

HOUSE BILL No. 2815

By Committee on Judiciary

2-11

9 AN ACT concerning alcoholic beverages; relating to offenses involving
10 persons under 21 years of age; amending K.S.A. 21-3610, 41-346 and
11 41-2615 and K.S.A. 2007 Supp. 41-2905 and 41-2906 and repealing
12 the existing sections.
13

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

15 Section 1. K.S.A. 21-3610 is hereby amended to read as follows: 21-
16 3610. (a) Furnishing alcoholic liquor or cereal malt beverage to a minor
17 is directly or indirectly, selling to, buying for, giving or furnishing any
18 alcoholic liquor or cereal malt beverage to any minor.

19 (b) Furnishing alcoholic liquor or cereal malt beverage to a minor is
20 a class B person misdemeanor for which the minimum fine is \$200.

21 (c) As used in this section, terms have the meanings provided by
22 K.S.A. 41-102, 41-2601 and 41-2701, and amendments thereto.

23 (d) It shall be a defense to a prosecution under this section if: (1) The
24 defendant is a licensed retailer, club, drinking establishment or caterer
25 or holds a temporary permit, or an employee thereof; (2) the defendant
26 sold the alcoholic liquor or cereal malt beverage to the minor with rea-
27 sonable cause to believe that the minor was 21 or more years of age or
28 of legal age for the consumption of alcoholic liquor or cereal malt bev-
29 erage; and (3) to purchase the alcoholic liquor or cereal malt beverage,
30 the person exhibited to the defendant a driver's license, Kansas non-
31 driver's identification card or other official or apparently official docu-
32 ment, ~~containing~~ *that reasonably appears to contain* a photograph of the
33 minor and purporting to establish that such minor was 21 or more years
34 of age or of legal age for the consumption of alcoholic liquor or cereal
35 malt beverage.

36 (e) This section shall not apply to the furnishing of cereal malt bev-
37 erage by a parent or legal guardian to such parent's child or such
38 guardian's ward when such furnishing is permitted and supervised by the
39 child or ward's parent or legal guardian.

40 Sec. 2. K.S.A. 41-346 is hereby amended to read as follows: 41-346.
41 In any administrative proceeding pursuant to the Kansas liquor control
42 act to suspend or revoke a license, or to impose a civil fine, for a violation
43 of K.S.A. 21-3610, ~~21-3610a~~ or 41-2615, and amendments thereto, it shall

1 be a defense if evidence is presented which indicates that: (a) The de-
2 fendant permitted the minor to possess or consume the alcoholic liquor
3 or cereal malt beverage with reasonable cause to believe that the minor
4 was 21 or more years of age; and (b) to possess or consume the alcoholic
5 liquor or cereal malt beverage, the minor exhibited to the defendant a
6 driver's license, Kansas nondriver's identification card or other official or
7 apparently official document, ~~containing~~ *that reasonably appears to con-*
8 *tain* a photograph of the minor and purporting to establish that such
9 minor was 21 or more years of age.

10 Sec. 3. K.S.A. 41-2615 is hereby amended to read as follows: 41-
11 2615. (a) No licensee or permit holder, or any owner, officer or employee
12 thereof, shall knowingly ~~or unknowingly~~ permit the possession or con-
13 sumption of alcoholic liquor or cereal malt beverage by a minor on prem-
14 ises where alcoholic beverages are sold by such licensee or permit holder,
15 except that a licensee's or permit holder's employee who is not less than
16 18 years of age may serve alcoholic liquor or cereal malt beverage under
17 the on-premises supervision of the licensee or permit holder, or an em-
18 ployee who is 21 years of age or older.

19 (b) Violation of this section is a misdemeanor punishable by a fine of
20 not less than \$100 and not more than \$250 or imprisonment not exceeding
21 30 days, or both.

22 (c) It shall be a defense to a prosecution under this section if: (1) The
23 defendant permitted the minor to possess or consume the alcoholic liquor
24 or cereal malt beverage with reasonable cause to believe that the minor
25 was 21 or more years of age; and (2) to possess or consume the alcoholic
26 liquor or cereal malt beverage, the minor exhibited to the defendant a
27 driver's license, Kansas nondriver's identification card or other official or
28 apparently official document, ~~containing~~ *that reasonably appears to con-*
29 *tain* a photograph of the minor and purporting to establish that such
30 minor was 21 or more years of age.

31 Sec. 4. K.S.A. 2007 Supp. 41-2905 is hereby amended to read as
32 follows: 41-2905. (a) Prior to the sale at retail of any beer in a container
33 having a liquid capacity of four or more gallons, the retailer or the re-
34 tailer's employee or agent shall affix to the beer container a keg identi-
35 fication number or otherwise uniquely identify the container in accord-
36 ance with this act and rules and regulations adopted by the secretary. At
37 the time of sale at retail of any such container of beer, the retailer or the
38 retailer's employee or agent shall record the keg number; the date of the
39 sale; the purchaser's name and address; and the number on the pur-
40 chaser's driver's license, Kansas nondriver's identification card or other
41 official or apparently official document ~~containing~~ *that reasonably ap-*
42 *pears to contain* both the purchaser's picture and the purchaser's signa-
43 ture, which shall be exhibited at the time of sale. Such record shall be

1 kept by the retailer at the premises where the sale was made. Such record
2 shall be kept by the retailer until the container is returned or until the
3 expiration of six months following the date of the sale.

4 (b) For the purpose of investigating a violation of laws prohibiting
5 the furnishing to or possession or consumption of beer by persons under
6 the age of 21 and if such violation involves a container required to be
7 registered under the beer and cereal malt beverage keg registration act
8 and if there is reason to believe that a retailer sold such container, such
9 retailer's records relating to the sale of such container which are required
10 to be kept by this section shall be available for inspection by any law
11 enforcement officer during normal business hours of the retailer. Records
12 required to be kept by this section shall not be available for inspection or
13 use or subject to subpoena in any civil or administrative action or criminal
14 prosecution other than a civil or administrative action or criminal prose-
15 cution relating to a specific violation of this section or K.S.A. 21-3610 or
16 41-727, and amendments thereto. Except as specifically provided by this
17 subsection, records required to be kept by this section shall not be sold,
18 distributed or otherwise released to any person other than an agent of
19 the retailer or to a law enforcement agency.

20 (c) Upon a determination that a retailer or a retailer's employee or
21 agent has violated this section or any rules and regulations adopted pur-
22 suant to this section, the director may suspend or revoke the retailer's
23 license in the manner provided by K.S.A. 41-320, and amendments
24 thereto, and may impose a fine as provided by K.S.A. 41-328, and amend-
25 ments thereto.

26 (d) It is a class B nonperson misdemeanor for a person who is not a
27 retailer acting in the ordinary course of business to: (1) Remove from a
28 beer container all or part of a keg identification number required pur-
29 suant to this section; (2) make unreadable all or any part of a keg iden-
30 tification number required by this section to be affixed to a beer con-
31 tainer; or (3) possess a beer container required to be registered under
32 this act that does not have the keg identification number required by this
33 section.

34 (e) The secretary of revenue shall adopt any rules and regulations
35 necessary to implement the provisions of this section. Such rules and
36 regulations shall include, but shall not be limited to, provisions relating
37 to records and establishing standards for marking and handling containers
38 which are required to be registered by this act.

39 (f) The secretary of revenue shall provide any keg identification tags
40 or labels required by this section. Such tags or labels shall be designed
41 so that when affixed to a keg, such tags or labels do not mar or otherwise
42 damage the keg. There shall be no charge for such tags or labels.

43 (g) If a person sold beer in compliance with the provisions of this

1 section and any rules and regulations adopted pursuant thereto, it shall
2 be a defense to any criminal prosecution or proceeding or civil or admin-
3 istrative action under this section.

4 (h) The provisions of this section shall not apply to sales of kegs by
5 distributors or retailers to clubs, drinking establishments, hotel drinking
6 establishments and caterers licensed under the club and drinking estab-
7 lishment act.

8 (i) Words or phrases used in this section shall have the meaning as-
9 cribed thereto by K.S.A. 41-102, and amendments thereto.

10 Sec. 5. K.S.A. 2007 Supp. 41-2906 is hereby amended to read as
11 follows: 41-2906. (a) Prior to the sale by a retailer or a retailer's employe
12 or agent of any cereal malt beverage in a container having a liquid capacity
13 of four or more gallons, the retailer or the retailer's employe or agent
14 shall affix to the cereal malt beverage container a keg identification num-
15 ber or otherwise uniquely identify the container in accordance with rules
16 and regulations adopted by the secretary. At the time of sale of any such
17 container of cereal malt beverage, the retailer, or the retailer's employe
18 or agent, shall record the keg number; the date of the sale; the purchaser's
19 name and address; and the number on the purchaser's driver's license,
20 Kansas nondriver's identification card or other official or apparently of-
21 ficial document ~~containing~~ *that reasonably appears to contain* both the
22 purchaser's picture and the purchaser's signature, which shall be exhib-
23 ited at the time of sale. Such record shall be kept by the retailer at the
24 premises where the sale was made. Such record shall be kept by the
25 retailer until the container is returned or until the expiration of six months
26 following the date of the sale.

27 (b) For the purpose of investigating a violation of laws prohibiting
28 the furnishing to or possession or consumption of cereal malt beverage
29 by persons under the legal age for consumption of cereal malt beverage
30 and if such violation involves a container required to be registered under
31 the beer and cereal malt beverage keg registration act and if there is
32 reason to believe that such retailer sold such container, such retailer's
33 records relating to the sale of such container which are required to be
34 kept by this section shall be available for inspection by any law enforce-
35 ment officer during normal business hours. Records required to be kept
36 by this section shall not be available for inspection or use or subject to
37 subpoena in any civil or administrative action or criminal prosecution
38 other than a civil or administrative action or criminal prosecution relating
39 to a specific violation of this section or K.S.A. 21-3610 or 41-727, and
40 amendments thereto. Except as specifically provided by this subsection,
41 records required to be kept by this section shall not be sold, distributed
42 or otherwise released to any person other than an agent of the retailer or
43 to a law enforcement agency.

- 1 (c) Upon a determination that a retailer or a retailer's employee or
2 agent has violated this section or any rules and regulations adopted pur-
3 suant to this section, the board of county commissioners or the governing
4 body of the city may suspend or revoke the retailer's license in the manner
5 provided by K.S.A. 41-2708, and amendments thereto, and may impose
6 a fine pursuant to K.S.A. 41-2711, and amendments thereto.
- 7 (d) It is a class B nonperson misdemeanor for a person who is not a
8 retailer acting in the ordinary course of business to: (1) Remove from a
9 cereal malt beverage container all or part of a keg identification number
10 required pursuant to this section; (2) make unreadable all or any part of
11 a keg identification number required by this section to be affixed to a
12 cereal malt beverage container; or (3) possess a cereal malt beverage
13 container required to be registered under this act that does not have the
14 keg identification number required by this section.
- 15 (e) The secretary of revenue shall adopt any rules and regulations
16 necessary to implement the provisions of this section. Such rules and
17 regulations shall include, but shall not be limited to, provisions relating
18 to records and establishing standards for marking and handling containers
19 which are required to be registered by this act.
- 20 (f) The secretary of revenue shall provide any keg identification tags
21 or labels required by this act. There shall be no charge for such tags or
22 labels. Such tags or labels shall be designed so that when affixed to a keg,
23 such tags or labels do not mar or otherwise damage the keg.
- 24 (g) If a person sold cereal malt beverage in compliance with the pro-
25 visions of this section and any rules and regulations adopted pursuant
26 thereto, it shall be a defense to any criminal prosecution or proceeding
27 or civil or administrative action under this section.
- 28 (h) Words and phrases used in this section shall have the meaning
29 ascribed thereto by K.S.A. 41-2701, and amendments thereto.
- 30 Sec. 6. K.S.A. 21-3610, 41-346 and 41-2615 and K.S.A. 2007 Supp.
31 41-2905 and 41-2906 are hereby repealed.
- 32 Sec. 7. This act shall take effect and be in force from and after its
33 publication in the statute book.