

As Further Amended by Senate Committee

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2004

SENATE BILL No. 305

By Special Committee on Judiciary

1-9

14 AN ACT concerning alcoholic beverages; relating to the regulation ~~and~~
15 ~~taxation~~ thereof; ~~providing for the use of revenue derived from~~
16 ~~taxes imposed thereon;~~ amending K.S.A. 41-208, 41-301, 41-302,
17 41-303, 41-710, 41-712, 41-714 and ~~41-2704, 41-2704 and 41-2727~~
18 ~~[and 41-2704]~~ and K.S.A. 2003 Supp. 19-101a, 41-347, 41-501 and
19 41-719 and repealing the existing sections; also repealing K.S.A. 41-
20 1111, 41-1112, 41-1114 through 41-1121.

21

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

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

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

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

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

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

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37 be superseded or impaired without the consent of the governing body of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

39 (6) Counties may not legislate on social welfare administered under
40 state law enacted pursuant to or in conformity with public law No. 271—
41 74th congress, or amendments thereof.

42 (7) Counties shall be subject to all acts of the legislature concerning
43 elections, election commissioners and officers and their duties as such

1 officers and the election of county officers.

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

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

8 (10) No county may levy ad valorem taxes under the authority of this
9 section upon real property located within any redevelopment project area
10 established under the authority of K.S.A. 12-1772, and amendments
11 thereto, unless the resolution authorizing the same specifically authorized
12 a portion of the proceeds of such levy to be used to pay the principal of
13 and interest upon bonds issued by a city under the authority of K.S.A.
14 12-1774, and amendments thereto.

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

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

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

27 (14) Counties may not exempt from or effect changes in K.S.A. 19-
28 430, and amendments thereto.

29 (15) Counties may not exempt from or effect changes in K.S.A. 19-
30 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

31 (16) (A) Counties may not exempt from or effect changes in K.S.A.
32 13-13a26, and amendments thereto.

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

34 (17) (A) Counties may not exempt from or effect changes in K.S.A.
35 71-301a, and amendments thereto.

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

37 (18) Counties may not exempt from or effect changes in K.S.A. 19-
38 15,139, 19-15,140 and 19-15,141, and amendments thereto.

39 (19) Counties may not exempt from or effect changes in the provi-
40 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
41 1226, and amendments thereto, or the provisions of K.S.A. 12-1260
42 through 12-1270 and 12-1276, and amendments thereto.

43 (20) Counties may not exempt from or effect changes in the provi-

- 1 sions of K.S.A. 19-211, and amendments thereto.
- 2 (21) Counties may not exempt from or effect changes in the provi-
3 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 4 (22) Counties may not regulate the production or drilling of any oil
5 or gas well in any manner which would result in the duplication of reg-
6 ulation by the state corporation commission and the Kansas department
7 of health and environment pursuant to chapter 55 and chapter 65 of the
8 Kansas Statutes Annotated and any rules and regulations adopted pur-
9 suant thereto. Counties may not require any license or permit for the
10 drilling or production of oil and gas wells. Counties may not impose any
11 fee or charge for the drilling or production of any oil or gas well.
- 12 (23) Counties may not exempt from or effect changes in K.S.A. 79-
13 41a04, and amendments thereto.
- 14 (24) Counties may not exempt from or effect changes in K.S.A. 79-
15 1611, and amendments thereto.
- 16 (25) Counties may not exempt from or effect changes in K.S.A. 79-
17 1494, and amendments thereto.
- 18 (26) Counties may not exempt from or effect changes in subsection
19 (b) of K.S.A. 19-202, and amendments thereto.
- 20 (27) Counties may not exempt from or effect changes in subsection
21 (b) of K.S.A. 19-204, and amendments thereto.
- 22 (28) Counties may not levy or impose an excise, severance or any
23 other tax in the nature of an excise tax upon the physical severance and
24 production of any mineral or other material from the earth or water.
- 25 (29) Counties may not exempt from or effect changes in K.S.A. 79-
26 2017 or 79-2101, and amendments thereto.
- 27 (30) Counties may not exempt from or effect changes in K.S.A. 2-
28 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d; or
29 65-1,178 through 65-1,199 ~~or K.S.A. 2003 Supp. 17-5909~~, and amend-
30 ments thereto.
- 31 (31) Counties may not exempt from or effect changes in K.S.A. 2003
32 Supp. 80-121, and amendments thereto.
- 33 (32) Counties may not exempt from or effect changes in K.S.A. 19-
34 228, and amendments thereto.
- 35 ~~(33) Counties may not exempt from or effect changes in the Kansas~~
36 ~~liquor control act.~~
- 37 ~~(34) Counties may not exempt from or effect changes in the Kansas~~
38 ~~cereal malt beverage act.~~
- 39 **(33) (A) Counties may not exempt from or effect changes in the**
40 **Kansas liquor control act, except as provided by paragraph (B).**
41 **(B) Counties may adopt resolutions which do not conflict with**
42 **~~or are more restrictive than or supplemental~~ [are not conflicting**
43 **with or contrary] to the Kansas liquor control act.**

1 **(34) (A) Counties may not exempt from or effect changes in the**
2 **Kansas cereal malt beverage act, except as provided by paragraph**
3 **(B).**

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

7 (b) Counties shall apply the powers of local legislation granted in
8 subsection (a) by resolution of the board of county commissioners. If no
9 statutory authority exists for such local legislation other than that set forth
10 in subsection (a) and the local legislation proposed under the authority
11 of such subsection is not contrary to any act of the legislature, such local
12 legislation shall become effective upon passage of a resolution of the
13 board and publication in the official county newspaper. If the legislation
14 proposed by the board under authority of subsection (a) is contrary to an
15 act of the legislature which is applicable to the particular county but not
16 uniformly applicable to all counties, such legislation shall become effective
17 by passage of a charter resolution in the manner provided in K.S.A.
18 19-101b, and amendments thereto.

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

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

22 **(a) Except as specifically ~~delegated~~ provided in the Kansas liquor control**
23 **act, the power to regulate all phases of ~~the control of~~ the manufacture,**
24 **distribution, sale, possession, transportation and traffic in alcoholic liquor**
25 **and the manufacture of beer regardless of its alcoholic content, ~~except as~~**
26 **~~specifically delegated in this act,~~ is hereby vested exclusively in the state**
27 **and shall be exercised as provided in this act. ~~No city shall enact any~~**
28 **~~ordinance in conflict with or contrary to the provisions of this act and any~~**
29 **~~ordinance of any city in effect at the time this act takes effect or thereafter~~**
30 **~~enacted which is in conflict with or contrary to the provisions of this~~ *the***
31 ***Kansas liquor control act. Any ordinance or resolution enacted by a city***
32 ***or county which is more restrictive than, conflicting with or contrary or***
33 ***supplemental in conflict with or contrary to the provisions of the Kansas***
34 ***liquor control act shall be null and void.***

35 **(b)** Nothing contained in this section shall be construed as preventing
36 any city from enacting ordinances declaring acts prohibited or made un-
37 lawful by this act as unlawful or prohibited in such city and prescribing
38 penalties for violation thereof, but the minimum penalty in any such or-
39 dinance shall not ~~exceed~~ *be less than* the minimum penalty prescribed by
40 this act for the same violation, nor shall the maximum penalty in any such
41 ordinance exceed the maximum penalty prescribed by this act for the
42 same violation.

43 **~~(c) Nothing in this section shall be construed as prohibiting cit-~~**

1 ~~ies and counties from enacting ordinances and resolutions which~~
2 ~~are not in conflict with or more restrictive than or supplemental to~~
3 ~~the Kansas liquor control act.~~

4 ~~(d)~~ [(c)] **The provisions of this act are severable. If any provi-**
5 **sion of this act is held to be invalid or unconstitutional, it shall be**
6 **presumed conclusively that the legislature would have enacted the**
7 **remainder of this act without such invalid or unconstitutional**
8 **provision.**

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

10 (a) *Except as provided by subsection (b), the director shall issue to qual-*
11 *ified applicants, who have filed the bond and paid the registration and*
12 *license fees required by this act, licenses to sell at retail alcoholic liquor*
13 *at retail in the original package at premises within the corporate limits of*
14 *cities and outside the corporate limits of cities in certain townships as*
15 *provided in this act. Provided, That no such retailer's license shall be*
16 *issued for any premises within any city of the first or second class wherein*
17 *a majority of the qualified electors of such city who voted on the propo-*
18 *sition to amend section 10 of article 15 of the constitution of the state of*
19 *Kansas at the general election held in November, 1948, shall have voted*
20 *against the adoption of such proposition or in cities of the third class*
21 *located in a township, or townships, wherein a majority of the qualified*
22 *electors of such township, or townships, who voted on said proposition*
23 *to amend the constitution at said election shall have voted against its*
24 *adoption, until a majority of the qualified electors of such city voting at*
25 *an election held as provided by K.S.A. 41-302, and amendments thereto,*
26 *shall have declared by their votes to be in favor of the licensing of the*
27 *sale of alcoholic liquor by the package in such city any city.*

28 (b) *No retailer's license shall be issued for premises within a city if*
29 *the governing body of such city, within 90 days after the effective date of*
30 *this act, adopts an ordinance prohibiting the licensing of the sale at retail*
31 *of alcoholic liquor in the original package within such city. Upon adoption*
32 *of such ordinance, the city clerk promptly shall transmit a copy of such*
33 *ordinance to the director and the director shall refuse to issue licenses to*
34 *sell at retail alcoholic liquor in the original package in such city. If the*
35 *governing body adopts such an ordinance, the holder of any valid existing*
36 *retailer's license for premises in such city shall have the right to continue*
37 *to operate under such license for a period of 90 days after the effective*
38 *date of the ordinance or until the expiration of such license, whichever*
39 *period of time is shorter. If such period of time expires before the expi-*
40 *ration of the term for which the retailer's license was issued, the licensee*
41 *shall be entitled to a refund of the license fee for the unexpired portion of*
42 *the license period which remains, in accordance with rules and regula-*
43 *tions adopted by the secretary.*

1 (c) *No retailer's license shall be issued for premises within a city if,*
2 *after the effective date of this act, a majority of the qualified voters of*
3 *such city voting at an election held as provided by K.S.A. 41-302, and*
4 *amendments thereto, votes against the licensing of the sale at retail of*
5 *alcoholic liquor in the original package within such city unless, at a sub-*
6 *sequent election, a majority of the qualified voters of such city voting at*
7 *such election votes in favor of the licensing of the sale at retail of alcoholic*
8 *liquor in the original package within such city.*

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

10 (a) The question of licensing the ~~retail~~ sale *at retail* of alcoholic liquors
11 ~~by the liquor in the original~~ package shall be submitted by the governing
12 body of ~~any~~ a city at any regular general city election occurring in such
13 city whenever a petition requesting such submission has been filed with
14 the city clerk of ~~any~~ such city as ~~hereinafter~~ provided *in this section*. ~~In~~
15 ~~cities of the first and second class, any~~ Such petition shall be signed by
16 ~~such number of electors~~ *qualified voters* of such city ~~which equals equal~~
17 *in number to not less than 30%* or more of the total vote cast in such city
18 at the last general election for the office of secretary of state. ~~In cities of~~
19 ~~the third class, any such petition shall be signed by such number of elec-~~
20 ~~tors of such city which equals 40% or more of the total vote cast at the~~
21 ~~last general city election held in such city of the third class for candidates~~
22 ~~for the city office for which the greatest number of total votes were cast.~~
23 Each sheet of each petition shall comply with the provisions of K.S.A. 25-
24 3601 through 25-3607, and amendments thereto. No signature on such
25 petition shall be valid unless appended to the petition within the last 90
26 days prior to the date of filing the petition with the city clerk. Such pe-
27 tition shall be filed not less than 40 nor more than 60 days prior to the
28 date of the election. After any such petition has been filed, no signature
29 shall be withdrawn and no signature shall be added. The governing body
30 of the city shall have the power to determine the sufficiency of any such
31 petition.

32 Any person who signs a ~~proposal or~~ petition authorized by this section
33 and who knowingly is not a qualified elector ~~in the place where such~~
34 ~~proposal or petition is made~~ *voter of the city where submission of the*
35 *question is sought*, or who aids or abets ~~any other persons in doing any~~
36 ~~of the acts mentioned~~ *another in so doing*, or any person who bribes,
37 gives or pays any money or thing of value to any person directly or indi-
38 rectly to induce such person to sign such ~~proposal or~~ petition shall be
39 guilty of a misdemeanor ~~and~~. Upon conviction thereof, *such person* shall
40 be punished by a fine of not more than \$300 or by imprisonment of not
41 more than 90 days, or by both such fine and imprisonment in the discre-
42 tion of the court.

43 (b) ~~Upon the ballot the proposition shall be stated as follows:~~

1 ~~“Shall the sale of alcoholic liquors by the package~~ _____ YES
 2 ~~be licensed in (here insert the name of the city)?”~~ _____ NO
 3 ~~—Voters desiring to vote in favor of the sale of alcoholic liquors by the~~
 4 ~~package shall place a cross or check mark in the square opposite the word~~
 5 ~~“Yes” and those desiring to vote against the sale of alcoholic liquor by the~~
 6 ~~package shall place a cross or check mark in the square opposite the word~~
 7 ~~“No.”~~

8 ~~(e) Upon the filing of a sufficient petition, the governing body shall~~
 9 ~~call any an election required by this section and notice of such election~~
 10 ~~shall be given in the manner provided by the general bond law. The~~
 11 ~~provisions of the laws of this state relating to election officers, voting~~
 12 ~~places, election places and blanks, preparation and form of ballots, infor-~~
 13 ~~mation to voters, delivery of ballots, calling of elections, conduct of elec-~~
 14 ~~tions, manner of voting, counting of votes, records and certificates of~~
 15 ~~election, and recounts of votes, so far as applicable, shall apply to voting~~
 16 ~~on the proposition under the provisions of this act. Such election shall be~~
 17 ~~called and held in the manner provided by law for question submitted~~
 18 ~~elections.~~

19 ~~(d) The majority of those voting on the proposition shall be manda-~~
 20 ~~tory upon the director insofar as licensing the sale of such liquors therein~~
 21 ~~by the package is concerned. In the absence of any vote on the question~~
 22 ~~of licensing the sale of such liquors in cities of the first and second class~~
 23 ~~wherein a majority of the qualified electors of such city who voted on the~~
 24 ~~proposition to amend section 10 of article 15 of the constitution of the~~
 25 ~~state of Kansas at the general election held in November, 1948, shall have~~
 26 ~~voted in favor of the adoption of such proposition and in cities of the~~
 27 ~~third class located in townships wherein a majority of the qualified elec-~~
 28 ~~tors voted in favor of such constitutional amendment and in the absence~~
 29 ~~of any further vote in cities of the first, second or third class in which a~~
 30 ~~majority of the qualified electors of such city shall have voted at any~~
 31 ~~special or general city election in favor of the licensing of the sale of~~
 32 ~~alcoholic liquor by the package, the director shall continue to issue li-~~
 33 ~~censes to sell the same by the package therein for periods of one year,~~
 34 ~~subject to all the terms and conditions of this act~~

35 ~~The governing body of the city shall transmit to the director a copy of~~
 36 ~~the results of any election held pursuant to this section. The director shall~~
 37 ~~issue or refuse to issue licenses to sell at retail alcoholic liquor in the~~
 38 ~~original package in such city in accordance with the results of such elec-~~
 39 ~~tion.~~

40 ~~(e) (c) If a majority of the electors voters voting at any such election~~
 41 ~~shall vote pursuant to this section votes against licensing the sale at retail~~
 42 ~~of alcoholic liquors by the in the original package, the holder of any valid~~
 43 ~~existing retailer’s license for premises in such city shall have the right to~~

1 continue to operate under such license for a period ~~not to exceed~~ of 90
2 days after the result of such election is canvassed or until the expiration
3 of such license, whichever period of time is ~~the~~ shorter. If such period of
4 time expires before the expiration of the term for which the retailer's
5 license was issued, ~~such~~ *the* licensee shall be entitled to a refund of ~~that~~
6 *the license fee for the unexpired* portion of the license period which is
7 ~~unavailable to such licensee remains~~, in accordance with rules and reg-
8 ulations ~~established~~ *adopted* by the secretary of revenue.

9 ~~(f) For the purpose of determining as provided in K.S.A. 41-301, and~~
10 ~~amendments thereto, and in this section whether a majority of the qual-~~
11 ~~ified electors of a township in which a city of the third class is located~~
12 ~~voted against the adoption of the liquor amendment at the general elec-~~
13 ~~tion held in November, 1948, if any city of the third class is located in~~
14 ~~two or more townships, the total vote for and against the amendment in~~
15 ~~all the townships in which such city is located shall be used to determine~~
16 ~~whether such city is located in a township in which a majority of the~~
17 ~~qualified electors voted against the amendment.~~

18 Sec. 5. K.S.A. 41-303 is hereby amended to read as follows: 41-303.

19 *(a) The director may license the sale of issue to qualified applicants li-*
20 *censes to sell at retail* alcoholic liquor ~~at retail~~ in the original package on
21 premises not located in an incorporated city for use or consumption off
22 the premises, if such premises are located in any township having a pop-
23 ulation of more than 5,000. No such license shall be ~~granted~~ *issued* to
24 any applicant unless the applicant possesses all the qualifications required
25 of other applicants for retailers' licenses except the qualification of resi-
26 ~~dence~~ ***residency*** within a city. ~~In the event that~~ *If* any license has been
27 issued under the provisions of this section ~~in a township having a popu-~~
28 ~~lation of more than 5,000, and thereafter such township population de-~~
29 ~~creases or has decreased to 5,000 or less, such licenses shall continue to~~
30 ~~be valid and the licensees shall be eligible for renewal of such licenses at~~
31 ~~the appropriate time if they are otherwise qualified.~~

32 No such license shall be ~~granted~~ *issued* to any applicant under this
33 section unless the board of county commissioners of the county in which
34 ~~such township is~~ ***the premises for which licensure is sought are*** located
35 adopts a resolution approving the issuance of such license. A certified
36 copy of such resolution shall accompany the application for a license au-
37 thorized by this section.

38 ~~In the event that any~~ *(b) If a* license has been issued under the pro-
39 visions of this section ~~in a township having a population of more than~~
40 ~~5,000, and thereafter the premises so licensed are annexed to a city~~
41 ~~wherein retail liquor licenses may be issued, such licenses~~ *license* shall
42 continue to be valid and ~~the licensees shall be eligible for renewal of such~~
43 ~~licenses may be renewed~~ at the appropriate time even though the ~~licens-~~

1 ~~ees shall~~ *licensee does not reside in the cities city to which the areas are*
2 *area is annexed if the licensees are otherwise licensee otherwise is qual-*
3 *ified and if they reside the licensee resides in the township county* in
4 which the premises were originally located prior to such annexation or in
5 the city to which the premises have been annexed.

6 ~~(c) A retailer issued a license pursuant to this section may sell at retail~~
7 ~~alcoholic liquor in the original package on Sunday between the hours of~~
8 ~~12 noon and 8 p.m. within such township if the board of county commis-~~
9 ~~sioners of the county in which such township is located adopts a resolution~~
10 ~~permitting such sales. The county clerk shall send a certified copy of such~~
11 ~~resolution to the director and to the township board of trustees of such~~
12 ~~township.~~

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

21 (b) Applications for temporary permits shall be required to be filed
22 with the director not less than 14 days before the event for which the
23 permit is sought unless the director waives such requirement for good
24 cause. Each application for a permit authorizing an auction shall state the
25 purposes for which the proceeds of the event will be used. The application
26 shall be upon a form prescribed and furnished by the director and shall
27 be filed with the director in duplicate. Each application shall be accom-
28 panied by a permit fee of \$25 for each day for which the permit is issued;
29 ~~which.~~ Such fee shall be paid *in full* by a certified or cashier's check of a
30 bank within this state, United States post office money order or cash ~~in~~
31 ~~the full amount thereof.~~ All permit fees collected by the director pursuant
32 to this section shall be remitted to the state treasurer in accordance with
33 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
34 of each such remittance, the state treasurer shall deposit the entire
35 amount in the state treasury to the credit of the state general fund.

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

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

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

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

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

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

10 Sec. 7. K.S.A. 2003 Supp. 41-501 is hereby amended to read as fol-
11 lows: 41-501. (a) As used in this section and K.S.A. 41-501a, and amend-
12 ments thereto:

13 (1) “Gallon” means wine gallon.

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

18 (3) “Malt product” means malt syrup, malt extract, liquid malt or
19 wort.

20 (b) (1) For the purpose of raising revenue a tax is imposed upon the
21 manufacturing, using, selling, storing or purchasing alcoholic liquor, ce-
22 real malt beverage or malt products in this state or a federal area at a rate
23 of ~~\$.18~~ ~~\$.30~~ **[\$.18]** per gallon on beer and cereal malt beverage; ~~\$.20~~
24 ~~\$.334~~ **[\$.20]** per gallon on all wort or liquid malt; ~~\$.10~~ ~~\$.167~~ **[\$.10]** per
25 pound on all malt syrup or malt extract; ~~\$.30~~ ~~\$.60~~ **[\$.30]** per gallon on
26 wine containing 14% or less alcohol by volume; ~~\$.75~~ ~~\$.150~~ **[\$.75]** per
27 gallon on wine containing more than 14% alcohol by volume; and ~~\$2.50~~
28 ~~\$4.00~~ **[\$2.50]** per gallon on alcohol and spirits.

29 (2) The tax imposed by this section shall be paid only once and shall
30 be paid by the person in this state or federal area who first manufactures,
31 uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt
32 beverage. The tax shall be collected and paid to the director as provided
33 in this act. If the alcoholic liquor or cereal malt beverage is manufactured
34 and sold in this state or a federal area, the tax shall be paid by the man-
35 ufacturer, microbrewery or farm winery producing it. If the alcoholic
36 liquor or cereal malt beverage is imported into this state by a distributor
37 for the purpose of sale at wholesale in this state or a federal area, the tax
38 shall be paid by the distributor, and in no event shall such tax be paid by
39 the manufacturer unless the alcoholic liquor or cereal malt beverage is
40 manufactured in this state. If not to exceed one gallon, or metric equiv-
41 alent, per person of alcoholic liquor has been purchased by a private
42 citizen outside the borders of the United States and is brought into this
43 state by the private citizen in such person’s personal possession for such

1 person's own personal use and not for sale or resale, such import is lawful
2 and no tax payment shall be due thereon.

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

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

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

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

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

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

27 (g) ~~Retail~~ Sales at retail of alcoholic liquor in the original package,
28 sales of beer to consumers by microbreweries and sales of wine to con-
29 sumers by farm wineries shall not be subject to the tax imposed by the
30 Kansas retailers' sales tax act but shall be subject to the enforcement tax
31 as provided for in this act in K.S.A. 79-4101 et seq., and amendments
32 thereto.

33 (h) ~~Notwithstanding any ordinance to the contrary, Except as au-~~
34 ~~thorized by K.S.A. 41-310, and amendments thereto,~~ no city shall impose
35 an occupation or privilege tax on the business of any person, firm or
36 corporation licensed as a manufacturer, distributor, microbrewery, farm
37 winery, retailer or nonbeverage user under this act and doing business
38 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~~ ~~6.25%~~ *[1/10]* of the moneys collected from
3 taxes imposed upon alcohol and spirits under subsection (b)(1) to the
4 community alcoholism and intoxication programs fund created by K.S.A.
5 41-1126, and amendments thereto, and shall credit the balance of the
6 moneys collected to the state general fund. ~~*[Of the moneys credited to*~~
7 ~~*the state general fund which are attributable to the increase in the*~~
8 ~~*tax as a result of the amendment by this act shall be used for fi-*~~
9 ~~*ancing kindergarten through grade 12 education.]*~~

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

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

42 ***New Sec. 8.—On June 1, 2004, a [A] tax at the rate of \$.12 per***
43 ***gallon on all beer and cereal malt beverage, \$.30 per gallon for wine***

1 ~~containing 14% or less of alcohol by volume, \$.75 per gallon for~~
 2 ~~wine containing more than 14% of alcohol by volume, \$1.50 per~~
 3 ~~gallon on alcohol and spirits, \$.134 per gallon on wort and liquid~~
 4 ~~malt, and \$.067 per pound of malt syrup and malt extract, is hereby~~
 5 ~~imposed on the manufacture, use, sale, storage or purchase of such~~
 6 ~~alcoholic liquors owned at 12:01 a.m. on June [July] 1, 2004, by a~~
 7 ~~licensed distributor or retail dealer as to which the tax has been~~
 8 ~~imposed as provided in K.S.A. 41-501, and amendments thereto.~~
 9 ~~Such tax shall be paid by the licensed distributor or retail dealer~~
 10 ~~owning such alcoholic liquors, cereal malt beverage or beer at such~~
 11 ~~time and date. On or before June [July] 25, 2004, every such dis-~~
 12 ~~tributor and retail dealer shall make a report to the director on a~~
 13 ~~form prescribed and furnished by the director showing the total~~
 14 ~~number of gallons of such alcoholic liquors, cereal malt beverage~~
 15 ~~or beer so owned at 12:01 a.m. on June [July] 2, 2004, and such~~
 16 ~~report shall be accompanied by a remittance of the tax due.~~

17 ~~—The license of any licensed distributor or retail dealer who fails~~
 18 ~~to make such report or pay such tax, within the time prescribed,~~
 19 ~~shall be subject to suspension or revocation as provided by K.S.A.~~
 20 ~~41-320, and amendments thereto. All taxes collected by the director~~
 21 ~~under this section shall be paid into the state treasury and the state~~
 22 ~~treasurer shall credit the same to the state general fund. [Such mon-~~
 23 ~~ey's shall be used for financing kindergarten through grade 12 ed-~~
 24 ~~ucation.]~~

25 Sec. 8: ~~9~~ [8]. K.S.A. 41-710 is hereby amended to read as follows:
 26 41-710. (a) No retailer's license shall be issued for premises which are
 27 located in areas not zoned for general commercial or business purposes,
 28 if the city or township in which the premises are located is zoned or are
 29 not approved by the director, if the premises sought to be licensed are
 30 located outside an incorporated city in a township which is not zoned
 31 unless such premises comply with all applicable zoning regulations.

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

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

37 (1) Are located within 200 feet of any public or parochial school or
 38 college or church, except that if any such school, college or church is
 39 established within 200 feet of any licensed premises after the premises
 40 have been licensed, the premises shall be an eligible location for retail
 41 licensing; ~~and or~~

42 (2) do not conform to the building ordinances or laws of the state or
 43 city or, in the absence of such ordinances or laws, are not structurally in

1 ~~good condition or are in a dilapidated condition~~ *all applicable building*
 2 *regulations.*

3 Sec. ~~9. 10~~ **[9]**. K.S.A. 41-712 is hereby amended to read as follows:
 4 41-712. ~~(a) Except as authorized by this section, no~~ **[No]** person shall sell
 5 at retail any alcoholic liquor *in the original package*: (1) On Sunday; (2)
 6 on Memorial Day, Independence Day, Labor Day, Thanksgiving Day or
 7 Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any day when the
 8 sale is permitted, ~~except that~~. The governing body of any city, by ordi-
 9 nance, may require *the closing of premises* prior to 11 p.m., but such
 10 ordinance shall not require closing prior to 8 p.m.

11 ~~(b) A retailer may sell at retail alcoholic liquor in the original package~~
 12 ~~on Sunday between the hours of 12 noon and 8 p.m. within: (1) The~~
 13 ~~corporate limits of any city where the sale at retail of alcoholic liquor in~~
 14 ~~the original package on Sunday has been approved as provided by section~~
 15 ~~10 11 [10], and amendments thereto, and (2) the boundaries of any town-~~
 16 ~~ship where the sale at retail of alcoholic liquor in the original package on~~
 17 ~~Sunday has been approved as provided by K.S.A. 41-303, and amend-~~
 18 ~~ments thereto.~~

19 —New Sec. 10. **11**. (a) The governing body of any city may adopt a
 20 resolution **an ordinance** permitting the sale at retail of alcoholic liquor
 21 or cereal malt beverage, or both, in the original package on Sunday be-
 22 tween the hours of 12 noon and 8 p.m. Such resolution **ordinance** shall
 23 be published at least once each week for two consecutive weeks in the
 24 official city newspaper. Such resolution **ordinance** shall not become ef-
 25 fective until at least 30 days following the date of the last publication
 26 thereof. If within 30 days following the last publication of the resolution
 27 **ordinance**, a petition requesting that the proposition be submitted for
 28 approval by the voters is filed in accordance with subsection (b), such
 29 resolution **ordinance** shall not become effective until the proposition is
 30 submitted to and approved at an election as provided by this section.

31 —(b) A petition to submit a proposition to the qualified voters of a city
 32 pursuant to this section shall be filed with the city clerk. The petition
 33 shall be signed by qualified voters of the city equal in number to not less
 34 than 10% of the voters of the city who voted for the office of secretary
 35 of state at the last preceding general election of such office.

36 —(c) Upon the filing of a sufficient petition pursuant to this section,
 37 the governing body shall cause the proposition to be placed on the ballot
 38 at the next succeeding primary or general election which occurs after the
 39 petition is filed with the city clerk or at a special election called and held
 40 thereon. Such election shall be called and held in the manner provided
 41 by law for question submitted elections.

42 —(d) If a majority of the voters voting at any election pursuant to this
 43 section votes in favor of the proposition, the governing body shall transmit

1 ~~a copy of the results to the director.~~

2 ~~—(c) Nothing in this section shall be construed as authorizing a retailer~~
3 ~~as defined by K.S.A. 41-102, and amendments thereto, to sell cereal malt~~
4 ~~beverages.~~

5 ~~—Nothing in this section shall be construed to authorize a retailer as~~
6 ~~defined by K.S.A. 41-2701, and amendments thereto, to sell alcoholic~~
7 ~~liquor.~~

8 Sec. ~~11~~ **12 [10]**. K.S.A. 41-714 is hereby amended to read as fol-
9 lows: 41-714. (a) It shall be unlawful for:

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

12 (2) any retailer of alcoholic liquor to advertise any alcoholic liquor by
13 means of billboards along public highways, roads and streets or to have
14 on the retailer's licensed premises any billboard advertising alcoholic li-
15 quor; ~~or~~

16 ~~—(3) any licensee to display alcoholic liquor in any window of the li-~~
17 ~~icensed premises.~~

18 (b) The provisions of this section shall not be interpreted to prohibit
19 the advertising of a microbrewery or farm winery. Any advertising of a
20 farm winery or microbrewery shall be subject to approval by the director
21 prior to its dissemination.

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

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

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

29 (d) The secretary of revenue may adopt, in accordance with K.S.A.
30 41-210, and amendments thereto, rules and regulations necessary to reg-
31 ulate and control the advertising, in any form, and display of alcoholic
32 liquor and nothing contained in this section shall be construed as limiting
33 the secretary's power to adopt such rules and regulations not in conflict
34 with this act.

35 (e) As used in this section, "billboard" means any board or panel
36 erected, constructed or maintained for the purpose of displaying outdoor
37 advertising by means of painted letters, posters, pictures or pictorial or
38 reading matter, either illuminated or nonilluminated, when such sign is
39 supported by uprights or braces placed upon the ground or upon a struc-
40 ture affixed thereto. Billboard does not include a sign containing state-
41 ments pertaining to a business conducted within or on the premises on
42 which the sign is maintained.

43 Sec. ~~12~~ **13 [11]**. K.S.A. 2003 Supp. 41-719 is hereby amended to

1 read as follows: 41-719. (a) No person shall drink or consume alcoholic
2 liquor on the public streets, alleys, roads or highways or inside vehicles
3 while on the public streets, alleys, roads or highways.

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

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

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

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

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

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

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

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

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

35 (3) On premises licensed as a club or drinking establishment and
36 located on property owned or operated by an airport authority created
37 pursuant to chapter 27 of the Kansas Statutes Annotated or established
38 by a city ~~having a population of more than 200,000.~~

39 (4) On the state fair grounds on the day of any race held thereon
40 pursuant to the Kansas parimutuel racing act.

41 (5) On the state fairgrounds, if such liquor is domestic beer or wine
42 or wine imported under subsection (e) of K.S.A. 41-308a, and amend-
43 ments thereto, and is consumed only for purposes of judging competi-

1 tions. The state fair board, in its discretion, may authorize the consump-
2 tion of such alcoholic liquor on nonfair days in conjunction with bona fide
3 scheduled events involving not less than 75 invited guests and subject to
4 any conditions or restrictions as the board may require.

5 (6) In the state historical museum provided for by K.S.A. 76-2036,
6 and amendments thereto, on the surrounding premises and in any other
7 building on such premises, as authorized by rules and regulations of the
8 state historical society.

9 (7) On the premises of any state-owned historic site under the juris-
10 diction and supervision of the state historical society, on the surrounding
11 premises and in any other building on such premises, as authorized by
12 rules and regulations of the state historical society.

13 (8) In a lake resort within the meaning of K.S.A. 32-867, and amend-
14 ments thereto, on state-owned or leased property.

15 (9) In the Hiram Price Dillon house or on its surrounding premises,
16 subject to limitations established in policies adopted by the legislative
17 coordinating council, as provided by K.S.A. 75-3682, and amendments
18 thereto.

19 (10) On the premises of *any Kansas national guard armory or the*
20 *Kansas national guard regional training center located in Saline county,*
21 *and any building on such premises, as authorized by rules and regulations*
22 *of the adjutant general and upon approval of the Kansas military board.*

23 (11) On property exempted from this subsection (c) pursuant to sub-
24 section (d), (e), (f), (g), ~~(h)~~ ~~or (i)~~ ~~or (h)~~.

25 (d) Any city may exempt, by ordinance, from the provisions of sub-
26 section (c) specified property the title of which is vested in such city.

27 (e) The board of county commissioners of any county may exempt,
28 by resolution, from the provisions of subsection (c) specified property the
29 title of which is vested in such county.

30 (f) The state board of regents may exempt from the provisions of
31 subsection (c) the Sternberg museum on the campus of Fort Hays state
32 university, or other specified property which is under the control of such
33 board and which is not used for classroom instruction, where alcoholic
34 liquor may be consumed in accordance with policies adopted by such
35 board.

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

42 (h) ~~Any city may exempt, by ordinance, from the provisions of sub-~~
43 ~~section (c) any national guard armory in which such city has a leasehold~~

1 interest, if the Kansas military board consents to the exemption.

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

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

10 New Sec. ~~13: 14~~ [12]. (a) K.S.A. 41-2701 through 41-2727 and sec-
11 tion ~~15 16~~ [15], and amendments thereto, shall be known and may be
12 cited as the Kansas cereal malt beverage act.

13 (b) Except as specifically provided in the Kansas cereal malt beverage
14 act, the power to regulate all phases of the manufacture, distribution,
15 sale, possession, transportation and traffic in cereal malt beverages is
16 vested exclusively in the state and shall be exercised as provided in the
17 Kansas cereal malt beverage act. Any ordinance or resolution enacted by
18 a city or county which is more restrictive than, conflicting with or contrary
19 or supplemental **in conflict with or contrary** to the provisions of the
20 Kansas cereal malt beverage act shall be null and void.

21 (c) **Nothing in this section shall be construed as prohibiting cit-**
22 **ies and counties from enacting ordinances and resolutions which**
23 **are not in conflict with or more restrictive than or supplemental to**
24 **the Kansas cereal malt beverage act.**

25 (d) **The provisions of this act are severable. If any provision of**
26 **this act is held to be invalid or unconstitutional, it shall be presumed**
27 **conclusively that the legislature would have enacted the remainder**
28 **of this act without such invalid or unconstitutional provision.**

29 Sec. ~~14: 15~~ [13]. K.S.A. 41-2704 is hereby amended to read as fol-
30 lows: 41-2704. (a) In addition to and consistent with the requirements of
31 ~~this act~~ the cereal malt beverage act, the board of county commissioners
32 of any county or the governing body of any city may prescribe hours of
33 closing, standards of conduct and rules and regulations concerning the
34 moral, sanitary and health conditions of places licensed pursuant to this
35 act and may establish zones within which no such place may be located.

36 (b) Except as provided by ~~subsection (g) subsections (g) and (h)~~ [sub-
37 section (g)], no cereal malt beverages may be sold:

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

39 (2) on Sunday, except in a place of business which is licensed to sell
40 cereal malt beverage for consumption on the premises, which derives not
41 less than 30% of its gross receipts from the sale of food for consumption
42 on the licensed premises and which is located in a county where such
43 sales on Sunday have been authorized by resolution of the board of county

1 commissioners of the county or in a city where such sales on Sunday have
2 been authorized by ordinance of the governing body of the city.

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

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

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

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

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

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

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

36 (h) ~~In cities and townships where the sale at retail of cereal malt~~
37 ~~beverage in the original package on Sunday has been approved as pro-~~
38 ~~vided by sections 10 and 15, and amendments thereto, a~~ **A retailer may**
39 **sell at retail cereal malt beverage in the original package on Sunday be-**
40 **tween the hours of 12 noon and 8 p.m. if such sales have been approved**
41 **as provided by section 11 or 16 [10 or 15], and amendments thereto.**

42 New Sec. 15. **16 [14].** A retailer issued a license pursuant to the
43 Kansas cereal malt beverage act may sell at retail cereal malt beverage in

1 ~~the original package on Sunday between the hours of 12 noon and 8 p.m.~~
2 ~~on premises located within the unincorporated area of a county if the~~
3 ~~board of county commissioners of such county adopts a resolution per-~~
4 ~~mitting such sales. The county clerk shall send a certified copy of such~~
5 ~~resolution to the director.~~

6 ~~—New Sec. 16.—(a) On and after January 1, 2005, a resident of this state~~
7 ~~who is 21 or more years of age may purchase wine from a person licensed~~
8 ~~to sell wine in another state if the wine purchased is not otherwise avail-~~
9 ~~able for sale in Kansas under the Kansas liquor control act and the pur-~~
10 ~~chase is for the purchaser's personal use and not for resale. The purchase~~
11 ~~may be made in person, by telephone, by mail or on the internet.~~

12 ~~—(b) Wine purchased as authorized by this section shall be shipped to~~
13 ~~the purchaser in care of a retailer licensed in this state and shall be de-~~
14 ~~livered to the purchaser at the retailer's licensed premises during hours~~
15 ~~that the retailer is authorized to sell alcoholic liquor. The retailer may~~
16 ~~charge the purchaser a handling fee not to exceed \$5 for each case or~~
17 ~~partial case of wine received on behalf of the purchaser. The purchaser~~
18 ~~shall be required to pay any amount due for the cost of the wine, shipping~~
19 ~~costs, taxes and the handling fee before the retailer releases the wine to~~
20 ~~the purchaser.~~

21 ~~—(c) A retailer receiving shipment of wine on behalf of a purchaser as~~
22 ~~authorized by this section shall:~~

23 ~~—(1) Ensure that the purchaser of the wine is 21 or more years of age.~~

24 ~~—(2) Collect all taxes imposed with regard to such wine pursuant to~~
25 ~~K.S.A. 41-501 and 79-4101 *et seq.*, and amendments thereto, in accord-~~
26 ~~ance with rules and regulations of the secretary.~~

27 ~~—(3) At the time of delivery to the purchaser, make a record of the~~
28 ~~delivery on a form approved by the director. The record shall be retained~~
29 ~~by the retailer for at least two years and shall include the following in-~~
30 ~~formation: (A) The business name, address and license number of the~~
31 ~~retailer, (B) the date and time of delivery to the purchaser, (C) the type,~~
32 ~~brand and amount of wine delivered to the purchaser, and (D) the age,~~
33 ~~printed name and signature of the purchaser.~~

34 ~~—(d) The secretary may adopt rules and regulations to implement and~~
35 ~~enforce the provisions of this section.~~

36 ~~—(e) This section shall be part of and supplemental to the Kansas liquor~~
37 ~~control act.~~

38 ***Sec. 17.—K.S.A. 41-2727 is hereby amended to read as follows:***
39 ***41-2727. (a) Any person listed in subsections (b)(1), (b)(2) or (b)(3)***
40 ***may engage or direct a person under the legal age for consumption***
41 ***of cereal malt beverage to violate the provisions of K.S.A. 41-2701,***
42 ***et seq. the Kansas cereal malt beverage act, and amendments thereto,***
43 ***in order to develop a program or system which determines and en-***

1 ~~courages compliance with the provisions thereof prohibiting the~~
 2 ~~furnishing or sale of cereal malt beverages to a person under the~~
 3 ~~legal age for consumption of cereal malt beverage or the consump-~~
 4 ~~tion of cereal malt beverages by such persons.~~

5 ~~—(b) No person shall engage or direct a person under the legal~~
 6 ~~age for consumption of cereal malt beverage to violate any provi-~~
 7 ~~sion of K.S.A. 41-2701 et seq. the Kansas cereal malt beverage act, and~~
 8 ~~amendments thereto, for purposes of determining compliance there-~~
 9 ~~with unless such person is:~~

10 ~~—(1) An officer having authority to enforce the provisions of~~
 11 ~~K.S.A. 41-2701 et seq. the Kansas cereal malt beverage act, and amend-~~
 12 ~~ments thereto;~~

13 ~~—(2) an authorized representative of the attorney general, a~~
 14 ~~county attorney or a district attorney; or~~

15 ~~—(3) a licensee under the provisions of K.S.A. 41-2701, et seq. the~~
 16 ~~Kansas cereal malt beverage act, and amendments thereto, or such~~
 17 ~~licensee's designee pursuant to a self-compliance program designed~~
 18 ~~to increase compliance with the provisions of K.S.A. 41-2701 et seq.~~
 19 ~~the Kansas cereal malt beverage act, and amendments thereto, if such~~
 20 ~~program has been approved by the director.~~

21 (e) ~~The governing body of any city and the board of county commis-~~
 22 ~~sioners of any county which issues or renews licenses under the Kansas~~
 23 ~~cereal malt beverage act shall develop and implement a program or system~~
 24 ~~which determines and encourages compliance with the provisions of the~~
 25 ~~Kansas cereal malt beverage act prohibiting the furnishing to or sale of~~
 26 ~~cereal malt beverages to a person under the legal age for consumption of~~
 27 ~~cereal malt beverage or the consumption of cereal malt beverages by such~~
 28 ~~persons. Under such program or system, each retailer shall be subject to~~
 29 ~~at least one compliance check each calendar quarter. Compliance checks~~
 30 ~~may be conducted in coordination with the division of alcoholic beverage~~
 31 ~~control or with the retailer under a self-compliance program approved by~~
 32 ~~the governing body of the city or the board of county commissioners.~~

33 Sec. ~~17: 18~~ [15]. K.S.A. 41-208, 41-301, 41-302, 41-303, 41-710, 41-
 34 712, 41-714, 41-1111, 41-1112, 41-1114 through 41-1121 and ~~41-2704,~~
 35 ~~[and] 41-2704 and 41-2727~~ and K.S.A. 2003 Supp. 19-101a, 41-347,
 36 41-501 and 41-719 are hereby repealed.

37 Sec. ~~18: 19~~ [16]. This act shall take effect and be in force from and
 38 after its publication in the statute book.