall have~~  
10 ~~voted in favor of the adoption of such proposition and in cities of the~~  
11 ~~third class located in townships wherein a majority of the qualified elec-~~  
12 ~~tors voted in favor of such constitutional amendment and in the absence~~  
13 ~~of any further vote in cities of the first, second or third class in which a~~  
14 ~~majority of the qualified electors of such city shall have voted at any~~  
15 ~~special or general city election in favor of the licensing of the sale of~~  
16 ~~alcoholic liquor by the package, the director shall continue to issue li-~~  
17 ~~licenses to sell the same by the package therein for periods of one year,~~  
18 ~~subject to all the terms and conditions of this act~~

19 *(c) The governing body of the city shall transmit to the director a*  
20 *copy of the results of any election held pursuant to this section. The di-*  
21 *rector shall issue or refuse to issue licenses to sell at retail alcoholic liquor*  
22 *in the original package in such city in accordance with the results of such*  
23 *election.*

24 ~~(e) (d) If a majority of the electors voters voting at any such election~~  
25 ~~shall vote pursuant to this section votes against licensing the sale at retail~~  
26 ~~of alcoholic liquors by the in the original package, the holder of any valid~~  
27 ~~existing retailer's license for premises in such city shall have the right to~~  
28 ~~continue to operate under such license for a period not to exceed of 90~~  
29 ~~days after the result of such election is canvassed or until the expiration~~  
30 ~~of such license, whichever period of time is the shorter. If such period of~~  
31 ~~time expires before the expiration of the term for which the retailer's~~  
32 ~~license was issued, such the licensee shall be entitled to a refund of that~~  
33 ~~the license fee for the unexpired portion of the license period which is~~  
34 ~~unavailable to such licensee remains, in accordance with rules and reg-~~  
35 ~~ulations established adopted by the secretary of revenue.~~

36 ~~(f) For the purpose of determining as provided in K.S.A. 41-301, and~~  
37 ~~amendments thereto, and in this section whether a majority of the qual-~~  
38 ~~ified electors of a township in which a city of the third class is located~~  
39 ~~voted against the adoption of the liquor amendment at the general elec-~~  
40 ~~tion held in November, 1948, if any city of the third class is located in~~  
41 ~~two or more townships, the total vote for and against the amendment in~~  
42 ~~all the townships in which such city is located shall be used to determine~~  
43 ~~whether such city is located in a township in which a majority of the~~

1 ~~qualified electors voted against the amendment.~~  
2 Sec. 5. K.S.A. 41-303 is hereby amended to read as follows: 41-303.  
3 (a) The director may ~~license the sale of~~ *issue to qualified applicants li-*  
4 *licenses to sell at retail* alcoholic liquor ~~at retail~~ in the original package on  
5 premises not located in an incorporated city for use or consumption off  
6 the premises, if such premises are located in any township having a pop-  
7 ulation of more than 5,000. No such license shall be ~~granted~~ *issued* to  
8 any applicant unless the applicant possesses all the qualifications required  
9 of other applicants for retailers' licenses except the qualification of ~~resi-~~  
10 ~~dence residency~~ *residency* within a city. ~~In the event that~~ *If* any license has been  
11 issued under the provisions of this section in a township having a popu-  
12 lation of more than 5,000, and thereafter such township population de-  
13 creases or has decreased to 5,000 or less, such licenses shall continue to  
14 be valid and the licensees shall be eligible for renewal of such licenses at  
15 the appropriate time if they are otherwise qualified.

16 No such license shall be ~~granted~~ *issued* to any applicant under this  
17 section unless the board of county commissioners of the county in which  
18 ~~such township is the premises for which licensure is sought~~ *are* located  
19 adopts a resolution approving the issuance of such license. A certified  
20 copy of such resolution shall accompany the application for a license au-  
21 thorized by this section.

22 ~~In the event that any~~ (b) *If* a license has been issued under the pro-  
23 visions of this section ~~in a township having a population of more than~~  
24 ~~5,000~~, and thereafter the premises so licensed are annexed to a city  
25 wherein retail liquor licenses may be issued, such ~~licenses~~ *license* shall  
26 continue to be valid and ~~the licensees shall be eligible for renewal of such~~  
27 ~~licenses may be renewed~~ at the appropriate time even though the ~~licens-~~  
28 ~~ees shall~~ *licensee does* not reside in the ~~cities~~ *city* to which the ~~areas are~~  
29 ~~area is~~ annexed if the ~~licensees are otherwise~~ *licensee otherwise is* qual-  
30 ified and if ~~they reside~~ *the licensee resides* in the township in which the  
31 premises were ~~originally~~ located *prior to such annexation* or in the city  
32 to which the premises have been annexed.

33 Sec. 6. K.S.A. 2003 Supp. 41-347 is hereby amended to read as fol-  
34 lows: 41-347. (a) The director may issue, in accordance with rules and  
35 regulations of the secretary: (1) To one or more charitable organizations  
36 a temporary permit authorizing the sale of alcoholic liquor at an auction;  
37 or (2) to an individual a temporary permit authorizing the sale of one or  
38 more limited issue porcelain containers containing alcoholic liquor. The  
39 permit shall be issued in the names of the charitable organizations or  
40 individual to which it is issued.

41 (b) Applications for temporary permits shall be required to be filed  
42 with the director not less than 14 days before the event for which the  
43 permit is sought unless the director waives such requirement for good



1 cause. Each application for a permit authorizing an auction shall state the  
2 purposes for which the proceeds of the event will be used. The application  
3 shall be upon a form prescribed and furnished by the director and shall  
4 be filed with the director in duplicate. Each application shall be accom-  
5 panied by a permit fee of \$25 for each day for which the permit is issued;  
6 ~~which. Such~~ fee shall be paid *in full* by a certified or cashier's check of a  
7 bank within this state, United States post office money order or cash ~~in~~  
8 ~~the full amount thereof.~~ All permit fees collected by the director pursuant  
9 to this section shall be remitted to the state treasurer in accordance with  
10 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
11 of each such remittance, the state treasurer shall deposit the entire  
12 amount in the state treasury to the credit of the state general fund.

13 (c) Temporary permits shall specify the premises for which they are  
14 issued and shall be issued only for premises ~~where the city, county or~~  
15 ~~township zoning code allows use for which the permit is issued~~ *which*  
16 *comply with all applicable zoning regulations.*

17 (d) A temporary permit shall be issued for a period of time not to  
18 exceed three consecutive days, the dates and hours of which shall be  
19 specified in the permit. Not more than one temporary permit may be  
20 issued to any one applicant in a calendar year.

21 (e) All proceeds from an auction for which a temporary permit is  
22 issued shall be used only for the purposes stated in the application for  
23 such permit.

24 (f) A temporary permit shall not be transferable or assignable.

25 (g) The director may refuse to issue a temporary permit to any char-  
26 itable organization or individual which has violated any provision of the  
27 Kansas liquor control act.

28 (h) This section shall be part of and supplemental to the Kansas liquor  
29 control act.

30 Sec. 7. K.S.A. 41-710 is hereby amended to read as follows: 41-710.

31 (a) No retailer's license shall be issued for premises ~~which are located in~~  
32 ~~areas not zoned for general commercial or business purposes, if the city~~  
33 ~~or township in which the premises are located is zoned or are not ap-~~  
34 ~~proved by the director, if the premises sought to be licensed are located~~  
35 ~~outside an incorporated city in a township which is not zoned~~ *unless such*  
36 *premises comply with all applicable zoning regulations.*

37 (b) No microbrewery license or farm winery license shall be issued  
38 for premises which are zoned for any purpose except agricultural, com-  
39 mercial or business purposes.

40 (c) No retailer's, microbrewery or farm winery license shall be issued  
41 for premises which:

42 (1) Are located within 200 feet of any public or parochial school or  
43 college or church, except that if any such school, college or church is

1 established within 200 feet of any licensed premises after the premises  
2 have been licensed, the premises shall be an eligible location for retail  
3 licensing; ~~and or~~

4 (2) ~~do not conform to the building ordinances or laws of the state or~~  
5 ~~city or, in the absence of such ordinances or laws, are not structurally in~~  
6 ~~good condition or are in a dilapidated condition~~ *all applicable building*  
7 *regulations.*

8 Sec. 8. K.S.A. 41-712 is hereby amended to read as follows: 41-712.  
9 No person shall sell at retail any alcoholic liquor *in the original package*:  
10 (1) On Sunday; (2) on *Easter Sunday*, Memorial Day, Independence Day,  
11 Labor Day, Thanksgiving Day or Christmas Day; or (3) before 9 a.m. or  
12 after 11 p.m. on any day when the sale is permitted, ~~except that~~. The  
13 governing body of any city, by ordinance, may require *the closing of prem-*  
14 *ises* prior to 11 p.m., but such ordinance shall not require closing prior  
15 to 8 p.m.

16 Sec. 9. K.S.A. 41-714 is hereby amended to read as follows: 41-714.  
17 (a) It shall be unlawful for:

18 (1) Any person to advertise any alcoholic liquor by means of handbills;  
19 *or*

20 (2) any retailer of alcoholic liquor to advertise any alcoholic liquor by  
21 means of billboards along public highways, roads and streets or to have  
22 on the retailer's licensed premises any billboard advertising alcoholic liq-  
23 uor; ~~or~~

24 ~~(3) any licensee to display alcoholic liquor in any window of the li-~~  
25 ~~icensed premises.~~

26 (b) The provisions of this section shall not be interpreted to prohibit  
27 the advertising of a microbrewery or farm winery. Any advertising of a  
28 farm winery or microbrewery shall be subject to approval by the director  
29 prior to its dissemination.

30 (c) The provisions of this section shall not be interpreted to:

31 (1) Preempt any city ordinance or county resolution restricting or  
32 prohibiting signs or outdoor advertising; or

33 (2) prohibit advertising of the price of any alcoholic liquor or adver-  
34 tising of any alcoholic liquor by brand name, other than by means declared  
35 unlawful by subsection (a), and no rule and regulation adopted hereunder  
36 shall prohibit such advertising.

37 (d) The secretary of revenue may adopt, in accordance with K.S.A.  
38 41-210, and amendments thereto, rules and regulations necessary to reg-  
39 ulate and control the advertising, in any form, and display of alcoholic  
40 liquor and nothing contained in this section shall be construed as limiting  
41 the secretary's power to adopt such rules and regulations not in conflict  
42 with this act.

43 (e) As used in this section, "billboard" means any board or panel

1 erected, constructed or maintained for the purpose of displaying outdoor  
2 advertising by means of painted letters, posters, pictures or pictorial or  
3 reading matter, either illuminated or nonilluminated, when such sign is  
4 supported by uprights or braces placed upon the ground or upon a struc-  
5 ture affixed thereto. Billboard does not include a sign containing state-  
6 ments pertaining to a business conducted within or on the premises on  
7 which the sign is maintained.

8 Sec. 10. K.S.A. 2003 Supp. 41-719 is hereby amended to read as  
9 follows: 41-719. (a) No person shall drink or consume alcoholic liquor on  
10 the public streets, alleys, roads or highways or inside vehicles while on  
11 the public streets, alleys, roads or highways.

12 (b) No person shall drink or consume alcoholic liquor on private  
13 property except:

14 (1) On premises where the sale of liquor by the individual drink is  
15 authorized by the club and drinking establishment act;

16 (2) upon private property by a person occupying such property as an  
17 owner or lessee of an owner and by the guests of such person, if no charge  
18 is made for the serving or mixing of any drink or drinks of alcoholic liquor  
19 or for any substance mixed with any alcoholic liquor and if no sale of  
20 alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,  
21 takes place;

22 (3) in a lodging room of any hotel, motel or boarding house by the  
23 person occupying such room and by the guests of such person, if no  
24 charge is made for the serving or mixing of any drink or drinks of alcoholic  
25 liquor or for any substance mixed with any alcoholic liquor and if no sale  
26 of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,  
27 takes place;

28 (4) in a private dining room of a hotel, motel or restaurant, if the  
29 dining room is rented or made available on a special occasion to an in-  
30 dividual or organization for a private party and if no sale of alcoholic liquor  
31 in violation of K.S.A. 41-803, and amendments thereto, takes place; or

32 (5) on the premises of a microbrewery or farm winery, if authorized  
33 by K.S.A. 41-308a or 41-308b, and amendments thereto.

34 (c) No person shall drink or consume alcoholic liquor on public prop-  
35 erty except:

36 (1) On real property leased by a city to others under the provisions  
37 of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real  
38 property is actually being used for hotel or motel purposes or purposes  
39 incidental thereto.

40 (2) In any state-owned or operated building or structure, and on the  
41 surrounding premises, which is furnished to and occupied by any state  
42 officer or employee as a residence.

43 (3) On premises licensed as a club or drinking establishment and

- 1 located on property owned or operated by an airport authority created  
2 pursuant to chapter 27 of the Kansas Statutes Annotated or established  
3 by a city ~~having a population of more than 200,000.~~
- 4 (4) On the state fair grounds on the day of any race held thereon  
5 pursuant to the Kansas parimutuel racing act.
- 6 (5) On the state fairgrounds, if such liquor is domestic beer or wine  
7 or wine imported under subsection (e) of K.S.A. 41-308a, and amend-  
8 ments thereto, and is consumed only for purposes of judging competi-  
9 tions. The state fair board, in its discretion, may authorize the consump-  
10 tion of such alcoholic liquor on nonfair days in conjunction with bona fide  
11 scheduled events involving not less than 75 invited guests and subject to  
12 any conditions or restrictions as the board may require.
- 13 (6) In the state historical museum provided for by K.S.A. 76-2036,  
14 and amendments thereto, on the surrounding premises and in any other  
15 building on such premises, as authorized by rules and regulations of the  
16 state historical society.
- 17 (7) On the premises of any state-owned historic site under the juris-  
18 diction and supervision of the state historical society, on the surrounding  
19 premises and in any other building on such premises, as authorized by  
20 rules and regulations of the state historical society.
- 21 (8) In a lake resort within the meaning of K.S.A. 32-867, and amend-  
22 ments thereto, on state-owned or leased property.
- 23 (9) In the Hiram Price Dillon house or on its surrounding premises,  
24 subject to limitations established in policies adopted by the legislative  
25 coordinating council, as provided by K.S.A. 75-3682, and amendments  
26 thereto.
- 27 (10) On the premises of *any Kansas national guard armory or the*  
28 *Kansas national guard regional training center located in Saline county,*  
29 *and any building on such premises, as authorized by rules and regulations*  
30 *of the adjutant general and upon approval of the Kansas military board.*
- 31 (11) On property exempted from this subsection (c) pursuant to sub-  
32 section (d), (e), (f), (g), ~~(h) or (i)~~ or (h).
- 33 (d) Any city may exempt, by ordinance, from the provisions of sub-  
34 section (c) specified property the title of which is vested in such city.
- 35 (e) The board of county commissioners of any county may exempt,  
36 by resolution, from the provisions of subsection (c) specified property the  
37 title of which is vested in such county.
- 38 (f) The state board of regents may exempt from the provisions of  
39 subsection (c) the Sternberg museum on the campus of Fort Hays state  
40 university, or other specified property which is under the control of such  
41 board and which is not used for classroom instruction, where alcoholic  
42 liquor may be consumed in accordance with policies adopted by such  
43 board.

1 (g) The board of regents of Washburn university may exempt from  
2 the provisions of subsection (c) the Mulvane art center and the Bradbury  
3 Thompson alumni center on the campus of Washburn university, and  
4 other specified property the title of which is vested in such board and  
5 which is not used for classroom instruction, where alcoholic liquor may  
6 be consumed in accordance with policies adopted by such board.

7 ~~(h) Any city may exempt, by ordinance, from the provisions of sub-~~  
8 ~~section (c) any national guard armory in which such city has a leasehold~~  
9 ~~interest, if the Kansas military board consents to the exemption.~~

10 ~~(i)~~—The board of trustees of a community college may exempt from  
11 the provisions of subsection (c) specified property which is under the  
12 control of such board and which is not used for classroom instruction,  
13 where alcoholic liquor may be consumed in accordance with policies  
14 adopted by such board.

15 ~~(j)~~ (i) Violation of any provision of this section is a misdemeanor pun-  
16 ishable by a fine of not less than \$50 or more than \$200 or by impris-  
17 onment for not more than six months, or both.

18 New Sec. 11. (a) K.S.A. 41-2701 through 41-2727, and amendments  
19 thereto, shall be known and may be cited as the Kansas cereal malt bev-  
20 erage act.

21 (b) Except as specifically provided in the Kansas cereal malt beverage  
22 act, the power to regulate all phases of the manufacture, distribution,  
23 sale, possession, transportation and traffic in cereal malt beverages is  
24 vested exclusively in the state and shall be exercised as provided in the  
25 Kansas cereal malt beverage act. Any ordinance or resolution enacted by  
26 a city or county which is in conflict with or contrary to the provisions of  
27 the Kansas cereal malt beverage act shall be null and void.

28 (c) Nothing in this section shall be construed as prohibiting cities and  
29 counties from enacting ordinances and resolutions which are not in con-  
30 flict with or are more restrictive than or supplemental to the Kansas cereal  
31 malt beverage act.

32 (d) The provisions of this act are severable. If any provision of this  
33 act is held to be invalid or unconstitutional, it shall be presumed conclu-  
34 sively that the legislature would have enacted the remainder of this act  
35 without such invalid or unconstitutional provision.

36 Sec. 12. K.S.A. 41-2704 is hereby amended to read as follows: 41-  
37 2704. (a) In addition to and consistent with the requirements of ~~this act~~  
38 *the cereal malt beverage act*, the board of county commissioners of any  
39 county or the governing body of any city may prescribe hours of closing,  
40 standards of conduct and rules and regulations concerning the moral,  
41 sanitary and health conditions of places licensed pursuant to this act and  
42 may establish zones within which no such place may be located.

43 (b) Except as provided by subsection (g), no cereal malt beverages

1 may be sold:

2 (1) Between the hours of 12 midnight and 6 a.m.; or

3 (2) on Sunday, except in a place of business which is licensed to sell  
4 cereal malt beverage for consumption on the premises, which derives not  
5 less than 30% of its gross receipts from the sale of food for consumption  
6 on the licensed premises and which is located in a county where such  
7 sales on Sunday have been authorized by resolution of the board of county  
8 commissioners of the county or in a city where such sales on Sunday have  
9 been authorized by ordinance of the governing body of the city.

10 (c) No private rooms or closed booths shall be operated in a place of  
11 business, but this provision shall not apply if the licensed premises ~~are~~  
12 ~~also currently~~ *also are* licensed as a club pursuant to the club and drinking  
13 establishment act.

14 (d) Each place of business shall be open to the public and to law  
15 enforcement officers at all times during business hours, except that a  
16 premises licensed as a club pursuant to the club and drinking establish-  
17 ment act shall be open to law enforcement officers and not to the public.

18 (e) *Except as provided by this subsection*, no licensee shall permit a  
19 person under the legal age for consumption of cereal malt beverage to  
20 *possess*, consume or purchase any cereal malt beverage in or about a place  
21 of business, ~~and no licensee shall permit a person under the legal age for~~  
22 ~~consumption of cereal malt beverage to possess cereal malt beverage in~~  
23 ~~or about a place of business, except that~~. A licensee's employee who is  
24 not less than 18 years of age may dispense or sell cereal malt beverage,  
25 if:

26 (1) The licensee's place of business is licensed only to sell *at retail*  
27 cereal malt beverage ~~at retail~~ in *the* original ~~and unopened containers~~  
28 *package* and not for consumption on the premises; or

29 (2) the licensee's place of business is a licensed food service estab-  
30 lishment, as defined by K.S.A. 36-501 and amendments thereto, and not  
31 less than 50% of the gross receipts from the licensee's place of business  
32 is derived from the sale of food for consumption on the premises of the  
33 licensed place of business.

34 (f) No person shall have any alcoholic liquor in such person's posses-  
35 sion while in a place of business, unless the premises are currently li-  
36 censed as a club or drinking establishment pursuant to the club and drink-  
37 ing establishment act.

38 (g) Cereal malt beverages may be sold on premises which are licensed  
39 pursuant to both the ~~acts contained in article 27 of chapter 41 of the~~  
40 ~~Kansas Statutes Annotated~~ *Kansas cereal malt beverage act* and the club  
41 and drinking establishment act at any time when alcoholic liquor is al-  
42 lowed by law to be served on the premises.

43 Sec. 13. K.S.A. 41-208, 41-301, 41-302, 41-303, 41-710, 41-712, 41-

1 714, 41-1111, 41-1112, 41-1114 through 41-1121 and 41-2704 and K.S.A.  
2 2003 Supp. 19-101a, 41-347 and 41-719 are hereby repealed.  
3 Sec. 14. This act shall take effect and be in force from and after its  
4 publication in the statute book.