

SENATE BILL No. 622

By Committee on Federal and State Affairs

2-13

9 AN ACT concerning alcoholic beverage; relating to the regulation
10 thereof; amending K.S.A. 41-102, 41-210, 41-211, 41-304, 41-307, 41-
11 308, 41-601, 41-602, 41-701, 41-708, 41-717, 41-718, 41-724, 41-725,
12 41-726, 41-729, 41-806, 41-901, 41-905, 41-1001, 41-1002, 41-1004,
13 41-1101, 41-1102, 41-1122, 41-1123, 41-1125, 41-2604, 41-2610, 41-
14 2614, 41-2632, 41-2637, 41-2641, 41-2642, 41-2643, 41-2705, 41-2706,
15 41-2707, 41-2709, 41-2722, 41-2726, 79-4101, 79-4102, 79-4103, 79-
16 4104, 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07 and 79-41a08
17 and K.S.A. 2007 Supp. 41-104, 41-209, 41-308b, 41-712, 41-805, 41-
18 2611, 41-2645, 41-2701, 41-2704, 41-2728, 79-3606 and 79-41a03 and
19 repealing the existing sections; also repealing K.S.A. 41-103 and 41-
20 2712 and K.S.A. 2007 Supp. 41-2702, 41-2703 and 41-2708.

21

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

23 Section 1. K.S.A. 41-102 is hereby amended to read as follows: 41-
24 102. As used in ~~this~~ *the Kansas liquor control act*, unless the context
25 clearly requires otherwise:

26 (a) "Alcohol" means the product of distillation of any fermented liq-
27 uid, whether rectified or diluted, whatever its origin, and includes syn-
28 thetic ethyl alcohol but does not include denatured alcohol or wood
29 alcohol.

30 (b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every
31 liquid or solid, patented or not, containing alcohol, spirits, wine or beer
32 and capable of being consumed as a beverage by a human being, but shall
33 not include any cereal malt beverage.

34 (c) "Beer" means a beverage, containing more than ~~3.2%~~ 5% alcohol
35 by weight, obtained by alcoholic fermentation of an infusion or concoction
36 of barley, or other grain, malt and hops in water and includes beer, ale,
37 stout, lager beer, porter and similar beverages having such alcoholic
38 content.

39 (d) "Caterer" has the meaning provided by K.S.A. 41-2601, and
40 amendments thereto.

41 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
42 2701, and amendments thereto.

43 (f) "Club" has the meaning provided by K.S.A. 41-2601, and amend-

1 ments thereto.

2 (g) “Director” means the director of alcoholic beverage control of the
3 department of revenue.

4 (h) “Distributor” means the person importing or causing to be im-
5 ported into the state, or purchasing or causing to be purchased within
6 the state, alcoholic liquor for sale or resale to *liquor* retailers licensed
7 under ~~this the Kansas liquor control act~~ or cereal malt beverage for sale
8 or resale to *liquor retailers licensed under the Kansas liquor control act*
9 *or cereal malt beverage* retailers licensed under ~~K.S.A. 41-2702, and~~
10 ~~amendments thereto~~ *the Kansas cereal malt beverage act*.

11 (i) “Domestic beer” means beer which contains not more than 8%
12 alcohol by weight and which is manufactured from agricultural products
13 grown in this state.

14 (j) “Domestic fortified wine” means wine which contains more than
15 14%, but not more than 20% alcohol by volume and which is manufac-
16 tured from agricultural products grown in this state without rectification.

17 (k) “Domestic table wine” means wine which contains not more than
18 14% alcohol by volume and which is manufactured without rectification
19 or fortification from agricultural products grown in this state.

20 (l) “Drinking establishment” has the meaning provided by K.S.A. 41-
21 2601, and amendments thereto.

22 (m) “Farm winery” means a winery licensed by the director to man-
23 ufacture, store and sell domestic table wine and domestic fortified wine.

24 (n) “Manufacture” means to distill, rectify, ferment, brew, make, mix,
25 concoct, process, blend, bottle or fill an original package with any alco-
26 holic liquor, beer or cereal malt beverage.

27 (o) (1) “Manufacturer” means every brewer, fermenter, distiller, rec-
28 tifier, wine maker, blender, processor, bottler or person who fills or refills
29 an original package and others engaged in brewing, fermenting, distilling,
30 rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

31 (2) “Manufacturer” does not include a microbrewery or a farm
32 winery.

33 (p) “Microbrewery” means a brewery licensed by the director to
34 manufacture, store and sell domestic beer.

35 (q) “Minor” means any person under 21 years of age.

36 (r) “Nonbeverage user” means any manufacturer of any of the prod-
37 ucts set forth and described in K.S.A. 41-501, and amendments thereto,
38 when the products contain alcohol or wine, and all laboratories using
39 alcohol for nonbeverage purposes.

40 (s) (1) “Original package” or “*original container*” means any bottle,
41 flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container
42 whatsoever, used, corked or capped, sealed and labeled by the manufac-
43 turer of alcoholic liquor, to contain and to convey any alcoholic liquor or

- 1 *cereal malt beverage*. ~~Original container does not include a sleeve.~~
- 2 (2) “Original package” or “original container” does not mean a sleeve.
- 3 (t) “Person” means any natural person, corporation, partnership, trust
4 or association.
- 5 (u) “Primary American source of supply” means the manufacturer,
6 the owner of *cereal malt beverage* or alcoholic liquor at the time it be-
7 comes a marketable product or the manufacturer’s or owner’s exclusive
8 agent who, if the *cereal malt beverage* or alcoholic liquor cannot be se-
9 cured directly from such manufacturer or owner by American wholesal-
10 ers, is the source closest to such manufacturer or owner in the channel
11 of commerce from which the product can be secured by American
12 wholesalers.
- 13 ~~(v) (1) “Retailer” means a person who sells at retail, or offers for sale~~
14 ~~at retail, alcoholic liquors.~~
- 15 ~~(2) “Retailer” does not include a microbrewery or a farm winery.~~
- 16 ~~(w) (v)~~ (v) “Sale” means any transfer, exchange or barter in any manner
17 or by any means whatsoever for a consideration and includes all sales
18 made by any person, whether principal, proprietor, agent, servant or
19 employee.
- 20 ~~(x) (w)~~ (w) “Salesperson” means any natural person who:
21 (1) Procures or seeks to procure an order, bargain, contract or agree-
22 ment for the sale of alcoholic liquor or cereal malt beverage; or
23 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
24 beverage, or in promoting the business of any person, firm or corporation
25 engaged in the manufacturing and selling of alcoholic liquor or cereal
26 malt beverage, whether the seller resides within the state of Kansas and
27 sells to licensed buyers within the state of Kansas, or whether the seller
28 resides without the state of Kansas and sells to licensed buyers within the
29 state of Kansas.
- 30 ~~(y) (x)~~ (x) “Secretary” means the secretary of revenue.
- 31 ~~(z) (y)~~ (y) (1) “Sell at retail” and “sale at retail” refer to and mean sales
32 for use or consumption and not for resale in any form and sales to clubs,
33 licensed drinking establishments, licensed caterers or holders of tempo-
34 rary permits.
- 35 (2) “Sell at retail” and “sale at retail” do not refer to or mean sales
36 by a distributor, a microbrewery, a farm winery, a licensed club, a licensed
37 drinking establishment, a licensed caterer or a holder of a temporary
38 permit.
- 39 ~~(aa) (z)~~ (z) “To sell” includes to solicit or receive an order for, to keep
40 or expose for sale and to keep with intent to sell.
- 41 ~~(bb) (aa)~~ (aa) “Sleeve” means a package of two or more 50-milliliter (3.2-
42 fluid-ounce) containers of spirits.
- 43 ~~(cc) (bb)~~ (bb) “Spirits” means any beverage which contains alcohol ob-

1 tained by distillation, mixed with water or other substance in solution,
2 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
3 such liquors when rectified, blended or otherwise mixed with alcohol or
4 other substances.

5 ~~(dd)~~ (cc) "Supplier" means a manufacturer of alcoholic liquor or ce-
6 real malt beverage or an agent of such manufacturer, other than a
7 salesperson.

8 ~~(ee)~~ (dd) "Temporary permit" has the meaning provided by K.S.A.
9 41-2601, and amendments thereto.

10 ~~(ff)~~ (ee) "Wine" means any alcoholic beverage obtained by the normal
11 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries
12 or other agricultural products, including such beverages containing added
13 alcohol or spirits or containing sugar added for the purpose of correcting
14 natural deficiencies.

15 (ff) (1) "Cereal malt beverage retailer" means any person who sells
16 or offers for sale any cereal malt beverage for use or consumption and not
17 for resale in any form.

18 (2) "Cereal malt beverage retailer" does not mean a liquor retailer or
19 any person licensed under the club and drinking establishment act.

20 (gg) "Licensee" means any cereal malt beverage retailer, any liquor
21 retailer and any person licensed under the club and drinking establish-
22 ment act.

23 (hh) (1) "Liquor retailer" or "retailer" means any retailer licensed
24 pursuant to the Kansas liquor control act.

25 (2) "Liquor retailer" or "retailer" does not mean a microbrewery or
26 farm winery.

27 Sec. 2. K.S.A. 2007 Supp. 41-104 is hereby amended to read as fol-
28 lows: 41-104. No person shall manufacture, bottle, blend, sell, barter,
29 transport, deliver, furnish or possess any alcoholic liquor for beverage
30 purposes, except as specifically provided in ~~this act~~, *the Kansas liquor*
31 *control act*, *the Kansas cereal malt beverage act* or the club and drinking
32 establishment act or article 27 of chapter 41 of the Kansas Statutes An-
33 ~~notated~~, except that nothing contained in this act shall prevent:

34 (a) The possession and transportation of alcoholic liquor for the per-
35 sonal use of the possessor, the possessor's family and guests except that
36 the provisions of K.S.A. 41-407 and amendments thereto shall be appli-
37 cable to all persons;

38 (b) the making of wine, cider, *cereal malt beverage* or beer by a per-
39 son from fruits, vegetables or grains, or the product thereof, by simple
40 fermentation and without distillation, if it is made solely for the use of
41 the maker and the maker's family;

42 (c) any duly licensed practicing physician or dentist from possessing
43 or using alcoholic liquor in the strict practice of the medical or dental

1 profession;

2 (d) any hospital or other institution caring for sick and diseased per-
3 sons, from possessing and using alcoholic liquor for the treatment of bona
4 fide patients of such hospital or institution;

5 (e) any drugstore employing a licensed pharmacist from possessing
6 and using alcoholic liquor in the compounding of prescriptions of duly
7 licensed physicians;

8 (f) the possession and dispensation of wine by an authorized repre-
9 sentative of any church for the purpose of conducting any bona fide rite
10 or religious ceremony conducted by such church; ~~or~~

11 (g) the sale of wine to a consumer in this state by a person which
12 holds a valid license authorizing the manufacture of wine in this or an-
13 other state and the shipment of such wine directly to such consumer,
14 subject to the following: (1) The consumer must be at least 21 years of
15 age; (2) the consumer must purchase the wine while physically present
16 on the premises of the wine manufacturer; (3) the wine must be for the
17 consumer's personal consumption and not for resale; and (4) the con-
18 sumer shall comply with the provisions of K.S.A. 41-407, and amend-
19 ments thereto, by payment of all applicable taxes within such time after
20 purchase of the wine as prescribed by rules and regulations adopted by
21 the secretary; *or*

22 (h) the serving of complimentary alcoholic liquor or cereal malt ~~bev-~~
23 ~~erages~~ *beverage* at fund raising activities of charitable organizations as
24 defined by K.S.A. 17-1760, and amendments thereto, and as qualified
25 pursuant to 26 U.S.C.A. 501(c) and by committees formed pursuant to
26 K.S.A. 25-4142 et seq., and amendments thereto. The serving of such
27 alcoholic liquor *or cereal malt beverage* at such fund raising activities shall
28 not constitute a sale pursuant to ~~this the liquor control act, the club and~~
29 ~~drinking establishment act or article 27 of chapter 41 of the Kansas Stat-~~
30 ~~utes Annotated, and amendments thereto~~ *the Kansas cereal malt beverage*
31 *act*. Any such fund raising activity shall not be required to obtain a license
32 or a temporary permit pursuant to ~~this the Kansas liquor control act, the~~
33 ~~club and drinking establishment act or article 27 of chapter 41 of the~~
34 ~~Kansas Statutes Annotated, and amendments thereto~~ *the Kansas cereal*
35 *malt beverage act*.

36 Sec. 3. K.S.A. 2007 Supp. 41-209 is hereby amended to read as fol-
37 lows: 41-209. The director shall have the following powers, functions and
38 duties:

39 (a) To receive applications for, and to issue and revoke licenses to
40 manufacturers, distributors, nonbeverage users ~~and, liquor retailers and~~
41 *cereal malt beverage* retailers in accordance with the provisions of ~~this~~
42 *the Kansas liquor control act and the Kansas cereal malt beverage act*;

43 (b) to call upon other administrative departments of the state, county

1 and city governments, sheriffs, city police departments, city marshals, law
 2 enforcement officers and upon prosecuting officers for such information
 3 and assistance as the director deems necessary in the performance of the
 4 duties imposed upon the director by ~~this the Kansas liquor control act~~
 5 ~~and the Kansas cereal malt beverage act~~;

6 (c) to inspect or cause to be inspected, any premises where alcoholic
 7 liquors ~~or cereal malt beverages~~ are manufactured; ~~or distributed~~ ~~or~~ ~~and~~
 8 ~~to inspect or cause to be inspected the premises of a liquor retailer where~~
 9 ~~alcoholic liquor or cereal malt beverage is sold~~;

10 (d) in the conduct of any hearing authorized to be held by the director
 11 to examine, or cause to be examined, under oath, any person, and to
 12 examine or cause to be examined books and records of any licensee; to
 13 hear testimony and take proof material for the information of the director
 14 in the discharge of such duties hereunder; to administer or cause to be
 15 administered oaths; and for any such purposes to issue subpoenas to re-
 16 quire the attendance of witnesses and the production of books which shall
 17 be effective in any part of this state; and any district court or any judge
 18 of the district court, may by order duly entered, require the attendance
 19 of witnesses and the production of relevant books subpoenaed by the
 20 director, and the court or judge may compel obedience to the order by
 21 proceedings for contempt;

22 (e) to collect, receive, account for and turn over to the secretary of
 23 revenue all registration and license fees and taxes provided for in ~~this act~~
 24 ~~the Kansas liquor control act and the Kansas cereal malt beverage act,~~
 25 ~~except for occupation license fees imposed on liquor retailers and cereal~~
 26 ~~malt beverage retailers by cities and counties,~~ and all other moneys re-
 27 ceived by the director by virtue of the director's office; and

28 (f) such other powers, functions and duties as are or may be imposed
 29 or conferred upon the director by law.

30 Sec. 4. K.S.A. 41-210 is hereby amended to read as follows: 41-210.

31 (a) The director shall propose such rules and regulations as necessary to
 32 carry out the intent and purposes of ~~this the Kansas liquor control act~~
 33 ~~and the Kansas cereal malt beverage act~~. After the hearing on a proposed
 34 rule and regulation has been held as required by law, the director shall
 35 submit the proposed rule and regulation to the secretary of revenue who,
 36 if the secretary approves it, shall adopt the rule and regulation.

37 (b) ~~It is intended by this act that the director of alcoholic beverage~~
 38 ~~control~~ ~~The director~~ shall have broad discretionary powers to govern the
 39 traffic in alcoholic ~~liquors~~ ~~liquor and cereal malt beverage~~ and to enforce
 40 strictly all the provisions of ~~this the Kansas liquor control act and the~~
 41 ~~Kansas cereal malt beverage act~~ in the interest of sanitation, purity of
 42 products, truthful representation and honest dealings in such manner as
 43 generally will promote the public health and welfare. All valid rules and

1 regulations adopted under the provisions of ~~this~~ *the Kansas liquor control*
2 *act and the Kansas cereal malt beverage act* shall be absolutely binding
3 upon all licensees and enforceable by the director of ~~alcoholic beverage~~
4 ~~control~~ through the power of suspension or revocation of licenses.

5 Sec. 5. K.S.A. 41-211 is hereby amended to read as follows: 41-211.

6 (a) The rules and regulations adopted by the secretary of revenue pur-
7 suant to K.S.A. 41-210, and amendments thereto, shall include rules and
8 regulations:

9 (1) Prescribing the nature, form and capacity of all containers used
10 for alcoholic liquors;

11 (2) prescribing the nature of and the representations to be shown
12 upon the labels attached to the containers and requiring that the labels
13 attached to all original containers or packages of alcoholic liquors sold or
14 offered for sale in this state shall set forth in plain and legible print in the
15 English language the quantity of such liquors, exclusive of the package
16 or cask containing them, in either metric or English measurement;

17 (3) prescribing administrative procedures for the issuance of licenses
18 and the investigation of license applications and providing for advisory
19 recommendations from governing bodies of cities as to *liquor retailers'*
20 *and cereal malt beverage* retailers' licenses and for hearings on
21 applications;

22 (4) prescribing conditions for the issuance of duplicate licenses in lieu
23 of those lost or destroyed;

24 (5) prescribing those violations of the rules and regulations for which
25 licenses shall be suspended or revoked;

26 (6) establishing standards of purity, sanitation and honest advertising
27 and representations;

28 (7) requiring the destruction of stamps upon containers which have
29 been opened;

30 (8) in the case of manufacturers and distributors of alcoholic liquors
31 *and cereal malt beverages*, requiring the labels attached to all containers
32 ~~of such liquors thereof~~ which are intended for sale in this state to set
33 forth, in plain legible print in the English language, the name and kind
34 of alcoholic liquors *or cereal malt beverages* contained therein, together
35 with their alcoholic content, and if a blended product (except wine) to so
36 state, except that, if the director deems it unnecessary to show the alco-
37 holic content of beer on labels of containers of beer, the alcoholic content
38 shall not be required to be shown thereon;

39 (9) establishing procedures and conditions under which minors may
40 be engaged in programs or systems encouraging compliance with the
41 provisions of laws relating to the sale of alcoholic liquor and cereal malt
42 beverages to a person under 21 years of age or under the legal age for
43 consumption of cereal malt beverages as authorized by K.S.A. 41-727a,

1 41-2652 and 41-2727, and amendments thereto. Such regulations shall
2 include provisions which require that such person used in any such pro-
3 gram or system to be (A) at least 18 years of age and not more than 19
4 $\frac{1}{2}$ years of age; (B) exhibit a youthful appearance; (C) carry only one
5 piece of identification, which shall be a valid form of identification; (D)
6 truthful in interactions with licensees; except if asked, such person may
7 deny working with law enforcement officials.

8 It shall be an absolute defense in any civil proceeding or criminal pros-
9 ecution if any such program or system does not comply with the proce-
10 dures and conditions required by such rules and regulations;

11 (10) providing for such other details as are necessary or convenient
12 to the administration and enforcement of this act.

13 (b) The secretary of revenue may adopt rules and regulations pur-
14 suant to K.S.A. 41-210, and amendments thereto establishing:

15 (1) Standards of manufacture of alcoholic liquors and ~~beer, regardless~~
16 ~~of its alcoholic content, cereal malt beverages~~ not inconsistent with federal
17 laws, in order to insure the use of proper ingredients and methods in the
18 manufacture and distribution thereof; and

19 (2) standards, not inconsistent with federal law, for the proper label-
20 ing of containers or barrels, casks or other bulk containers or bottles of
21 alcoholic liquor and ~~beer, regardless of its alcoholic content, cereal malt~~
22 ~~beverage~~ manufactured or sold in this state.

23 Sec. 6. K.S.A. 41-304 is hereby amended to read as follows: 41-304.
24 Licenses issued by the director shall be of the following classes: (a) Man-
25 ufacturer's license; (b) spirits distributor's license; (c) wine distributor's
26 license; (d) beer distributor's license; (e) retailer's license; (f) microbrew-
27 ery license; (g) farm winery license; ~~and~~ (h) *cereal malt beverage retailer's*
28 *license, as provided in the Kansas cereal malt beverage act; and* (i) non-
29 beverage user's license.

30 Sec. 7. K.S.A. 41-307 is hereby amended to read as follows: 41-307.
31 A beer distributor's license shall allow:

32 (a) The wholesale purchase, importation and storage of beer *and ce-*
33 *real malt beverage*.

34 (b) The sale of beer to:

35 (1) Licensed caterers;

36 (2) beer distributors licensed in this state;

37 (3) *liquor* retailers, *temporary permit holders*, clubs and drinking es-
38 tablishments, licensed in this state, except that such distributor shall sell
39 a brand of beer only to those *liquor* retailers, *temporary permit holders*,
40 clubs and drinking establishments of which the licensed premises are
41 located in the geographic territory within which such distributor is au-
42 thorized to sell such brand, as designated in the notice or notices filed
43 with the director pursuant to K.S.A. 41-410, and amendments thereto;

1 and

2 (4) such persons located outside such territory or outside this state
3 as permitted by law.

4 (c) The sale of cereal malt beverage to:

5 (1) Beer distributors licensed in this state;

6 (2) *liquor retailers*, clubs and drinking establishments, licensed in this
7 state, ~~and temporary permit holders and cereal malt beverage~~ retailers
8 licensed under ~~K.S.A. 41-2702 and amendments thereto, the Kansas ce-~~
9 ~~real malt beverage act~~, except that such distributor shall sell a brand of
10 cereal malt beverage only to those ~~such liquor retailers~~, clubs, drinking
11 establishments ~~and temporary permit holders and cereal malt beverage~~
12 ~~retailers of which the whose~~ licensed premises are located in the geo-
13 graphic territory within which such distributor is authorized to sell such
14 brand, as designated in the notice or notices filed with the director pur-
15 suant to K.S.A. 41-410, and amendments thereto; and

16 (3) such persons located outside such territory or outside this state
17 as permitted by law.

18 (d) The purchase of cereal malt beverage in kegs or other bulk con-
19 tainers and the bottling or canning thereof in accordance with law.

20 (e) The storage ~~on the distributor's licensed premises~~ and delivery to
21 a ~~liquor retailer or cereal malt beverage~~ retailer licensed under the Kansas
22 ~~liquor control act or a retailer licensed under K.S.A. 41-2702 and amend-~~
23 ~~ments thereto, on the distributor's licensed premises~~, of alcoholic liquor
24 or cereal malt beverage of another licensed distributor authorized by law
25 to sell such alcoholic liquor or cereal malt beverage to such retailer, in
26 accordance with an agreement entered into with such other distributor
27 and approved by the director.

28 Sec. 8. K.S.A. 41-308 is hereby amended to read as follows: 41-308.

29 (a) A *liquor* retailer's license shall allow the licensee to sell and offer for
30 sale at retail and deliver in the original package, ~~as therein prescribed,~~
31 alcoholic liquor *and cereal malt beverage* for use or consumption off of
32 and away from the premises specified in such license. A *liquor* retailer's
33 license shall permit sale and delivery of alcoholic liquor *and cereal malt*
34 *beverage* only on the licensed premises and shall not permit sale of al-
35 coholic liquor *or cereal malt beverage* for resale in any form, except that
36 a licensed *liquor* retailer may:

37 (1) Sell alcoholic liquor *and cereal malt beverage* to a temporary per-
38 mit holder for resale by such permit holder; and

39 (2) sell and deliver alcoholic liquor *and cereal malt beverage* to a
40 caterer or to the licensed premises of a club or drinking establishment,
41 if such premises are in the county where the *liquor* retailer's premises
42 are located or in an adjacent county, for resale by such club, establishment
43 or caterer.

- 1 (b) *Except as provided herein*, the holder of a *liquor* retailer's license
2 shall not sell, offer for sale, give away or permit to be sold, offered for
3 sale or given away in or from the premises specified in such license any
4 service or thing of value whatsoever except alcoholic liquor *and cereal*
5 *malt beverage* in the original package, except that a licensed retailer may:
- 6 (1) Charge a delivery fee for delivery to a club, drinking establishment
7 or caterer pursuant to subsection (a);
 - 8 (2) sell lottery tickets and shares to the public in accordance with the
9 Kansas lottery act, if the *liquor* retailer is selected as a lottery retailer;
 - 10 (3) include in the sale of alcoholic liquor *or cereal malt beverage* any
11 goods included by the manufacturer in packaging with the alcoholic liquor
12 *or cereal malt beverage*, subject to the approval of the director; and
 - 13 (4) distribute to the public, without charge, consumer advertising
14 specialties bearing advertising matter, subject to rules and regulations of
15 the secretary limiting the form and distribution of such specialties so that
16 they are not conditioned on or an inducement to the purchase of alcoholic
17 liquor *or cereal malt beverage*.
- 18 (c) No licensed *liquor* retailer shall furnish any entertainment in such
19 premises or permit any pinball machine or game of skill or chance to be
20 located in or on such premises.
- 21 (d) A *liquor* retailer's license shall allow the licensee to store alcoholic
22 liquor *and cereal malt beverage* in refrigerators, cold storage units, ice
23 boxes or other cooling devices, and the licensee may sell such alcoholic
24 liquor *and cereal malt beverage* to consumers in a chilled condition.
- 25 Sec. 9. K.S.A. 2007 Supp. 41-308b is hereby amended to read as
26 follows: 41-308b. (a) A microbrewery license shall allow:
- 27 (1) The manufacture of not less than 100 nor more than 15,000 bar-
28 rels of domestic beer during the license year and the storage thereof;
 - 29 (2) the sale to beer distributors of *domestic* beer, manufactured by
30 the licensee;
 - 31 (3) the sale, on the licensed premises in the original unopened con-
32 tainer to consumers for consumption off the licensed premises, of *do-*
33 *mestic* beer manufactured by the licensee;
 - 34 (4) the serving on the premises of samples of *domestic* beer manu-
35 factured by the licensee, if the premises are located in a county where
36 the sale of alcoholic liquor is permitted by law in licensed drinking
37 establishments;
 - 38 (5) if the licensee is also licensed as a club or drinking establishment,
39 the sale of domestic beer, *cereal malt beverage* and other alcoholic liquor
40 for consumption on the licensed premises as authorized by the club and
41 drinking establishment act; and
 - 42 (6) if the licensee is also licensed as a caterer, the sale of domestic
43 beer, *cereal malt beverage* and other alcoholic liquor for consumption on

1 unlicensed premises as authorized by the club and drinking establishment
2 act.

3 (b) Upon application and payment of the fee prescribed by K.S.A.
4 41-310, and amendments thereto, by a microbrewery licensee, the direc-
5 tor may issue not to exceed one microbrewery packaging and warehousing
6 facility license to the microbrewery licensee. A microbrewery packaging
7 and warehousing facility license shall allow:

8 (1) The transfer, from the licensed premises of the microbrewery to
9 the licensed premises of the microbrewery packaging and warehousing
10 facility, of *domestic* beer manufactured by the licensee, for the purpose
11 of packaging or storage, or both; and

12 (2) the transfer, from the licensed premises of the microbrewery
13 packaging and warehousing facility to the licensed premises of the mi-
14 crobrewery, of *domestic* beer manufactured by the licensee; or

15 (3) the removal from the licensed premises of the microbrewery
16 packaging and warehousing facility of *domestic* beer manufactured by the
17 licensee for the purpose of delivery to a licensed beer wholesaler.

18 (c) Not less than 50% of the products utilized in the manufacture of
19 domestic beer by a microbrewery shall be grown in Kansas except when
20 a greater proportion of products grown outside this state is authorized by
21 the director based upon findings that such products are not available in
22 this state. The label of each container of domestic beer shall clearly set
23 forth the proportion of the products utilized in the manufacture of the
24 *domestic* beer which was from agricultural products grown in Kansas.

25 (d) A microbrewery may sell domestic beer in the original unopened
26 container to consumers for consumption off the licensed premises at any
27 time between 6 a.m. and 12 midnight on any day except Sunday and
28 between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a),
29 a microbrewery may serve samples of domestic beer and serve and sell
30 domestic beer and other alcoholic liquor for consumption on the licensed
31 premises at any time when a club or drinking establishment is authorized
32 to serve and sell alcoholic liquor.

33 (e) The director may issue to the Kansas state fair or any bona fide
34 group of brewers a permit to import into this state small quantities of
35 beer. Such beer shall be used only for bona fide educational and scientific
36 tasting programs and shall not be resold. Such beer shall not be subject
37 to the tax imposed by K.S.A. 41-501, and amendments thereto. The per-
38 mit shall identify specifically the brand and type of beer to be imported,
39 the quantity to be imported, the tasting programs for which the beer is
40 to be used and the times and locations of such programs. The secretary
41 shall adopt rules and regulations governing the importation of beer pur-
42 suant to this subsection and the conduct of tasting programs for which
43 such beer is imported.

1 (f) A microbrewery license or microbrewery packaging and ware-
2 housing facility license shall apply only to the premises described in the
3 application and in the license issued and only one location shall be de-
4 scribed in the license.

5 (g) No microbrewery shall:

6 (1) Employ any person under the age of 18 years in connection with
7 the manufacture, sale or serving of any alcoholic liquor, *cereal malt bev-*
8 *erage or domestic beer*;

9 (2) permit any employee of the licensee who is under the age of 21
10 years to work on the licensed premises at any time when not under the
11 on-premises supervision of either the licensee or an employee of the
12 licensee who is 21 years of age or over;

13 (3) employ any person under 21 years of age in connection with mix-
14 ing or dispensing alcoholic liquor, *cereal malt beverage or domestic beer*;
15 or

16 (4) employ any person in connection with the manufacture or sale of
17 alcoholic liquor, *cereal malt beverage or domestic beer* if the person has
18 been convicted of a felony.

19 (h) Whenever a microbrewery licensee is convicted of a violation of
20 the Kansas liquor control act, the director may revoke the licensee's li-
21 cense and all fees paid for the license in accordance with the Kansas
22 administrative procedure act.

23 Sec. 10. K.S.A. 41-601 is hereby amended to read as follows: 41-601.
24 Every manufacturer, distributor, *or* microbrewery which sells any beer
25 *or cereal malt beverage* to a beer distributor at wholesale and farm winery
26 which sells any wine to a distributor at wholesale shall between the 1st
27 and 15th day of each calendar month, make return under oath to the
28 director of all alcoholic liquor *or cereal malt beverage* manufactured and
29 sold by the manufacturer, distributor, microbrewery or farm winery in
30 the course of business during the preceding calendar month. In the case
31 of a distributor, the return shall also show: (a) The total amount of *alco-*
32 *holic liquor or cereal malt beverage*, purchased by the distributor during
33 the preceding calendar month, the names of the distillers or distributors
34 from whom purchased, the quantity of each brand and the price paid
35 therefor; and (b) the names and locations of the *liquor retailers and cereal*
36 *malt beverage* retailers to whom alcoholic liquor *or cereal malt beverage*
37 was sold by the distributor during the preceding calendar month, the
38 quantity of each brand and the price charged therefor. The return shall
39 be made upon forms prescribed and furnished by the director and shall
40 contain such other information as the director reasonably requires.

41 Sec. 11. K.S.A. 41-602 is hereby amended to read as follows: 41-602.
42 It is the duty of each manufacturer, distributor, microbrewery which sells
43 any *domestic* beer to a beer distributor and farm winery which sells any

1 wine to a distributor to keep complete and accurate records of all *such*
2 sales ~~of liquor, wine or beer~~ and complete and accurate records of all
3 alcoholic liquors *and cereal malt beverages* produced, manufactured,
4 compounded or imported. The director, in the director's discretion, may
5 prescribe reasonable and uniform methods for keeping records by man-
6 ufacturers, distributors, microbreweries and farm wineries as contem-
7 plated by K.S.A. 41-401 through 41-409, and amendments thereto.

8 Sec. 12. K.S.A. 41-701 is hereby amended to read as follows: 41-701.

9 (a) Except as provided in subsection (d), no spirits distributor shall sell
10 or attempt to sell any spirits within this state except to:

11 (1) A licensed manufacturer, licensed nonbeverage user or licensed
12 spirits distributor; or

13 (2) a licensed *liquor* retailer, as authorized by K.S.A. 41-306, and
14 amendments thereto.

15 (b) Except as provided in subsection (d), no wine distributor shall sell
16 or attempt to sell any wine within this state except to:

17 (1) A licensed manufacturer, licensed nonbeverage user or licensed
18 wine distributor;

19 (2) a licensed caterer; or

20 (3) a *liquor* retailer, club or drinking establishment, licensed in this
21 state, as authorized by K.S.A. 41-306a, *and amendments thereto*.

22 (c) Except as provided by subsection (d), no beer distributor shall sell
23 or attempt to sell any beer or cereal malt beverage within this state except
24 to:

25 (1) A licensed manufacturer, licensed nonbeverage user or licensed
26 beer distributor;

27 (2) a licensed caterer; or

28 (3) a *liquor* retailer ~~licensed under the Kansas liquor control act or~~
29 ~~under K.S.A. 41-2702 and amendments thereto~~, a *cereal malt beverage*
30 *retailer* or a club or drinking establishment, licensed in this state, as au-
31 thorized by K.S.A. 41-307, and amendments thereto.

32 (d) (1) If any spirits distributor refuses to sell spirits which such dis-
33 tributor is authorized to sell or refuses to provide any service in connec-
34 tion therewith to any licensed *liquor* retailer as authorized by K.S.A. 41-
35 306, and amendments thereto, it shall be lawful for any other licensed
36 spirits distributor to sell such spirits to such *liquor* retailer.

37 (2) If any wine distributor refuses to sell wine which such distributor
38 is authorized to sell or refuses to furnish service in connection therewith
39 to any licensed *liquor* retailer, as authorized by K.S.A. 41-306a, *and*
40 *amendments thereto*, it shall be lawful for any other licensed wine dis-
41 tributor to sell such wine to such retailer.

42 (3) If any beer distributor refuses to sell beer or cereal malt beverage
43 which such distributor is authorized to sell or provide service in connec-

1 tion therewith to any *liquor* retailer ~~licensed under this act or under~~
2 ~~K.S.A. 41-2702 and amendments thereto, or to any cereal malt beverage~~
3 *retailer* as authorized by K.S.A. 41-307, and amendments thereto, it shall
4 be lawful for any other licensed beer distributor to sell such beer or cereal
5 malt beverage to such *liquor retailer or cereal malt beverage* retailer.

6 (e) No manufacturer of alcoholic liquor or cereal malt beverage shall
7 sell or attempt to sell any alcoholic liquor or cereal malt beverage within
8 this state except to a licensed manufacturer, licensed distributor or li-
9 censed nonbeverage user.

10 (f) No supplier, wholesaler, distributor, manufacturer or importer
11 shall by oral or written contract or agreement, expressly or impliedly fix,
12 maintain, coerce or control the resale price of alcoholic liquor, beer or
13 cereal malt beverage to be resold by such wholesaler, distributor, man-
14 ufacturer or importer.

15 (g) Any supplier, wholesaler, distributor or manufacturer violating the
16 provisions of this section shall be guilty of a misdemeanor and upon con-
17 viction thereof shall be punished by a fine of not less than \$500 and not
18 more than \$1,000, to which may be added not to exceed six months'
19 imprisonment. In addition, any supplier, wholesaler, distributor, manu-
20 facturer or importer violating the provisions of this section relating to
21 fixing, maintaining or controlling the resale price of alcoholic liquor, beer
22 or cereal malt beverage shall be liable in a civil action to treble the amount
23 of any damages awarded plus reasonable attorney fees for the damaged
24 party.

25 Sec. 13. K.S.A. 41-708 is hereby amended to read as follows: 41-708.
26 No *liquor* retailer ~~licensed under this act~~ shall purchase or receive alco-
27 holic liquor *or cereal malt beverage* from any source except from a dis-
28 tributor licensed under this act and having a place of business in this
29 state, except that a licensed *liquor* retailer may purchase confiscated al-
30 coholic liquor *or cereal malt beverage* at a sheriff's sale. Any ~~retail licensee~~
31 *liquor retailer* who violates this section is guilty of a misdemeanor, and
32 upon conviction thereof shall be punished by a fine of not less than \$200,
33 nor more than \$1,000, to which may be added imprisonment for not more
34 than six months, and the license of such licensee may be revoked as
35 provided by law.

36 Sec. 14. K.S.A. 2007 Supp. 41-712 is hereby amended to read as
37 follows: 41-712. (a) Within any city where the days of sale at retail of
38 alcoholic liquor in the original package have not been expanded as pro-
39 vided by K.S.A. 2007 Supp. 41-2911, and amendments thereto, or have
40 been so expanded and subsequently restricted as provided by K.S.A. 2007
41 Supp. 41-2911, and amendments thereto, and within any township where
42 the days of sale at retail of alcoholic liquor in the original package have
43 not been expanded as provided by K.S.A. 2007 Supp 41-2911, and amend-

1 ments thereto, or have been so expanded and subsequently restricted as
2 provided by K.S.A. 2007 Supp. 41-2911, and amendments thereto, no
3 ~~person~~ *liquor retailer* shall sell at retail any alcoholic liquor *or cereal malt*
4 *beverage* in the original package: (1) On Sunday; (2) on Memorial Day,
5 Independence Day, Labor Day, Thanksgiving Day or Christmas Day; or
6 (3) before 9 a.m. or after 11 p.m. on any day when the sale is permitted.
7 The governing body of any city by ordinance may require the closing of
8 premises prior to 11 p.m., but such ordinance shall not require closing
9 prior to 8 p.m.

10 (b) Within any city where the days of sale at retail of alcoholic liquor
11 in the original package have been expanded as provided by K.S.A. 2007
12 Supp. 41-2911, and amendments thereto, and have not been subse-
13 quently restricted as provided by K.S.A. 2007 Supp. 41-2911, and amend-
14 ments thereto, and within any township where the days of sale at retail
15 of alcoholic liquor in the original package have been expanded as provided
16 by K.S.A. 2007 Supp. 41-2911, and amendments thereto, and have not
17 been subsequently restricted as provided by K.S.A. 2007 Supp. 41-2911,
18 and amendments thereto, no ~~person~~ *liquor retailer* shall sell at retail al-
19 coholic liquor *or cereal malt beverage* in the original package: (1) On
20 Sunday before 12 noon or after 8 p.m.; (2) on Easter Sunday, Thanksgiv-
21 ing Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any
22 day when the sale is permitted. The governing body of any city by ordi-
23 nance may require the closing of premises prior to 11 p.m., but such
24 ordinance shall not require closing prior to 8 p.m.

25 Sec. 15. K.S.A. 41-717 is hereby amended to read as follows: 41-717.

26 (a) (1) Except as provided by subsection (a)(2), no person shall sell or
27 furnish at retail and no microbrewery or farm winery shall sell to any
28 consumer any alcoholic liquor *or cereal malt beverage* on credit; on a
29 passbook; on order on a store; in exchange for any goods, wares or mer-
30 chandise; or in payment for any services rendered. If any person extends
31 credit in violation of this subsection, the debt attempted to be created
32 shall not be recoverable at law.

33 (2) A licensed *liquor* retailer may sell alcoholic liquor, *cereal malt*
34 *beverage* and nonalcoholic malt beverage to a consumer, a licensed mi-
35 crobrewery may sell domestic beer to a consumer and a licensed farm
36 winery may sell domestic wine to a consumer on credit pursuant to a
37 credit card which entitles the user to purchase goods or services from at
38 least 100 persons not related to the issuer of the credit card.

39 (b) No microbrewery, farm winery or *liquor* retailer ~~of alcoholic liq-~~
40 ~~uor~~ shall accept a check for payment for alcoholic liquors *or cereal malt*
41 *beverages* sold by the *microbrewery*, winery or *liquor* retailer to a con-
42 sumer, other than the personal check of the person making the purchase.

43 Sec. 16. K.S.A. 41-718 is hereby amended to read as follows: 41-718.

1 (a) No person except a manufacturer, distributor, microbrewery, farm
2 winery or wholesaler shall fill or refill, in whole or in part, any original
3 package of alcoholic liquor *or cereal malt beverage* with the same or any
4 other kind or quality of alcoholic liquor *or cereal malt beverage*.

5 (b) No person shall have in the person's possession for sale at retail
6 any bottles, casks or other containers containing alcoholic liquor *or cereal*
7 *malt beverage*, except in original packages.

8 Sec. 17. K.S.A. 41-724 is hereby amended to read as follows: 41-724.
9 No person or common carrier shall haul or transport alcoholic liquor *or*
10 *cereal malt beverage* in or into this state, for sale, or for storage and sale
11 in this state, upon which the required labeling or gauging fee, tax, duty
12 or license has not been paid, except for delivery to distributors, distillers,
13 manufacturers, importers, blenders, rectifiers, wholesalers or jobbers
14 maintaining a bonded warehouse within this state.

15 Sec. 18. K.S.A. 41-725 is hereby amended to read as follows: 41-725.
16 It shall be unlawful for any officer, agent or employee of any railroad
17 company, express company or other common carrier to deliver any al-
18 coholic liquors *or cereal malt beverages* to any person other than to the
19 person to whom such shipment is consigned, or to his authorized agent,
20 and without a written receipt in each instance by such consignee in person
21 therefor, or by his authorized agent; or to deliver any such shipments to
22 any person whomsoever where such shipments have been consigned to
23 a fictitious person or persons under a fictitious name.

24 Sec. 19. K.S.A. 41-726 is hereby amended to read as follows: 41-726.
25 It shall be unlawful for any person to make a false statement, for the
26 purpose of obtaining alcoholic liquors *or cereal malt beverages*, to any
27 railroad, express or transportation company, or any person engaged in the
28 business of transporting goods, wares or merchandise for the purpose of
29 obtaining the shipment, transportation or delivery of same.

30 Sec. 20. K.S.A. 41-729 is hereby amended to read as follows: 41-729.
31 (a) No *liquor* retailer shall sell, directly or indirectly, any alcoholic liquor
32 *or cereal malt beverage* at less than the acquisition cost of such *alcoholic*
33 liquor *or cereal malt beverage* without first having obtained from the
34 director a permit to do so.

35 (b) The director may issue to a licensed *liquor or cereal malt beverage*
36 retailer a permit authorizing the *liquor* retailer to sell alcoholic liquor *or*
37 *cereal malt beverage* at less than the acquisition ~~act of such liquor~~ *cost of*
38 *such alcoholic liquor or cereal malt beverage* if:

39 (1) The *liquor* retailer is actually closing out the *liquor* retailer's stock
40 for the purpose of completely discontinuing sale of the item of alcoholic
41 liquor *or cereal malt beverage* for a period of not less than 12 months;

42 (2) the item of alcoholic liquor *or cereal malt beverage* is damaged
43 or deteriorated in quality and notice is given to the public thereof; or

1 (3) the sale of the item of alcoholic liquor or *cereal malt beverage*, is
2 by an officer acting under the order of a court.

3 Sec. 21. K.S.A. 2007 Supp. 41-805 is hereby amended to read as
4 follows: 41-805. ~~(4)~~ (a) Any room, house, building, boat, vehicle, airplane,
5 structure or place of any kind where alcoholic liquors or *cereal malt bev-*
6 *erages* are sold, manufactured, bartered or given away, in violation of this
7 act, or any building, structure or boat where persons are permitted to
8 resort for the purpose of drinking alcoholic liquors, ~~in violation of this~~
9 ~~act, or any place where such liquors are kept for sale, barter or gift, in~~
10 ~~violation of this act, and all such liquors, and cereal malt beverages in~~
11 ~~violation of the Kansas liquor control act or the Kansas cereal malt bev-~~
12 ~~erage act, or any place where such alcoholic liquor or cereal malt beverage~~
13 ~~is kept for sale, barter or gift in violation of the Kansas liquor control act~~
14 ~~or the Kansas cereal malt beverage act. All such alcoholic liquor or cereal~~
15 ~~malt beverage and all property kept in and used in maintaining such a~~
16 ~~place, are each and all of them hereby declared to be a common nuisance.~~
17 Any person who maintains or assists in maintaining such common nui-
18 sance is guilty of a misdemeanor punishable by imprisonment for not
19 more than one year or by a fine not exceeding \$25,000, or by both. If the
20 court finds that the owner of real property knew or should have known
21 under the circumstances of the maintenance of a common nuisance on
22 such property, contrary to the liquor laws of this state, and did not make
23 a bona fide attempt to abate such nuisance under the circumstances, such
24 property shall be subject to a lien for, and may be sold to pay all fines
25 and costs assessed against the occupant of such building or premises for
26 any violation of ~~this act, and the Kansas liquor control act or the Kansas~~
27 ~~cereal malt beverage act. Such lien shall be immediately enforced by civil~~
28 ~~action, in any court having jurisdiction, by the county or district attorney~~
29 ~~of the county wherein such building or premises may be located, or by~~
30 ~~the attorney for the director, when ordered by the director. For purposes~~
31 ~~of this section, evidence of a bona fide attempt to abate such nuisance by~~
32 ~~the owner of the property shall include, but not be limited to, the filing~~
33 ~~of a written report, by such owner or at such owner's direction, to the~~
34 ~~local law enforcement agency that the property is suspected by the owner~~
35 ~~of the property of being used in maintaining a common nuisance as set~~
36 ~~forth in K.S.A. 22-3901, and amendments thereto, contrary to the liquor~~
37 ~~laws of this state. If a tenant of any building or premises uses the building~~
38 ~~or premises, or any part thereof, in maintaining a common nuisance as~~
39 ~~hereinbefore defined, or knowingly permits such use by another, such~~
40 ~~use shall render void the lease under which the tenant holds, and shall~~
41 ~~cause the right of possession to revert to the owner or lessor, who may~~
42 ~~make immediate entry upon the premises, or may invoke the remedy~~
43 ~~provided for the forcible detention thereof.~~

1 ~~(2)~~ (b) Upon the filing of a complaint or information charging that a
 2 vehicle or airplane is a common nuisance as above declared, a warrant
 3 shall be issued authorizing and directing the officer to whom it is directed
 4 to arrest the person or persons described in the complaint or information
 5 or the person or persons using the vehicle or airplane in violation of ~~this~~
 6 *the Kansas liquor control act or the Kansas cereal malt beverage act* and
 7 to seize and take into the officer's custody all such vehicles and airplanes
 8 so used which the officer finds, and safely keep them subject to the order
 9 of the court. In the complaint or information it shall not be necessary to
 10 accurately describe the vehicle or airplane so used, but only such descrip-
 11 tion shall be necessary as will enable the officer executing the warrant to
 12 identify it properly.

13 Whenever any vehicles or airplanes ~~shall be~~ *are* seized under any such
 14 warrant, whether an arrest has been made or not, a notice shall issue
 15 within 48 hours after the return of the warrant in the same manner as a
 16 summons, directed to the defendant in such action and to all persons
 17 claiming any interest in such vehicles or airplanes, fixing a time, to be not
 18 less than 60 days, and place at which all persons claiming any interest
 19 therein may appear and answer the complaint made against such vehicles
 20 or airplanes and show cause why they should not be adjudged forfeited
 21 and sold as hereinafter provided. Such notice shall be served upon the
 22 defendant in the action in the same manner as a summons if the defend-
 23 ant be found within the jurisdiction of the court, and a copy thereof shall
 24 also be posted in one or more public places in the county in which the
 25 cause is pending. If at the time for filing answer the notice has not been
 26 duly served or sufficient cause appear, the time for answering shall be
 27 extended by the court and such other notice issued as will ~~supply~~ *correct*
 28 any defect in the previous notice and give reasonable time and opportu-
 29 nity for all persons interested to appear and answer. At or before the time
 30 fixed by notice, any person claiming an interest in the vehicles or airplanes
 31 seized, may file an answer in writing, setting up a claim thereto, and shall
 32 ~~thereupon~~ be admitted as a party defendant to the proceedings against
 33 such vehicles or airplanes. The complaint or information and answer or
 34 answers that may be filed shall be the only pleadings required. At the
 35 time fixed for answer, or at any other time to be fixed by the court, a trial
 36 shall be held in a summary manner before the court on the allegation of
 37 the complaint or information against the property seized. Whether any
 38 answer ~~shall be~~ *is* filed or not, it shall be the duty of the county or district
 39 attorney to appear and adduce evidence in support of such allegation.

40 ~~(3)~~ (c) If the court finds that such vehicles or airplanes ~~were at the~~
 41 ~~time~~ *are* a common nuisance, as defined in this section, the court shall
 42 adjudge forfeited so much thereof as the court finds to be a common
 43 nuisance, and shall order the officer in whose custody they are to sell

1 them publicly. The officer shall cause notice to be given by publication
2 for at least one week in the official county paper of the time and place of
3 the sale of the property and shall file in the court a return showing the
4 sale of the property and the amount received therefor and shall pay the
5 same into court to await the order of the court. The court, if it approves
6 such sale, shall declare forfeited the proceeds of the sale and, after paying
7 out of the proceeds of the sale the costs of the action, including costs of
8 sale and the keeping and maintenance of the property, shall out of the
9 balance of the money received from the property at the sale, pay all liens,
10 according to their priorities, which are established by intervention or oth-
11 erwise at the hearing or another proceeding brought for that purpose as
12 being bona fide and for value and as having been created without the
13 lienor having any notice that the vehicle or airplane was being used in so
14 violating the provisions of ~~this~~ *the Kansas liquor control act or the Kansas*
15 *cereal malt beverage act* and without the lienor having any notice at any
16 time subsequent to the creation of the lien and prior to the seizure in
17 time to have protected the lien that the vehicle was so being used. The
18 balance remaining shall be paid to the state treasurer pursuant to K.S.A.
19 20-2801, and amendments thereto, ~~except that~~. If upon proper proof, a
20 lien as herein provided is established in excess of the value of the vehicle
21 as found by the court, the court may order, without sale, the surrender
22 of such vehicle to such lienor upon the payment of all costs as is herein
23 provided.

24 ~~(4)~~ (d) Either the state or any defendant or other person claiming the
25 vehicle or airplane seized, or an interest therein, may appeal from the
26 judgment of the court in any such proceedings against the property seized
27 in the manner provided for taking appeals in criminal cases. Any claimant
28 of such property who appeals, in order to stay proceedings, must enter
29 into an undertaking with a sufficient surety to the state of Kansas, to be
30 approved by the judge of the district court, in the sum of not less than
31 \$100 nor less than double the amount of the value of the property as
32 fixed by the court and the costs adjudged against the property, condi-
33 tioned that the claimant will prosecute the appeal without unnecessary
34 delay, and if judgment is entered against the claimant on appeal, the
35 claimant will satisfy the judgment and costs, and no bond shall be required
36 for an appeal by the state, and such appeal shall stay the execution of the
37 judgment.

38 Sec. 22. K.S.A. 41-806 is hereby amended to read as follows: 41-806.
39 The attorney for the director when ordered by the director, or county
40 attorney in the county in which such nuisance exists, or is kept or main-
41 tained, may maintain an action by injunction, in the name of the state of
42 Kansas, to abate and temporarily or permanently to enjoin such nuisance.
43 The court shall have the right to make temporary and final orders as in

1 other injunction proceedings. The plaintiff shall not be required to give
2 bond in such action.

3 Upon final judgment against the defendant, such court shall allow the
4 attorneys for the state of Kansas a reasonable fee for prosecuting the
5 action which shall be taxed as costs and shall also order that such room,
6 house, building, structure, boat or place of any kind shall be closed and
7 padlocked for a period of not less than three ~~(3)~~ months nor more than
8 two ~~(2)~~ years, and until the owner, lessee, tenant or occupant thereof shall
9 give bond with sufficient surety to be approved by the court making the
10 order, in the penal sum of not less than ~~one thousand dollars (\$1,000)~~
11 \$1,000, payable to the state of Kansas, and conditioned that no alcoholic
12 liquor ~~will or cereal malt beverage~~ for a period of two years *shall* thereafter
13 be manufactured, possessed, sold, bartered or given away or furnished or
14 otherwise disposed of thereon or therein, or kept thereon or therein with
15 intent to sell, barter, give away, or otherwise dispose of the same, contrary
16 to ~~this act, and that he and his surety law and that such person's surety~~
17 will pay all fines and costs assessed against ~~him for any violation of this~~
18 ~~act such person for violating such law.~~

19 If any condition of such bond ~~be is~~ violated, the whole amount may be
20 recovered as a penalty for the use of the state of Kansas, ~~and~~. In *any*
21 such suit on the bond, both principal and surety may be joined as party
22 defendants, and satisfaction may be had from either of them. In such
23 action a notice to nonresident defendants may be given by publication as
24 authorized by law under the code of civil procedure, or upon their agents
25 for service in this state, if any.

26 Sec. 23. K.S.A. 41-901 is hereby amended to read as follows: 41-901.
27 (a) No person shall manufacture, import for distribution as a distributor
28 at wholesale or distribute or sell alcoholic liquor or cereal malt beverage
29 at any place within the state without having first obtained a valid license
30 therefor under the provisions of ~~this act or under K.S.A. 41-2702 and~~
31 ~~amendments thereto~~ *the Kansas liquor control act or the Kansas cereal*
32 *malt beverage act*. No person shall obtain a license to carry on the business
33 authorized by the license as agent for another, obtain a license by fraud
34 or make any false statement or otherwise violate any of the provisions of
35 ~~this~~ *the Kansas liquor control act, the Kansas cereal malt beverage act or*
36 *the club and drinking establishment act* in obtaining any license ~~here-~~
37 ~~under thereunder~~. No person having obtained a license ~~hereunder~~ *under*
38 *any such act* shall violate any of the provisions of ~~this such~~ *act* with respect
39 to the manufacture, possession, distribution or sale of alcoholic liquor or
40 cereal malt beverage; or with respect to the maintenance of the licensed
41 premises.

42 (b) Violation of subsection (a) shall be punishable as follows, except
43 where other penalties are specifically provided by law:

1 (1) For a first offense, by a fine of not more than \$500; and
2 (2) for a second or subsequent offense, by a fine of not more than
3 \$1,000 or by imprisonment for not more than six months, or both.

4 (c) Each day any person engages in business as a manufacturer, dis-
5 tributor, microbrewery, farm winery ~~or, liquor retailer or cereal malt bev-~~
6 ~~erage~~ retailer in violation of the provisions of ~~this~~ *the Kansas liquor control*
7 *act, the Kansas cereal malt beverage act or the club and drinking estab-*
8 *lishment act* shall constitute a separate offense.

9 (d) Any license obtained to carry on the business as agent for another
10 or any license obtained by fraud or by false statements shall be revoked
11 by the director. When a license has been revoked for obtaining a license
12 to carry on the business authorized by the license as agent for another,
13 or obtained a license by fraud or by any false statement, all alcoholic liquor
14 *and cereal malt beverage* in the possession of the person who procured
15 the license shall be forfeited and sold and the proceeds of the sale shall
16 be paid to the county treasurer of the county where the alcoholic liquor
17 *or cereal malt beverage* was located. During the pendency of any appeal
18 from any order revoking a license, the director may obtain an order from
19 the district court of the county where the alcoholic liquor *or cereal malt*
20 *beverage* is located, restraining the sale or disposal of the alcoholic liquor
21 *or cereal malt beverage*. When an order revoking any license is issued by
22 the director, the director shall forthwith forward by registered mail a
23 certified copy of the order revoking the license under the seal of the
24 director to the county attorney of the county where the alcoholic liquor
25 *or cereal malt beverage* is located.

26 Within 15 days after the order of revocation becomes final, the county
27 attorney shall institute, against the person who procured the license, a
28 civil action under the code of civil procedure in the district court of the
29 county in the name of the state of Kansas on the relation of the county
30 attorney to forfeit all alcoholic liquor *and cereal malt beverage*. Summons
31 shall be served as provided by the code of civil procedure upon the person
32 who procured the license. Upon the return day of the summons issued
33 or as soon after as convenient to the court, an order shall be entered by
34 the court forfeiting the alcoholic liquor *and cereal malt beverage* to the
35 state of Kansas and ordering it to be sold by the sheriff of the county in
36 which the forfeiture occurred. The order shall fix the time and place of
37 sale and the method and manner in which the sale shall be held, together
38 with notice of the sale as the court directs. After payment of all costs of
39 the action, including a reasonable fee for the county attorney, the balance
40 remaining shall be paid to the state treasurer pursuant to K.S.A. 20-2801,
41 and amendments thereto.

42 Sec. 24. K.S.A. 41-905 is hereby amended to read as follows: 41-905.
43 Any person who ~~shall~~ knowingly *shall* possess, sell, ship, transport or in

1 any way dispose of any alcoholic liquor *or cereal malt beverage* under any
2 other than the proper name or brand known to the trade as designating
3 the kind and quality of the contents of the package or other containers
4 of such alcoholic liquor *or cereal malt beverage* or who shall cause any
5 such act to be done, shall forfeit to the state such alcoholic liquor *or cereal*
6 *malt beverage* and such packages and containers, and shall be subject to
7 the punishment and penalties provided for violation of ~~this the Kansas~~
8 *liquor control act*.

9 Sec. 25. K.S.A. 41-1001 is hereby amended to read as follows: 41-
10 1001. In any indictment, information or complaint, charging the violation
11 of any of the provisions of ~~this the Kansas liquor control act, the Kansas~~
12 *cereal malt beverage act or the club and drinking establishment act*, it
13 shall be sufficient to charge that the accused unlawfully manufactured,
14 sold, offered for sale, kept for sale, delivered or otherwise unlawfully
15 disposed of alcoholic liquor without any further or more specific descrip-
16 tion of such *alcoholic liquor or cereal malt beverage*; and proof of any
17 kind of alcoholic liquor *or cereal malt beverage* unlawfully manufactured,
18 sold, offered for sale, kept for sale, delivered, or otherwise unlawfully
19 disposed of, as the case may be, shall be sufficient proof as to the character
20 or kind of alcoholic liquor *or cereal malt beverage*.

21 Sec. 26. K.S.A. 41-1002 is hereby amended to read as follows: 41-
22 1002. In any indictment, information, or complaint charging the violation
23 of any of the provisions of ~~this the Kansas liquor control act, the Kansas~~
24 *cereal malt beverage act or the club and drinking establishment act*, it
25 shall not be necessary to allege the quantity of such alcoholic liquor *or*
26 *cereal malt beverage* or the kind thereof further than to allege that the
27 same was alcoholic liquor ~~and, in~~ *or cereal malt beverage, as the case may*
28 *be*. In case of sale, keeping for sale or delivery, it shall not be necessary
29 to set out the name of the person to whom sale or delivery has been
30 made, ~~and~~. In any prosecution for a second offense, it shall not be nec-
31 essary to state in the indictment, complaint or information the record of
32 the former conviction, but it shall be sufficient briefly to allege such con-
33 viction. Proof of sale, delivery or unlawful disposition of alcoholic liquors
34 *or cereal malt beverages* to any person, not authorized by ~~this the Kansas~~
35 *liquor control act, the Kansas cereal malt beverage act or the club and*
36 *drinking establishment act* to purchase or receive the same, shall be suf-
37 ficient to sustain the allegation of unlawful sale, delivery or disposition,
38 as the case may be.

39 Sec. 27. K.S.A. 41-1004 is hereby amended to read as follows: 41-
40 1004. The possession of a special tax stamp from the government of the
41 United States authorizing the sale or manufacture of alcoholic liquor ~~as~~
42 ~~defined in this act~~ *or cereal malt beverage* by a person not licensed under
43 ~~this the Kansas liquor control act, the Kansas cereal malt beverage act or~~

1 *the club and drinking establishment* act, shall be prima facie evidence that
2 the person so holding said special tax stamp is manufacturing or selling
3 in violation of ~~this act~~ law. A certified copy of such special tax stamp
4 verified by the proper authority shall be admitted in evidence in all re-
5 spects as the original special tax stamp might be received.

6 Sec. 28. K.S.A. 41-1101 is hereby amended to read as follows: 41-
7 1101. (a) No distributor licensed under this act shall purchase any alco-
8 holic liquor *or cereal malt beverage* from any manufacturer, owner of
9 alcoholic liquor *or cereal malt beverage* at the time it becomes a market-
10 able product, exclusive agent of such manufacturer or owner, microbrew-
11 ery, farm winery or distributor of alcoholic liquor *or cereal malt beverage*
12 bottled in a foreign country either within or without this state, unless the
13 manufacturer, owner, exclusive agent, microbrewery, farm winery or dis-
14 tributor files with the director a written statement sworn to by the man-
15 ufacturer, owner, exclusive agent, microbrewery, farm winery or distrib-
16 utor or, in case of a corporation, one of its principal officers, agreeing to
17 sell any of the brands or kinds of alcoholic liquor *or cereal malt beverage*
18 manufactured or distributed by the manufacturer, owner, exclusive agent,
19 microbrewery, farm winery or distributor to any distributor licensed in
20 this state and having a franchise to distribute the alcoholic liquor *or cereal*
21 *malt beverage* pursuant to K.S.A. 41-410, and amendments thereto, and
22 to make such sales to all such licensed distributors in this state at the
23 same current price and without discrimination. Each manufacturer,
24 owner, exclusive agent, microbrewery or farm winery shall provide to each
25 distributor written notice not less than 45 days before any change in the
26 current price of any spirits or wine which such manufacturer, owner,
27 exclusive agent, microbrewery or farm winery sells to such distributor. If
28 any manufacturer, owner, exclusive agent, microbrewery, farm winery or
29 distributor making the agreement violates the agreement by refusing to
30 sell such alcoholic liquor *or cereal malt beverage* to any such franchised
31 licensed distributor in this state or discriminates in current prices among
32 such franchised licensed distributors making or attempting to make pur-
33 chases of alcoholic liquor *or cereal malt beverage* from the manufacturer,
34 owner, exclusive agent, microbrewery, farm winery or distributor, the
35 director shall notify, by registered mail, each such franchised licensed
36 distributor in this state of the violation. Thereupon, it shall be unlawful
37 for a franchised licensed distributor in this state to purchase any alcoholic
38 liquor *or cereal malt beverage* from the manufacturer, owner, exclusive
39 agent, microbrewery, farm winery or distributor. If thereafter such a fran-
40 chised licensed distributor purchases any alcoholic liquor *or cereal malt*
41 *beverage* from the manufacturer, owner, exclusive agent, microbrewery,
42 farm winery or distributor, such franchised distributor's license shall be
43 revoked by the director. If any manufacturer, owner, exclusive agent,

1 microbrewery, farm winery or distributor of alcoholic liquor *or cereal malt*
2 *beverage* bottled in a foreign country, making any agreement hereunder,
3 does not have a sufficient supply of alcoholic liquor *or cereal malt bev-*
4 *erage* of any of the brands or kinds which the manufacturer, owner, ex-
5 clusive agent, microbrewery, farm winery or distributor manufactures or
6 distributes to supply the demands of all licensed distributors having a
7 franchise to distribute such alcoholic liquor *or cereal malt beverage*, the
8 manufacturer, owner, exclusive agent, microbrewery, farm winery or dis-
9 tributor may ration such alcoholic liquor *or cereal malt beverage* and
10 apportion the available supply among such franchised licensed distribu-
11 tors purchasing or attempting to purchase it, in accordance with a plan
12 which shall be subject to the approval of the director.

13 (b) No liquor retailer licensed under ~~this~~ *the Kansas liquor control*
14 *act and no cereal malt beverage retailer licensed under the Kansas cereal*
15 *malt beverage act* shall purchase any alcoholic liquor *or cereal malt bev-*
16 *erage* from any distributor licensed under ~~this~~ *the Kansas liquor control*
17 *act* unless the distributor files with the director a written statement sworn
18 to by the distributor, or in case of a corporation by one of its principal
19 officers, agreeing to sell any of the brands or kinds of alcoholic liquor *or*
20 *cereal malt beverage* distributed by the distributor and to provide service
21 in connection therewith to any *such* licensed retailer whose licensed
22 premises are located within the geographic territory of the distributor's
23 franchise for the alcoholic liquor *or cereal malt beverage*, unless written
24 approval to do otherwise is obtained from the director, and to make such
25 sales to all such licensed retailers at the same current bottle, sleeve and
26 case price and without discrimination. For purposes of this subsection
27 the "same current bottle, sleeve and case price" for spirits and wine means
28 a price effective for a specified period as designated by the distributor on
29 or before the first day of each month. If any distributor making the agree-
30 ment violates the agreement by refusing to sell or provide service to any
31 such licensed retailer in this state without written approval of the director
32 or discriminates in current prices among such licensed retailers making
33 or attempting to make purchases of alcoholic liquor *or cereal malt bev-*
34 *erage* from the distributor, the director may revoke the license of the
35 distributor. If any licensed distributor making any agreement hereunder
36 does not have a sufficient supply of alcoholic liquor *or cereal malt bev-*
37 *erage* of any of the brands or kinds which the distributor distributes to
38 supply the demands of all such licensed retailers, the distributor may
39 ration such alcoholic liquor *or cereal malt beverage* and apportion the
40 available supply among such licensed retailers purchasing or attempting
41 to purchase the same, in accordance with a plan which shall be subject
42 to the approval of the director.

43 (c) No club or drinking establishment licensed in this state shall pur-

1 chase any wine ~~or~~, beer or cereal malt beverage from any distributor
 2 licensed under ~~this~~ the Kansas liquor control act unless the distributor
 3 files with the director a written statement sworn to by the distributor, or
 4 in case of a corporation by one of its principal officers, agreeing to sell
 5 any of the brands or kinds of wine ~~or~~, beer or cereal malt beverage dis-
 6 tributed by the distributor to those clubs and drinking establishments to
 7 which the distributor is authorized to sell such wine ~~or~~, beer or cereal
 8 malt beverage and to which the distributor desires to sell such wine ~~or~~,
 9 beer or cereal malt beverage, unless written approval to do otherwise is
 10 obtained from the director and to make such sales to all such licensed
 11 clubs or drinking establishments at the same current bottle and case price
 12 and without discrimination. If any distributor making the agreement vi-
 13 olates the agreement by refusing to sell to any such licensed club or
 14 drinking establishment in this state without written approval of the di-
 15 rector or discriminates in current prices among such licensed clubs or
 16 drinking establishments making or attempting to make purchases of wine
 17 ~~or~~, beer or cereal malt beverage from the distributor, the director may
 18 revoke the license of the distributor. If any licensed distributor making
 19 any agreement hereunder does not have a sufficient supply of wine ~~or~~,
 20 beer or cereal malt beverage of any of the brands or kinds which the
 21 distributor distributes to supply the demands of all such licensed clubs
 22 or drinking establishments, the distributor may ration such wine ~~or~~, beer
 23 or cereal malt beverage and apportion the available supply among such
 24 licensed clubs or drinking establishments purchasing or attempting to
 25 purchase the same, in accordance with a plan which shall be subject to
 26 the approval of the director.

27 For the purposes of this subsection, a delivery charge shall not be
 28 considered a part of the price of wine ~~or~~, beer or cereal malt beverage
 29 sold by a distributor.

30 (d) ~~No cereal malt beverage retailer licensed under K.S.A. 41-2701~~
 31 ~~et seq. and amendments thereto shall purchase any cereal malt beverage~~
 32 from any distributor licensed under ~~this~~ the Kansas liquor control act
 33 unless the distributor files with the director a written statement sworn to
 34 by the distributor, or in case of a corporation by one of its principal
 35 officers, agreeing to sell any of the brands or kinds of cereal malt beverage
 36 distributed by the distributor ~~to those retailers~~ and to provide services in
 37 connection therewith to any licensed cereal malt beverage retailer to
 38 which the distributor is authorized to sell such cereal malt beverage, un-
 39 less written approval to do otherwise is obtained from the director, and
 40 to make such sales to all such licensed cereal malt beverage retailers at
 41 the same current price and without discrimination. If any distributor mak-
 42 ing the agreement violates the agreement by refusing to sell or provide
 43 services to any such licensed cereal malt beverage retailer in this state

1 without written approval of the director or discriminates in current prices
2 among such licensed *cereal malt beverage* retailers making or attempting
3 to make purchases of cereal malt beverage from the distributor, the di-
4 rector may revoke the license of the distributor. If any licensed distributor
5 making any agreement hereunder does not have a sufficient supply of
6 cereal malt beverage of any of the brands or kinds which the distributor
7 distributes to supply the demands of all such licensed *cereal malt beverage*
8 retailers, the distributor may ration such cereal malt beverage and ap-
9 portion the available supply among such licensed *cereal malt beverage*
10 retailers purchasing or attempting to purchase the same, in accordance
11 with a plan which shall be subject to the approval of the director.

12 (e) No distributor shall sell alcoholic liquor or cereal malt beverage
13 to a retailer licensed under the Kansas liquor control act, to a club, drink-
14 ing establishment or caterer licensed under the club and drinking estab-
15 lishment act or to a *cereal malt beverage* retailer licensed under ~~K.S.A.~~
16 ~~41-2702 and amendments thereto~~ *the Kansas cereal malt beverage act* at
17 a discount for multiple case lots.

18 Sec. 29. K.S.A. 41-1102 is hereby amended to read as follows: 41-
19 1102. Any licensee who shall quit business or shall have the license sus-
20 pended or revoked may sell and dispose of any alcoholic liquor *or cereal*
21 *malt beverage* which the licensee has possession of at the time of quitting
22 business or of the suspension or revocation of the license in accordance
23 with rules and regulations adopted by the secretary of revenue.

24 Sec. 30. K.S.A. 41-1122 is hereby amended to read as follows: 41-
25 1122. The director of alcoholic beverage control is authorized to sell at
26 public or private sale alcoholic liquor *or cereal malt beverage* in ~~his~~ *the*
27 *director's* custody heretofore or hereafter purchased or confiscated by ~~his~~
28 ~~agents or other peace officers~~ *agents of the division or other law enforce-*
29 *ment officers* of the state for use as evidence in any investigation, pro-
30 ceeding or trial when such liquor *or cereal malt beverage* is no longer
31 required for such investigation, trial or proceeding.

32 Sec. 31. K.S.A. 41-1123 is hereby amended to read as follows: 41-
33 1123. All alcoholic liquor *or cereal malt beverage* in the custody of the
34 director through seizure by agents of ~~alcoholic beverage control or other~~
35 ~~peace~~ *the division or other law enforcement* officers of the state under
36 authority of a duly executed search warrant shall be held until final de-
37 termination of any prosecution arising under such search and seizure.
38 Upon the final determination of such prosecution and if such alcoholic
39 liquor *or cereal malt beverage* is fit for human consumption the director
40 may make application to the court in which such alcoholic liquor *or cereal*
41 *malt beverage* was offered as evidence for an order to sell such *alcoholic*
42 liquor *or cereal malt beverage*. The court, if satisfied that such *alcoholic*
43 liquor *or cereal malt beverage* so seized was being manufactured, distrib-

1 uted, stored, sold or used in violation of law, shall make an order that
2 such property be sold by the director at public or private sale.

3 All alcoholic liquor *or cereal malt beverage* which is unfit for human
4 consumption may be summarily destroyed by the director.

5 Sec. 32. K.S.A. 41-1125 is hereby amended to read as follows: 41-
6 1125. The sheriff of any county who ~~has in his possession~~ *possesses* al-
7 coholic liquors *or cereal malt beverages* on which ~~he has~~ *has been* levied
8 execution for a judgment creditor may sell such alcoholic liquors *or cereal*
9 *malt beverages* when an order of the court is entered directing such sale.
10 Such order shall be directed to the sheriff of the county in which exe-
11 cution is levied and shall fix the time and place of sale, method and man-
12 ner in which the sale shall be held, together with such notice as the court
13 shall direct. After payment of all costs of ~~said the~~ action, the balance shall
14 be paid to the judgment creditor, ~~except~~. If the amount exceeds the
15 amount of the judgment, then any excess of the judgment amount shall
16 be returned to defendant debtor. This ~~act section~~ shall not apply in any
17 case in which the court has ordered and directed confiscation of ~~liquors~~
18 *alcoholic liquor or cereal malt beverage* as part of a judgment or
19 conviction.

20 Sec. 33. K.S.A. 41-2604 is hereby amended to read as follows: 41-
21 2604. Any person allowing consumption of alcoholic liquor *or cereal malt*
22 *beverage* in violation of ~~this act the Kansas liquor control act or the Kansas~~
23 *cereal malt beverage act* on any property owned, leased or otherwise under
24 ~~his such person's control shall thereby subject himself and the prop-~~
25 ~~erty on which said illegal consumption takes place to the penalties here-~~
26 ~~inafter provided.~~

27 ~~(a) The person allowing such consumption shall be guilty of a mis-~~
28 ~~demeanor and upon conviction thereof shall be subject to a fine not to~~
29 ~~exceed five hundred dollars (\$500) \$500 or confinement in the county~~
30 ~~jail not to exceed six (6) months or both such fine and imprisonment.~~

31 ~~(b) The property on which the violation takes place is declared to be~~
32 ~~a public nuisance and as such is subject to abatement as provided for any~~
33 ~~other liquor nuisance in K.S.A. 41-805, and amendments thereto.~~

34 Sec. 34. K.S.A. 41-2610 is hereby amended to read as follows: 41-
35 2610. It shall be unlawful for any licensee or holder of a temporary permit
36 under this act to:

37 (a) Employ any person under the age of 18 years in connection with
38 the serving of alcoholic liquor *or cereal malt beverage*.

39 (b) Employ knowingly or continue in employment any person in con-
40 nection with the dispensing or serving of alcoholic liquor *or cereal malt*
41 *beverage* or the mixing of drinks containing alcoholic liquor who has been
42 adjudged guilty of a felony or of any crime involving a morals charge in
43 this or any other state, or of the United States.

- 1 (c) Employ knowingly or to continue in employment any person in
2 connection with the dispensing or serving of alcoholic liquor *or cereal*
3 *malt beverage* or mixing of drinks containing alcoholic liquor who has
4 been adjudged guilty of a violation of any intoxicating liquor law of this
5 or any other state, or of the United States, during the two-year period
6 immediately following such adjudging.
- 7 (d) In the case of a club, fail to maintain at the licensed premises a
8 current list of all members and their residence addresses or refuse to
9 allow the director, any of the director's authorized agents or any law
10 enforcement officer to inspect such list.
- 11 (e) Purchase alcoholic liquor *or cereal malt beverage* from any person
12 except from a person authorized by law to sell such alcoholic liquor *or*
13 *cereal malt beverage* to such licensee or permit holder.
- 14 (f) Permit any employee of the licensee or permit holder who is under
15 the age of 21 years to work on premises where alcoholic liquor *or cereal*
16 *malt beverage* is sold by such licensee or permit holder at any time when
17 not under the on-premises supervision of either the licensee or permit
18 holder, or an employee who is 21 years of age or over.
- 19 (g) Employ any person under 21 years of age in connection with the
20 mixing or dispensing of drinks containing alcoholic liquor *or cereal malt*
21 *beverage*.
- 22 Sec. 35. K.S.A. 2007 Supp. 41-2611 is hereby amended to read as
23 follows: 41-2611. The director may revoke or suspend any license issued
24 pursuant to the club and drinking establishment act for any one or more
25 of the following reasons:
- 26 (a) The licensee has fraudulently obtained the license by giving false
27 information in the application therefor or any hearing thereon.
- 28 (b) The licensee has violated any of the provisions of this act or any
29 rules or regulations adopted hereunder.
- 30 (c) The licensee has become ineligible to obtain a license or permit
31 under this act.
- 32 (d) The licensee's manager or employee has been intoxicated while
33 on duty.
- 34 (e) The licensee, or its manager or employee, has permitted any dis-
35 orderly person to remain on premises where alcoholic liquor *or cereal*
36 *malt beverage* is sold by such licensee.
- 37 (f) There has been a violation of a provision of the laws of this state,
38 or of the United States, pertaining to the sale of intoxicating or alcoholic
39 liquors or cereal malt beverages, or any crime involving a morals charge,
40 on premises where alcoholic liquor *or cereal malt beverage* is sold by such
41 licensee.
- 42 (g) The licensee, or its managing officers or any employee, has pur-
43 chased and displayed, on premises where alcoholic liquor *or cereal malt*

1 *beverage* is sold by such licensee, a federal wagering occupational stamp
2 issued by the United States treasury department.

3 (h) The licensee, or its managing officers or any employee, has pur-
4 chased and displayed, on premises where alcoholic liquor *or cereal malt*
5 *beverage* is sold by such licensee, a federal coin operated gambling device
6 stamp for the premises issued by the United States treasury department.

7 (i) The licensee holds a license as a class B club, drinking establish-
8 ment or caterer and has been found guilty of a violation of article 10 of
9 chapter 44 of the Kansas Statutes Annotated under a decision or order
10 of the Kansas human rights commission which has become final or such
11 licensee has been found guilty of a violation of K.S.A. 21-4003, and
12 amendments thereto.

13 (j) There has been a violation of K.S.A. 21-4106 or 21-4107, and
14 amendments thereto, on premises where alcoholic liquor *or cereal malt*
15 *beverage* is sold by such licensee.

16 Sec. 36. K.S.A. 41-2614 is hereby amended to read as follows: 41-
17 2614. (a) Except as provided by subsection (c), no club or drinking estab-
18 lishment shall allow the serving, mixing or consumption of alcoholic liquor
19 ~~on its~~ *or cereal malt beverage on the licensed* premises between the hours
20 of 2:00 a.m. and 9:00 a.m. on any day.

21 (b) No caterer shall allow the serving, mixing or consumption of al-
22 coholic liquor *or cereal malt beverage* between the hours of 2:00 a.m. and
23 6:00 a.m. on any day at an event catered by such caterer.

24 (c) A hotel of which the entire premises are licensed as a drinking
25 establishment or as a drinking establishment/caterer may allow at any time
26 the serving, mixing and consumption of alcoholic liquor and cereal malt
27 beverage from a minibar in a guest room by guests registered to stay in
28 such room, and guests of guests registered to stay in such room.

29 Sec. 37. K.S.A. 41-2632 is hereby amended to read as follows: 41-
30 2632. (a) As used in this section:

31 (1) ~~The word~~ "Distributor" means a person, firm, association or cor-
32 poration which is the holder of ~~an alcoholic liquor~~ *a distributor's license*
33 issued under the Kansas liquor control act;

34 (2) ~~the word~~ "Retailer" means a person, copartnership or association
35 which is the holder of a *liquor* retailer's license issued under the Kansas
36 liquor control act, ~~and~~.

37 (3) ~~the word~~ "Manufacturer" ~~shall have~~ *has* the meaning ascribed to
38 it by K.S.A. 41-102, and amendments thereto.

39 (b) It shall be unlawful for a distributor ~~of alcoholic liquor~~, or a man-
40 ufacturer, or any officer, agent or employee thereof, to influence, coerce
41 or induce or attempt to influence, coerce or induce, either directly or
42 indirectly, any holder of a license issued under this act, or any officer,
43 agent or employee of the holder of such a license, to: (1) Purchase any

1 particular brand or kind of alcoholic liquor *or cereal malt beverage* to be
2 dispensed by the licensee, except that a distributor or manufacturer may
3 provide to a licensee information regarding the availability of brands in
4 the market and things of value as authorized by subsection (d) of K.S.A.
5 41-703, and amendments thereto; or (2) purchase from a particular re-
6 tailer alcoholic liquor *or cereal malt beverage* to be dispensed by the
7 licensee.

8 (c) Violation of this section is a misdemeanor punishable by a fine of
9 not less than \$100 nor more than \$1,000 or by imprisonment for not more
10 than six months, or by both.

11 Sec. 38. K.S.A. 41-2637 is hereby amended to read as follows: 41-
12 2637. (a) A license for a class A club shall allow the licensee to offer for
13 sale, sell and serve alcoholic liquor *or cereal malt beverage* for consump-
14 tion on the licensed premises by members and their families, and guests
15 accompanying them.

16 (b) (1) Subject to the provisions of subsection (b)(2), any two or more
17 class A or class B clubs may permit, by an agreement filed with and
18 approved by the director, the members of each such club to have access
19 to all other clubs which are parties to such agreement. The privileges
20 extended to the visiting members of other clubs under such an agreement
21 shall be determined by the agreement and, if the agreement so provides,
22 any club which is a party to such agreement may sell, offer for sale and
23 serve, to any person who is a member of another club which is a party to
24 such agreement, alcoholic liquor *or cereal malt beverage* for consumption
25 on the licensed premises by such person and such person's family, and
26 guests accompanying them.

27 (2) A class B club may enter into a reciprocal agreement authorized
28 by subsection (b)(1) only if the class B club is a restaurant.

29 Sec. 39. K.S.A. 41-2641 is hereby amended to read as follows: 41-
30 2641. (a) A license for a class B club shall allow the licensee to offer for
31 sale, sell and serve alcoholic liquor *or cereal malt beverage* for consump-
32 tion on the licensed premises by members of such club and guests ac-
33 companying them.

34 (b) (1) Subject to the provisions of subsection (b)(2), any two or more
35 class A or class B clubs may permit, by an agreement filed with and
36 approved by the director, the members of each such club to have access
37 to all other clubs which are parties to such agreement. The privileges
38 extended to the visiting members of other clubs under such an agreement
39 shall be determined by the agreement and, if the agreement so provides,
40 any club which is a party to such agreement may sell, offer for sale and
41 serve, to any person who is a member of another club which is a party to
42 such agreement, alcoholic liquor *or cereal malt beverage* for consumption
43 on the licensed premises by such person and such person's family, and

1 guests accompanying them.

2 (2) A class B club may enter into a reciprocal agreement authorized
3 by subsection (b)(1) only if the class B club is a restaurant.

4 (c) Except as provided by subsection (d), an applicant for member-
5 ship in a class B club shall, before becoming a member of such club:

6 (1) Be screened by the club for good moral character;

7 (2) pay an annual membership fee of not less than \$10; and

8 (3) wait for a period of 10 days after completion of the application
9 form and payment of the membership fee.

10 (d) Notwithstanding the membership fee and waiting period require-
11 ment of subsection (c):

12 (1) Any class B club located on the premises of a hotel or RV resort
13 may establish rules whereby a guest, who registered at the hotel or RV
14 resort and who is not a resident of the county in which the club is located,
15 may file application for temporary membership in such club. The mem-
16 bership, if granted, shall be valid only for the period of time that the guest
17 is a bona fide registered guest at the hotel or RV resort and such tem-
18 porary membership shall not be subject to the waiting period or fee re-
19 quirement of this section.

20 (2) Any class B club located on property which is owned or operated
21 by a municipal airport authority and upon which consumption of alcoholic
22 liquor is authorized by law may establish rules whereby an air traveler
23 who is a holder of a current airline ticket may file application for tem-
24 porary membership in such club for the day such air traveler's ticket is
25 valid, and such temporary membership shall not be subject to the waiting
26 period or fee requirement of this section.

27 (3) Any class B club may establish rules whereby military personnel
28 of the armed forces of the United States on temporary duty and housed
29 at or near any military installation located within the exterior boundaries
30 of the state of Kansas may file application for temporary membership in
31 such club. The membership, if granted, shall be valid only for the period
32 of the training, not to exceed 20 weeks. Any person wishing to make
33 application for temporary membership in a class B club under this sub-
34 section (d)(3) shall present the temporary duty orders to the club. Tem-
35 porary membership issued under this subsection (d)(3) shall not be sub-
36 ject to the waiting period or fee requirements of this section.

37 (4) Any class B club may enter into a written agreement with a hotel
38 or RV resort whereby a guest who is registered at the hotel or RV resort
39 and who is not a resident of the county in which the club is located may
40 file application for temporary membership in such club. The temporary
41 membership, if granted, shall be valid only for the period of time that the
42 guest is a bona fide registered guest at the hotel or RV resort and shall
43 not be subject to the waiting period or dues requirement of this section.

1 A club may enter into a written agreement with a hotel or RV resort
2 pursuant to this provision only if (A) the hotel or RV resort is located in
3 the same county as the club, (B) there is no class B club located on the
4 premises of the hotel or RV resort and (C) no other club has entered into
5 a written agreement with the hotel or RV resort pursuant to this section.

6 (5) Any class B club located in a racetrack facility where races with
7 parimutuel wagering are conducted under the Kansas parimutuel racing
8 act may establish rules whereby persons attending such races may file an
9 application for temporary membership in such club for the day such per-
10 son is attending such races, and such temporary membership shall not be
11 subject to the waiting period or fee requirement of this section.

12 Sec. 40. K.S.A. 41-2642 is hereby amended to read as follows: 41-
13 2642. (a) A license for a drinking establishment shall allow the licensee
14 to offer for sale, sell and serve alcoholic liquor *or cereal malt beverage*
15 for consumption on the licensed premises which may be open to the
16 public, but only if such premises are located in a county where the qual-
17 ified electors of the county:

18 (1) (A) Approved, by a majority vote of those voting thereon, the
19 proposition to amend section 10 of article 15 of the constitution of the
20 state of Kansas at the general election in November 1986, or (B) have
21 approved a proposition to allow sales of alcoholic liquor by the individual
22 drink in public places within the county at an election pursuant to K.S.A.
23 41-2646, and amendments thereto; and

24 (2) have not approved a proposition to prohibit such sales of alcoholic
25 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
26 and amendments thereto.

27 (b) A drinking establishment shall be required to derive from sales
28 of food for consumption on the licensed premises not less than 30% of
29 all the establishment's gross receipts from sales of food and beverages on
30 such premises unless the licensed premises are located in a county where
31 the qualified electors of the county:

32 (1) Have approved, at an election pursuant to K.S.A. 41-2646, and
33 amendments thereto, a proposition to allow sales of alcoholic liquor by
34 the individual drink in public places within the county without a require-
35 ment that any portion of their gross receipts be derived from the sale of
36 food; and

37 (2) have not approved a proposition to prohibit such sales of alcoholic
38 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
39 and amendments thereto.

40 (c) A drinking establishment shall specify in the application for a li-
41 cense or renewal of a license the premises to be licensed, which may
42 include all premises which are in close proximity and are under the con-
43 trol of the applicant or licensee.

1 (d) Notwithstanding any other provision of law to the contrary, any
2 hotel of which the entire premises are licensed as a drinking establish-
3 ment or as a drinking establishment/caterer may sell alcoholic liquor or
4 cereal malt beverage by means of minibars located in guest rooms of such
5 hotel, subject to the following:

6 (1) The key, magnetic card or other device required to attain access
7 to a minibar in a guest room shall be provided only to guests who are
8 registered to stay in such room and who are 21 or more years of age;

9 (2) containers or packages of spirits or wine sold by means of a min-
10 ibar shall hold not less than 50 nor more than 200 milliliters; and

11 (3) a minibar shall be restocked with alcoholic liquor or cereal malt
12 beverage only during hours when the hotel is permitted to sell alcoholic
13 liquor and cereal malt beverage as a drinking establishment.

14 Sec. 41. K.S.A. 41-2643 is hereby amended to read as follows: 41-
15 2643. (a) A caterer's license shall allow the licensee to offer for sale, sell
16 and serve alcoholic liquor *or cereal malt beverage* for consumption on
17 unlicensed premises, which may be open to the public, but only if such
18 premises are located in a county where the qualified electors of the
19 county:

20 (1) (A) Approved, by a majority vote of those voting thereon, the
21 proposition to amend section 10 of article 15 of the constitution of the
22 state of Kansas at the general election in November, 1986, or (B) have
23 approved a proposition to allow sales of alcoholic liquor by the individual
24 drink in public places within the county at an election pursuant to K.S.A.
25 41-2646, and amendments thereto; and

26 (2) have not approved a proposition to prohibit such sales of alcoholic
27 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
28 and amendments thereto.

29 (b) A caterer shall be required to derive from sales of food at catered
30 events not less than 30% of the caterer's gross receipts from all sales of
31 food and beverages at catered events in a 12-month period unless the
32 caterer offers for sale, sells and serves alcoholic liquor only in counties
33 where the qualified electors of the county:

34 (1) Have approved, at an election pursuant to K.S.A. 41-2646, and
35 amendments thereto, a proposition to allow sales of alcoholic liquor by
36 the individual drink in public places within the county without a require-
37 ment that any portion of their gross receipts be derived from the sale of
38 food; and

39 (2) have not approved a proposition to prohibit such sales of alcoholic
40 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
41 and amendments thereto.

42 (c) Each caterer shall maintain the caterer's principal place of busi-
43 ness in a county in this state where the caterer is authorized by this section

1 to sell alcoholic liquor by the individual drink in a public place. All records
2 of the caterer relating to the caterer's licensed business and the caterer's
3 license shall be kept at such place of business. The caterer's principal
4 place of business shall be stated in the application for a caterer's license
5 and the caterer shall notify the director of any change in its location within
6 10 days after such change.

7 (d) A caterer shall notify the director at least 10 days prior to any
8 event at which the caterer will sell alcoholic liquor *or cereal malt beverage*
9 by the individual drink unless the director waives the 10-day requirement
10 for good cause shown. In addition, prior to the event, the caterer shall
11 notify:

12 (1) The police chief of the city where the event will take place, if the
13 event will take place within the corporate limits of a city; or

14 (2) the county sheriff of the county where the event will take place,
15 if the event will be outside the corporate limits of any city.

16 (e) A caterer may rebate a portion of the caterer's receipts from the
17 sale of alcoholic liquor *or cereal malt beverage* at an event to the person
18 or organization contracting with the caterer to sell alcoholic liquor *or*
19 *cereal malt beverage* at such event.

20 Sec. 42. K.S.A. 2007 Supp. 41-2645 is hereby amended to read as
21 follows: 41-2645. (a) A temporary permit shall allow the permit holder to
22 offer for sale, sell and serve alcoholic liquor *or cereal malt beverage* for
23 consumption on unlicensed premises, which may be open to the public,
24 subject to the terms of such permit.

25 (b) The director may issue a temporary permit to any one or more
26 persons or organizations applying for such a permit, in accordance with
27 rules and regulations of the secretary. The permit shall be issued in the
28 names of the persons or organizations to which it is issued.

29 (c) Applications for temporary permits shall be required to be filed
30 with the director not less than 14 days before the event for which the
31 permit is sought unless the director waives such requirement for good
32 cause. Each application shall state the purposes for which the proceeds
33 of the event will be used. The application shall be upon a form prescribed
34 and furnished by the director and shall be filed with the director in du-
35 plicate. Each application shall be accompanied by a permit fee of \$25 for
36 each day for which the permit is issued, which fee shall be paid by a
37 certified or cashier's check of a bank within this state, United States post
38 office money order or cash in the full amount thereof. All permit fees
39 collected by the director pursuant to this section shall be remitted to the
40 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
41 amendments thereto. Upon receipt of each such remittance, the state
42 treasurer shall deposit the entire amount in the state treasury to the credit
43 of the state general fund.

- 1 (d) Temporary permits shall specify the premises for which they are
2 issued and shall be issued only for premises where the city, county or
3 township zoning code allows use for which the permit is issued. No tem-
4 porary permit shall be issued for premises which are not located in a
5 county where the qualified electors of the county:
- 6 (1) (A) Approved, by a majority vote of those voting thereon, to adopt
7 the proposition amending section 10 of article 15 of the constitution of
8 the state of Kansas at the general election in November, 1986; or (B) have
9 approved a proposition to allow the sale of liquor by the individual drink
10 in public places within the county at an election pursuant to K.S.A. 41-
11 2646, and amendments thereto; and
- 12 (2) have not approved a proposition to prohibit such sales of alcoholic
13 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
14 and amendments thereto.
- 15 (e) A temporary permit shall be issued for a period of time not to
16 exceed three consecutive days, the dates and hours of which shall be
17 specified in the permit, except that the director may issue one temporary
18 permit, valid for the entire period of time of the Kansas state fair, which
19 authorizes the sale and serving by the drink of only wine, *cereal malt*
20 *beverage* or beer, or ~~both all such beverages~~, on the state fairgrounds on
21 premises specified in the temporary permit, by a person who has entered
22 into an agreement with the state fair board for that purpose. Not more
23 than four temporary permits may be issued to any one applicant in a
24 calendar year.
- 25 (f) All proceeds from an event for which a temporary permit is issued
26 shall be used only for the purposes stated in the application for such
27 permit.
- 28 (g) A temporary permit shall not be transferable or assignable.
- 29 (h) The director may refuse to issue a temporary permit to any person
30 or organization which has violated any provision of the Kansas liquor
31 control act, the *club and drinking establishment act*, *the Kansas cereal*
32 *malt beverage act* or K.S.A. 79-41a01 et seq., and amendments thereto.
- 33 Sec. 43. K.S.A. 2007 Supp. 41-2701 is hereby amended to read as
34 follows: 41-2701. As used in this act unless the context otherwise requires:
- 35 (a) (1) "Cereal malt beverage" means any fermented but undistilled
36 liquor brewed or made from malt or from a mixture of malt or malt
37 substitute or any flavored malt beverage, as defined in K.S.A. 2007 Supp.
38 41-2729, and amendments thereto, ~~but does not include~~.
- 39 (2) "*Cereal malt beverage*" *does not mean* any such liquor which is
40 more than ~~3.2%~~ 5% alcohol by weight.
- 41 (b) "Director" means the director of alcoholic beverage control of
42 the department of revenue.
- 43 (c) "Manufacturer" means a manufacturer as defined by K.S.A. 41-

1 102, and amendments thereto.

2 (d) "Person" means any individual, firm, partnership, corporation or
3 association.

4 (e) ~~"Retailer"~~ "*Cereal malt beverage retailer*" means any person who
5 sells or offers for sale any cereal malt beverage for use or consumption
6 and not for resale in any form.

7 (f) "Place of business" means any place at which cereal malt bever-
8 ages are sold.

9 (g) "Distributor" means a beer distributor licensed pursuant to the
10 Kansas liquor control act.

11 (h) "Legal age for consumption of cereal malt beverage" means 21
12 years of age, except that "legal age for consumption of cereal malt bev-
13 erage" shall mean 18 years of age if at any time the provisions of P.L. 98-
14 363 penalizing states for permitting persons under 21 years of age to
15 consume cereal malt beverage are repealed or otherwise invalidated or
16 nullified.

17 New Sec. 44. (a) No cereal malt beverage retailer shall sell any cereal
18 malt beverage without having secured from the director a license for each
19 place of business to be licensed.

20 (b) No cereal malt beverage retailer's license shall be issued to an
21 individual:

22 (1) Who is not a resident of this state;

23 (2) who has not been a resident of this state for at least four years
24 immediately preceding the date of application;

25 (3) who has not been a citizen of the United States for at least 10
26 years, except that the spouse of a deceased licensee may receive and
27 renew a cereal malt beverage retailer's license notwithstanding the pro-
28 visions of this subsection (b)(3), if such spouse is otherwise qualified to
29 hold a cereal malt beverage retailer's license and is a United States citizen
30 or becomes a United States citizen within one year after the deceased
31 licensee's death;

32 (4) who has beneficial interest in the manufacture, preparation or
33 wholesaling of alcoholic liquor or cereal malt beverages;

34 (5) who has been convicted of a felony under the laws of this state,
35 any other state or the United States;

36 (6) who has had a license revoked for cause under the provisions of
37 the Kansas liquor control act, the Kansas cereal malt beverage act or the
38 beer and cereal malt beverage keg registration act, or who has had any
39 license issued under the cereal malt beverage laws of any state revoked
40 for cause, except that a license may be issued to an individual whose
41 license was revoked for the conviction of a misdemeanor at any time after
42 the lapse of 10 years following the date of the revocation;

43 (7) who has been convicted of being the keeper or is keeping a house

- 1 of prostitution or has forfeited bond to appear in court to answer charges
2 of being a keeper of a house of prostitution;
- 3 (8) who has been convicted of being a proprietor of a gambling house,
4 pandering or any other crime opposed to decency and morality or has
5 forfeited bond to appear in court to answer charges for any of those
6 crimes;
- 7 (9) who is not at least 21 years of age;
- 8 (10) who, other than as a member of the governing body of a city or
9 county, appoints or supervises any law enforcement officer, who is a law
10 enforcement official or who is an employee of the director;
- 11 (11) who intends to carry on the business authorized by the license
12 as agent of another;
- 13 (12) who, at the time of application for renewal of a cereal malt
14 beverage retailer's license, would not be eligible for the license upon a
15 first application, except as provided by subsection (b)(14);
- 16 (13) who does not own the premises for which a license is sought, or
17 does not have a written lease thereon for a least $\frac{3}{4}$ of the period for
18 which the license is to be issued;
- 19 (14) whose spouse would be ineligible to receive a cereal malt bev-
20 erage retailer's license for any reason other than citizenship, residence
21 requirements or age, except that this subsection (b)(14) shall not apply in
22 determining eligibility for a renewal license; or
- 23 (15) whose spouse has been convicted of a felony or other crime
24 which would disqualify a person from licensure under this section and
25 such felony or other crime was committed during the time that the spouse
26 held a license under the Kansas cereal malt beverage act.
- 27 (c) No cereal malt beverage retailer's license shall be issued to a part-
28 nership unless all of the partners are qualified to obtain a license.
- 29 (d) No cereal malt beverage retailer's license shall be issued to a
30 corporation, if any officer, director or stockholder of the corporation
31 would be ineligible to receive a cereal malt beverage retailer's license for
32 any reason. It shall be unlawful for any stockholder of a corporation li-
33 censed as a cereal malt beverage retailer to transfer any stock in the
34 corporation to any person who would be ineligible to receive a cereal malt
35 beverage retailer's license for any reason, and any such transfer shall be
36 null and void, except that: (1) If any stockholder owning stock in the
37 corporation dies and an heir or devisee to whom stock of the corporation
38 descends by descent and distribution or by will is ineligible to receive a
39 cereal malt beverage retailer's license, the legal representatives of the
40 deceased stockholder's estate and the ineligible heir or devisee shall have
41 14 months from the date of the death of the stockholder within which to
42 sell the stock to a person eligible to receive a cereal malt beverage re-
43 tailer's license, any such sale by a legal representative to be made in

1 accordance with the provisions of the probate code; or (2) if the stock in
2 any such corporation is the subject of any trust and any trustee or bene-
3 ficiary of the trust who is 21 years of age or older is ineligible to receive
4 a cereal malt beverage retailer's license, the trustee, within 14 months
5 after the effective date of the trust, shall sell the stock to a person eligible
6 to receive a cereal malt beverage retailer's license and hold and disburse
7 the proceeds in accordance with the terms of the trust. If any legal rep-
8 resentatives, heirs, devisees or trustees fail, refuse or neglect to sell any
9 stock as required by this subsection, the stock shall revert to and become
10 the property of the corporation, and the corporation shall pay to the legal
11 representatives, heirs, devisees or trustees the book value of the stock.
12 During the period of 14 months prescribed by this subsection, the cor-
13 poration shall not be denied a cereal malt beverage retailer's license or
14 have its cereal malt beverage retailer's license revoked if the corporation
15 meets all of the other requirements necessary to have a cereal malt bev-
16 erage retailer's license.

17 (e) No cereal malt beverage retailer's license shall be issued to a trust,
18 if any grantor, beneficiary or trustee would be ineligible to receive a li-
19 cense under the Kansas cereal malt beverage act for any reason, except
20 that the provisions of subsection (b)(6) shall not apply in determining
21 whether a beneficiary would be eligible for a license.

22 (f) This section shall be a part of and supplemental to the Kansas
23 cereal malt beverage act.

24 New Sec. 45. (a) No corporation, either organized under the laws of
25 this state, any other state or a foreign country, shall be issued a cereal
26 malt beverage retailer's license, unless the corporation has first procured
27 a certificate of authority from the secretary of state to do business in this
28 state as provided by law, appointed a citizen of the United States, and
29 resident of Kansas, as its resident agent and filed with the director a duly
30 authenticated copy of a duly executed power of attorney, authorizing the
31 agent to accept service of process from the director and the courts of this
32 state.

33 In addition, any corporation organized under the laws of any other state
34 or foreign country, as a condition precedent to the issuance to it of any
35 license, shall file with the secretary of state of the state of Kansas, a duly
36 authorized and executed power of attorney, authorizing the secretary of
37 state to accept service of process from the director and the courts of this
38 state and to accept service of any notice or order provided for in the
39 Kansas cereal malt beverage act, and all such acts by the secretary of state
40 shall be fully binding upon the corporation.

41 (b) This section shall be a part of and supplemental to the Kansas
42 cereal malt beverage act.

43 New Sec. 46. (a) A person may be licensed by the director to sell

1 cereal malt beverage in the original and unopened container or to sell
2 cereal malt beverage for consumption on the licensed premises, but no
3 person shall be licensed both to sell cereal malt beverage in the original
4 and unopened container and to sell cereal malt beverage for consumption
5 on the licensed premises.

6 (b) Applications for all licenses to sell cereal malt beverage shall be
7 upon forms prescribed and furnished by the director and shall be filed
8 with the director in duplicate. Each application shall be accompanied by
9 a state registration fee of \$50 for each initial application and \$10 for each
10 renewal application, to defray the cost of preparing and furnishing stan-
11 dard forms incident to the administration of the Kansas cereal malt bev-
12 erage act and the cost of processing the application. Each application also
13 shall be accompanied by a deposit of a certified or cashier's check of a
14 bank within this state, United States post office money order or cash in
15 the full amount of the license fee required to be paid for the license
16 applied for, which license fee shall be returned to the applicant if the
17 application is denied. All registration and license fees shall be paid into
18 the state treasury by the director and shall be credited to the state general
19 fund.

20 (c) Each applicant for a cereal malt beverage retailer's license shall
21 file with the application a joint and several bond on a form prescribed by
22 the director and executed by good and sufficient corporate sureties li-
23 censed to do business within the state of Kansas to the director, in the
24 amount of \$2,000. Such bond shall be conditioned on the licensee's com-
25 pliance with the provisions of the Kansas cereal malt beverage act and
26 payment of all taxes, fines and forfeitures which may be assessed against
27 the licensee.

28 (d) The annual fee for a cereal malt beverage retailer's license shall
29 be \$250, which shall be paid at the time application for a license is sub-
30 mitted to the director. In addition to the license fee:

31 (1) Any city in which the licensed premises are located shall levy and
32 collect an annual occupation or license tax on the licensee in an amount
33 not less than \$100 or more than \$300, but no other occupation or excise
34 tax or license fee shall be levied by any city against or collected from the
35 licensee; and

36 (2) any township in which the licensed premises are located shall levy
37 and collect an annual occupation or license tax on the licensee in an
38 amount not less than \$100 or more than \$300; the township board of the
39 township is authorized to fix and impose the tax and the tax shall be paid
40 by the licensee to the township treasurer, who shall issue a receipt there-
41 for to the licensee and shall cause the tax paid to be placed in the general
42 fund of the township.

43 (e) The license year for a cereal malt beverage retailer's license shall

1 commence on the date the license is issued by the director and shall end
2 one year after that date.

3 (f) Any person who was licensed on the date immediately preceding
4 the effective date of this act to sell cereal malt beverage, as such term
5 was defined in K.S.A. 41-2701 prior to its amendment by this act, shall
6 be deemed a licensed cereal malt beverage retailer for a period of 90
7 days after the effective date of this act. Thereafter, such person must be
8 licensed by the director as provided in this act, in order to operate as a
9 cereal malt beverage retailer.

10 (g) This section shall be a part of and supplemental to the Kansas
11 cereal malt beverage act.

12 New Sec. 47. (a) When an application for a license to sell cereal malt
13 beverage is filed with the director, the director shall notify the city clerk
14 of the city or the township clerk of the township where such license is
15 sought. Such notice shall state the date and place where a hearing will be
16 held on such application. No such license shall be issued by the director
17 until the expiration of at least 10 days from the time of filing such appli-
18 cation with the director, during which period the governing body of such
19 city or the township board of such township may make advisory recom-
20 mendations relative to the director's granting or refusal to grant a license.
21 The hearing on the application shall be conducted in accordance with the
22 provisions of the Kansas administrative procedure act.

23 (b) Within 30 days after an application for a license to sell cereal malt
24 beverage is filed, the director shall enter an order either refusing or grant-
25 ing the license. If the director does not enter an order within the time
26 prescribed, the license applied for shall be deemed to have been refused.
27 The director, with the written consent of the applicant for a license, may
28 delay entering an order on an application for an additional period of not
29 to exceed 30 days.

30 (c) Proceedings for the suspension, revocation or refusal to grant or
31 renew a license to sell cereal malt beverage, including the proceedings
32 for administrative appeal and judicial review, shall be in substantial con-
33 formity with the proceedings set forth in the Kansas liquor control act for
34 the suspension, revocation or refusal to grant or renew a liquor retailer's
35 license.

36 (d) This section shall be a part of and supplemental to the Kansas
37 cereal malt beverage act.

38 New Sec. 48. (a) Cereal malt beverage retailer licenses issued pur-
39 suant to the Kansas cereal malt beverage act shall apply only to the prem-
40 ises described in the application and in the license issued thereon, and
41 only one location shall be so described in each license. After such license
42 has been granted for particular premises in any city, the director, upon
43 proper showing, may endorse upon the license permission to abandon

1 the premises, but in order to obtain such permission, the licensee shall
2 file with the director a request in writing and a statement under oath,
3 which shall show that the premises to which removal is to be made comply
4 in all respects with the requirements of the Kansas cereal malt beverage
5 act. No such removal shall be made by any licensee until said license has
6 been endorsed to that effect in writing by the director.

7 (b) A corporation which is licensed as a cereal malt beverage retailer
8 may appoint an individual to serve as manager of the licensed premises,
9 but such individual need not be a resident of the county in which the
10 licensed premises are located.

11 (c) This section shall be a part of and supplement to the Kansas cereal
12 malt beverage act.

13 New Sec. 49. (a) No cereal malt beverage retailer shall sell, directly
14 or indirectly, any cereal malt beverage at less than the acquisition cost of
15 such cereal malt beverage without first having obtained from the director
16 a permit to do so.

17 (b) The director may issue to a licensed cereal malt beverage retailer
18 a permit authorizing the cereal malt beverage retailer to sell cereal malt
19 beverage at less than the acquisition cost of such cereal malt beverage if:

20 (1) The cereal malt beverage retailer is actually closing out the cereal
21 malt beverage retailer's stock for the purpose of completely discontinuing
22 sale of the item of cereal malt beverage for a period of not less than 12
23 months;

24 (2) the item of cereal malt beverage is damaged or deteriorated in
25 quality and notice is given to the public thereof; or

26 (3) the sale of the item of cereal malt beverage is by an officer acting
27 under the order of a court.

28 (c) This section shall be a part of and supplemental to the Kansas
29 cereal malt beverage act.

30 New Sec. 50. (a) When a cereal malt beverage retailer has been con-
31 victed by any court of a violation of any of the provisions of the Kansas
32 cereal malt beverage act, such licensee may, in addition to the penalty for
33 such offense, incur a forfeiture of license and all moneys that have been
34 paid therefor. A conviction of an employee of a corporation, which is
35 licensed as a cereal malt beverage retailer, for violating any provision of
36 the Kansas cereal malt beverage act shall not be construed as a conviction
37 of the cereal malt beverage retailer.

38 (b) In accordance with the provisions of the Kansas administrative
39 procedures act, the director may suspend or revoke the license of any
40 cereal malt beverage retailer or deny issuance of a cereal malt beverage
41 retailer's license in an original proceeding brought before the director by
42 reason of a cereal malt beverage retailer's violation of any provision of
43 the Kansas cereal malt beverage act or the applicable provisions of the

1 Kansas liquor control act.

2 Sec. 51. K.S.A. 2007 Supp. 41-2704 is hereby amended to read as
3 follows: 41-2704. (a) In addition to and consistent with the requirements
4 of the *Kansas* cereal malt beverage act, the board of county commission-
5 ers of any county or the governing body of any city may prescribe hours
6 of closing, standards of conduct and rules and regulations concerning the
7 moral, sanitary and health conditions of places licensed *to sell cereal malt*
8 *beverage* pursuant to ~~this act~~ *the Kansas cereal malt beverage act* and may
9 establish zones within which no such place may be located.

10 (b) Within any city where the days of sale at retail of cereal malt
11 beverage in the original package have not been expanded as provided by
12 K.S.A. 2007 Supp. 41-2911, and amendments thereto, or have been so
13 expanded and subsequently restricted as provided by K.S.A. 2007 Supp.
14 41-2911, and amendments thereto, and within any township where the
15 hours and days of sale at retail of cereal malt beverage in the original
16 package have not been expanded as provided by K.S.A. 2007 Supp. 41-
17 2911, and amendments thereto, or have been so expanded and subse-
18 quently restricted as provided by K.S.A. 2007 Supp. 41-2911, and amend-
19 ments thereto, no cereal malt beverages may be sold:

20 (1) *In the original package between the hours of 11 p.m. and 9 a.m.,*
21 *and for consumption on the licensed premises* between the hours of 12
22 midnight and 6 a.m.; or

23 (2) on Sunday, except in a place of business which is licensed to sell
24 cereal malt beverage for consumption on the premises, which derives not
25 less than 30% of its gross receipts from the sale of food for consumption
26 on the licensed premises and which is located in a county where such
27 sales on Sunday have been authorized by resolution of the board of county
28 commissioners of the county or in a city where such sales on Sunday have
29 been authorized by ordinance of the governing body of the city.

30 (c) Within any city where the days of sale at retail of cereal malt
31 beverage in the original package have been expanded as provided by
32 K.S.A. 2007 Supp. 41-2911, and amendments thereto, and have not been
33 subsequently restricted as provided in K.S.A. 2007 Supp. 41-2911, and
34 amendments thereto, and within any township where the days of sale at
35 retail of cereal malt beverage in the original package have been expanded
36 as provided by K.S.A. 2007 Supp. 41-2911, and amendments thereto, and
37 have not been subsequently restricted as provided by K.S.A. 2007 Supp.
38 41-2911, and amendments thereto, no person shall sell at retail cereal
39 malt beverage:

40 (1) *In the original package between the hours of 11 p.m. and 9 a.m.,*
41 *and for consumption on the licensed premises* between the hours of 12
42 midnight and 6 a.m.;

43 (2) in the original package before 12 noon *or* after 8 p.m. on Sunday;

1 (3) on Easter Sunday; or

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

10 (d) 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 also
12 are licensed as a club pursuant to the club and drinking establishment
13 act.

14 (e) 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 (f) Except as otherwise provided by this subsection, no licensee shall
19 permit a person under the legal age for consumption of cereal malt bev-
20 erage to consume or purchase any cereal malt beverage in or about a
21 place of business. A licensee's employee who is not less than 18 years of
22 age may dispense or sell cereal malt beverage, if:

23 (1) The licensee's place of business is licensed only to sell at retail
24 cereal malt beverage in the original package and not for consumption on
25 the premises; or

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

31 (g) No person shall have any alcoholic liquor in such person's pos-
32 session while in a place of business, unless the premises are currently
33 licensed as a club or drinking establishment pursuant to the club and
34 drinking establishment act.

35 (h) Cereal malt beverages may be sold on premises which are licensed
36 pursuant to both the cereal malt beverage act and the club and drinking
37 establishment act at any time when alcoholic liquor is allowed by law to
38 be served on the premises.

39 Sec. 52. K.S.A. 41-2705 is hereby amended to read as follows: 41-
40 2705. (a) Except to the *same* extent permitted *a liquor retailer* pursuant
41 to K.S.A. 41-703, and amendments thereto, no *cereal malt beverage* re-
42 tailer, or any officer, associate, member, representative or agent thereof,
43 shall accept, receive or borrow money or anything else of value, or accept

1 or receive credit, directly or indirectly, from: (1) Any manufacturer or
2 distributor; (2) any person connected with, in any way representing or a
3 member of the family of a manufacturer or distributor; (3) any stock-
4 holders in a manufacturer or distributor; or (4) any officer, manager, agent
5 or representative of a manufacturer or distributor.

6 (b) Any licensee who shall permit or assent, or be a party in any way,
7 to any violation or infringement of the provisions of this section or of
8 K.S.A. 41-702 or 41-703, and amendments thereto, shall be deemed guilty
9 of a violation of ~~this~~ *the Kansas cereal malt beverage act*, and any money
10 loaned contrary to a provision of this section shall not be recovered, or
11 any note, mortgage or other evidence of indebtedness, or security, or any
12 lease or contract obtained or made contrary to this ~~act~~ *section* shall be
13 unenforceable and void.

14 Sec. 53. K.S.A. 41-2706 is hereby amended to read as follows: 41-
15 2706. (a) Except as provided by subsection (b), no person shall sell or
16 furnish cereal malt beverages at retail to any person on credit; on a pass-
17 book; on order on a store; in exchange for any goods, wares or merchan-
18 dise; or in payment for any services rendered. If any person extends credit
19 for such purpose, the debt attempted to be created shall not be recov-
20 erable at law and, in addition, such person shall be subject to the penalties
21 provided in K.S.A. 41-2707, and amendments thereto.

22 (b) A licensed *cereal malt beverage* retailer may sell cereal malt bev-
23 erages to a consumer on credit pursuant to a credit card which entitles
24 the user to purchase goods or services from at least 100 persons not
25 related to the issuer of the credit card.

26 Sec. 54. K.S.A. 41-2707 is hereby amended to read as follows: 41-
27 2707. No distributor shall sell or furnish cereal malt beverages to a *cereal*
28 *malt beverage* retailer: On credit; on a passbook; on order on a store; in
29 exchange for any goods, wares or merchandise; in payment for any service
30 rendered or to be rendered; or by any extension of credit of any kind,
31 type or class. Any distributor or *cereal malt beverage* retailer who violates
32 any of the terms of this section or K.S.A. 41-2706, and amendments
33 thereto, shall be subject to all penalties and forfeitures provided by K.S.A.
34 41-2705 ~~and 41-2708~~, and amendments thereto, and ~~any~~ *as provided un-*
35 *der the Kansas liquor control act for the same or substantially similar*
36 *violations by liquor retailers. Any* debt attempted to be created in vio-
37 lation hereof shall not be recoverable at law.

38 Sec. 55. K.S.A. 41-2709 is hereby amended to read as follows: 41-
39 2709. The attorney general; or any county attorney ~~of the state within his~~
40 ~~county~~ or any city attorney ~~within his city shall at all times have the power~~
41 ~~to~~ *may* enjoin any party from selling cereal malt beverages within the
42 county or city notwithstanding said party has a license and permit if it
43 shall appear that the licensee has violated any provision or regulation of

1 ~~this the Kansas cereal malt beverage~~ act or any of the rules or regulations
2 ~~prescribed under this adopted by the director pursuant to such~~ act. In-
3 junction proceedings shall be the same as is now prescribed for the en-
4 joining of intoxicating liquor nuisances.

5 Sec. 56. K.S.A. 41-2722 is hereby amended to read as follows: 41-
6 2722. (a) No *cereal malt beverage* retailer, or employee or agent of a *cereal*
7 *malt beverage* retailer, licensed to sell cereal malt beverage for consump-
8 tion on the licensed premises shall:

- 9 (1) Offer or serve any free cereal malt beverage to any person;
- 10 (2) offer or serve to any person a drink at a price that is less than the
11 acquisition cost of the drink to the licensee;
- 12 (3) sell, offer to sell or serve to any person an unlimited number of
13 drinks during any set period of time for a fixed price, except at private
14 functions not open to the general public;
- 15 (4) sell, offer to sell or serve any drink to any person at any time at a
16 price less than that charged the general public on that day, except at
17 private functions not open to the general public;
- 18 (5) increase the size of a drink of cereal malt beverage without in-
19 creasing proportionately the price regularly charged for the drink on that
20 day;
- 21 (6) encourage or permit, on the licensed premises, any game or con-
22 test which involves drinking cereal malt beverage or the awarding of
23 drinks as prizes; or
- 24 (7) advertise or promote in any way, whether on or off the licensed
25 premises, any of the practices prohibited under subsections (a)(1) through
26 (6).
- 27 (b) Nothing in subsection (a) shall be construed to prohibit a retailer
28 from offering free food or entertainment at any time.
- 29 (c) Violation of any provisions of this section is a misdemeanor pun-
30 ishable as provided by K.S.A. 41-2711, and amendments thereto.
- 31 (d) Violation of any provision of this act shall be grounds for suspen-
32 sion or revocation of the retailer's license as provided by ~~K.S.A. 41-2708~~
33 *section 50 of this act*, and amendments thereto.
- 34 (e) Every licensee subject to the provisions of this section shall make
35 available at any time upon request a price list showing the licensee's
36 current prices for all cereal malt beverages.
- 37 (f) As used in this section, "drink" means an individual serving of
38 cereal malt beverage.
- 39 (g) This section shall be part of and supplemental to ~~K.S.A. 41-2701~~
40 ~~through 41-2721, and amendments thereto~~ *the Kansas cereal malt bev-*
41 *erage act*.

42 Sec. 57. K.S.A. 41-2726 is hereby amended to read as follows: 41-
43 2726. (a) No *cereal malt beverage* retailer licensed under ~~K.S.A. 41-2701~~

1 ~~et seq. and amendments thereto~~ the Kansas cereal malt beverage act to
2 sell cereal malt beverage in original and unopened containers and not for
3 consumption on the licensed premises shall sell or offer for sale any cereal
4 malt beverage at a price that is less than the acquisition cost of such cereal
5 malt beverage to the licensee.

6 (b) Violation of this section is a misdemeanor punishable as provided
7 by K.S.A. 41-2711, and amendments thereto.

8 (c) Violation of this section shall be grounds for suspension or revo-
9 cation of the *cereal malt beverage* retailer's license as provided by ~~K.S.A.~~
10 ~~41-2708~~ section 50, and amendments thereto.

11 Sec. 58. K.S.A. 2007 Supp. 41-2728 is hereby amended to read as
12 follows: 41-2728. ~~From and after November 15, 2005:~~ (a) K.S.A. 41-2701
13 through 41-2727 ~~and section 14~~, and amendments thereto, shall be known
14 and may be cited as the Kansas cereal malt beverage act.

15 (b) Except as specifically provided in the Kansas cereal malt beverage
16 act, the power to regulate all phases of the manufacture, distribution,
17 sale, possession, transportation and traffic in cereal malt beverages is
18 vested exclusively in the state and shall be exercised as provided in the
19 Kansas cereal malt beverage act. No city or county shall enact any ordi-
20 nance or resolution which is in conflict with the provisions of the Kansas
21 cereal malt beverage act and any such ordinance or resolution shall be
22 null and void.

23 (c) The provisions of this act are severable. If any provision of this
24 act is held to be invalid or unconstitutional, it shall be presumed conclu-
25 sively that the legislature would have enacted the remainder of this act
26 without such invalid or unconstitutional provision.

27 Sec. 59. K.S.A. 2007 Supp. 79-3606 is hereby amended to read as
28 follows: 79-3606. The following shall be exempt from the tax imposed by
29 this act:

30 (a) All sales of motor-vehicle fuel, *cereal malt beverages, which are*
31 *subject to taxation under K.S.A. 79-4101 et seq., and amendments thereto,*
32 or other articles upon which a sales or excise tax has been paid, not subject
33 to refund, under the laws of this state except cigarettes as defined by
34 K.S.A. 79-3301 and amendments thereto, ~~cereal malt beverages and malt~~
35 ~~products as defined by K.S.A. 79-3817 41-501~~ and amendments thereto,
36 including wort, liquid malt, malt syrup and malt extract, which is not
37 subject to taxation under the provisions of K.S.A. 79-41a02 and amend-
38 ments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and
39 amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and
40 amendments thereto, drycleaning and laundry services taxed pursuant to
41 K.S.A. 65-34,150, and amendments thereto, and gross receipts from reg-
42 ulated sports contests taxed pursuant to the Kansas professional regulated
43 sports act, and amendments thereto;

1 (b) all sales of tangible personal property or service, including the
2 renting and leasing of tangible personal property, purchased directly by
3 the state of Kansas, a political subdivision thereof, other than a school or
4 educational institution, or purchased by a public or private nonprofit hos-
5 pital or public hospital authority or nonprofit blood, tissue or organ bank
6 and used exclusively for state, political subdivision, hospital or public hos-
7 pital authority or nonprofit blood, tissue or organ bank purposes, except
8 when: (1) Such state, hospital or public hospital authority is engaged or
9 proposes to engage in any business specifically taxable under the provi-
10 sions of this act and such items of tangible personal property or service
11 are used or proposed to be used in such business, or (2) such political
12 subdivision is engaged or proposes to engage in the business of furnishing
13 gas, electricity or heat to others and such items of personal property or
14 service are used or proposed to be used in such business;

15 (c) all sales of tangible personal property or services, including the
16 renting and leasing of tangible personal property, purchased directly by
17 a public or private elementary or secondary school or public or private
18 nonprofit educational institution and used primarily by such school or
19 institution for nonsectarian programs and activities provided or sponsored
20 by such school or institution or in the erection, repair or enlargement of
21 buildings to be used for such purposes. The exemption herein provided
22 shall not apply to erection, construction, repair, enlargement or equip-
23 ment of buildings used primarily for human habitation;

24 (d) all sales of tangible personal property or services purchased by a
25 contractor for the purpose of constructing, equipping, reconstructing,
26 maintaining, repairing, enlarging, furnishing or remodeling facilities for
27 any public or private nonprofit hospital or public hospital authority, public
28 or private elementary or secondary school, a public or private nonprofit
29 educational institution, state correctional institution including a privately
30 constructed correctional institution contracted for state use and owner-
31 ship, which would be exempt from taxation under the provisions of this
32 act if purchased directly by such hospital or public hospital authority,
33 school, educational institution or a state correctional institution; and all
34 sales of tangible personal property or services purchased by a contractor
35 for the purpose of constructing, equipping, reconstructing, maintaining,
36 repairing, enlarging, furnishing or remodeling facilities for any political
37 subdivision of the state or district described in subsection (s), the total
38 cost of which is paid from funds of such political subdivision or district
39 and which would be exempt from taxation under the provisions of this
40 act if purchased directly by such political subdivision or district. Nothing
41 in this subsection or in the provisions of K.S.A. 12-3418 and amendments
42 thereto, shall be deemed to exempt the purchase of any construction
43 machinery, equipment or tools used in the constructing, equipping, re-

1 constructing, maintaining, repairing, enlarging, furnishing or remodeling
2 facilities for any political subdivision of the state or any such district. As
3 used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments
4 thereto, "funds of a political subdivision" shall mean general tax revenues,
5 the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean
6 funds used for the purpose of constructing, equipping, reconstructing,
7 repairing, enlarging, furnishing or remodeling facilities which are to be
8 leased to the donor. When any political subdivision of the state, district
9 described in subsection (s), public or private nonprofit hospital or public
10 hospital authority, public or private elementary or secondary school, pub-
11 lic or private nonprofit educational institution, state correctional institu-
12 tion including a privately constructed correctional institution contracted
13 for state use and ownership shall contract for the purpose of constructing,
14 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
15 or remodeling facilities, it shall obtain from the state and furnish to the
16 contractor an exemption certificate for the project involved, and the con-
17 tractor may purchase materials for incorporation in such project. The
18 contractor shall furnish the number of such certificate to all suppliers
19 from whom such purchases are made, and such suppliers shall execute
20 invoices covering the same bearing the number of such certificate. Upon
21 completion of the project the contractor shall furnish to the political sub-
22 division, district described in subsection (s), hospital or public hospital
23 authority, school, educational institution or department of corrections
24 concerned a sworn statement, on a form to be provided by the director
25 of taxation, that all purchases so made were entitled to exemption under
26 this subsection. As an alternative to the foregoing procedure, any such
27 contracting entity may apply to the secretary of revenue for agent status
28 for the sole purpose of issuing and furnishing project exemption certifi-
29 cates to contractors pursuant to rules and regulations adopted by the
30 secretary establishing conditions and standards for the granting and main-
31 taining of such status. All invoices shall be held by the contractor for a
32 period of five years and shall be subject to audit by the director of taxation.
33 If any materials purchased under such a certificate are found not to have
34 been incorporated in the building or other project or not to have been
35 returned for credit or the sales or compensating tax otherwise imposed
36 upon such materials which will not be so incorporated in the building or
37 other project reported and paid by such contractor to the director of
38 taxation not later than the 20th day of the month following the close of
39 the month in which it shall be determined that such materials will not be
40 used for the purpose for which such certificate was issued, the political
41 subdivision, district described in subsection (s), hospital or public hospital
42 authority, school, educational institution or the contractor contracting
43 with the department of corrections for a correctional institution con-

1 cerned shall be liable for tax on all materials purchased for the project,
2 and upon payment thereof it may recover the same from the contractor
3 together with reasonable attorney fees. Any contractor or any agent, em-
4 ployee or subcontractor thereof, who shall use or otherwise dispose of
5 any materials purchased under such a certificate for any purpose other
6 than that for which such a certificate is issued without the payment of
7 the sales or compensating tax otherwise imposed upon such materials,
8 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
9 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
10 and amendments thereto;

11 (e) all sales of tangible personal property or services purchased by a
12 contractor for the erection, repair or enlargement of buildings or other
13 projects for the government of the United States, its agencies or instru-
14 mentalities, which would be exempt from taxation if purchased directly
15 by the government of the United States, its agencies or instrumentalities.
16 When the government of the United States, its agencies or instrumen-
17 talities shall contract for the erection, repair, or enlargement of any build-
18 ing or other project, it shall obtain from the state and furnish to the
19 contractor an exemption certificate for the project involved, and the con-
20 tractor may purchase materials for incorporation in such project. The
21 contractor shall furnish the number of such certificates to all suppliers
22 from whom such purchases are made, and such suppliers shall execute
23 invoices covering the same bearing the number of such certificate. Upon
24 completion of the project the contractor shall furnish to the government
25 of the United States, its agencies or instrumentalities concerned a sworn
26 statement, on a form to be provided by the director of taxation, that all
27 purchases so made were entitled to exemption under this subsection. As
28 an alternative to the foregoing procedure, any such contracting entity may
29 apply to the secretary of revenue for agent status for the sole purpose of
30 issuing and furnishing project exemption certificates to contractors pur-
31 suant to rules and regulations adopted by the secretary establishing con-
32 ditions and standards for the granting and maintaining of such status. All
33 invoices shall be held by the contractor for a period of five years and shall
34 be subject to audit by the director of taxation. Any contractor or any agent,
35 employee or subcontractor thereof, who shall use or otherwise dispose of
36 any materials purchased under such a certificate for any purpose other
37 than that for which such a certificate is issued without the payment of
38 the sales or compensating tax otherwise imposed upon such materials,
39 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
40 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
41 and amendments thereto;

42 (f) tangible personal property purchased by a railroad or public utility
43 for consumption or movement directly and immediately in interstate

- 1 commerce;
- 2 (g) sales of aircraft including remanufactured and modified aircraft
3 sold to persons using directly or through an authorized agent such aircraft
4 as certified or licensed carriers of persons or property in interstate or
5 foreign commerce under authority of the laws of the United States or any
6 foreign government or sold to any foreign government or agency or in-
7 strumentality of such foreign government and all sales of aircraft for use
8 outside of the United States and sales of aircraft repair, modification and
9 replacement parts and sales of services employed in the remanufacture,
10 modification and repair of aircraft;
- 11 (h) all rentals of nonsectarian textbooks by public or private elemen-
12 tary or secondary schools;
- 13 (i) the lease or rental of all films, records, tapes, or any type of sound
14 or picture transcriptions used by motion picture exhibitors;
- 15 (j) meals served without charge or food used in the preparation of
16 such meals to employees of any restaurant, eating house, dining car, hotel,
17 drugstore or other place where meals or drinks are regularly sold to the
18 public if such employees' duties are related to the furnishing or sale of
19 such meals or drinks;
- 20 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
21 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and
22 delivered in this state to a bona fide resident of another state, which motor
23 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
24 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
25 remain in this state more than 10 days;
- 26 (l) all isolated or occasional sales of tangible personal property, serv-
27 ices, substances or things, except isolated or occasional sale of motor
28 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
29 79-3603 and amendments thereto;
- 30 (m) all sales of tangible personal property which become an ingre-
31 dient or component part of tangible personal property or services pro-
32 duced, manufactured or compounded for ultimate sale at retail within or
33 without the state of Kansas; and any such producer, manufacturer or
34 compounder may obtain from the director of taxation and furnish to the
35 supplier an exemption certificate number for tangible personal property
36 for use as an ingredient or component part of the property or services
37 produced, manufactured or compounded;
- 38 (n) all sales of tangible personal property which is consumed in the
39 production, manufacture, processing, mining, drilling, refining or com-
40 pounding of tangible personal property, the treating of by-products or
41 wastes derived from any such production process, the providing of serv-
42 ices or the irrigation of crops for ultimate sale at retail within or without
43 the state of Kansas; and any purchaser of such property may obtain from

1 the director of taxation and furnish to the supplier an exemption certifi-
2 cate number for tangible personal property for consumption in such pro-
3 duction, manufacture, processing, mining, drilling, refining, compound-
4 ing, treating, irrigation and in providing such services;

5 (o) all sales of animals, fowl and aquatic plants and animals, the pri-
6 mary purpose of which is use in agriculture or aquaculture, as defined in
7 K.S.A. 47-1901, and amendments thereto, the production of food for
8 human consumption, the production of animal, dairy, poultry or aquatic
9 plant and animal products, fiber or fur, or the production of offspring for
10 use for any such purpose or purposes;

11 (p) all sales of drugs dispensed pursuant to a prescription order by a
12 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
13 1626, and amendments thereto. As used in this subsection, “drug” means
14 a compound, substance or preparation and any component of a com-
15 pound, substance or preparation, other than food and food ingredients,
16 dietary supplements or alcoholic beverages, recognized in the official
17 United States pharmacopoeia, official homeopathic pharmacopoeia of the
18 United States or official national formulary, and supplement to any of
19 them, intended for use in the diagnosis, cure, mitigation, treatment or
20 prevention of disease or intended to affect the structure or any function
21 of the body;

22 (q) all sales of insulin dispensed by a person licensed by the state
23 board of pharmacy to a person for treatment of diabetes at the direction
24 of a person licensed to practice medicine by the board of healing arts;

25 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
26 enteral feeding systems, prosthetic devices and mobility enhancing equip-
27 ment prescribed in writing by a person licensed to practice the healing
28 arts, dentistry or optometry, and in addition to such sales, all sales of
29 hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amend-
30 ments thereto, and repair and replacement parts therefor, including bat-
31 teries, by a person licensed in the practice of dispensing and fitting hear-
32 ing aids pursuant to the provisions of K.S.A. 74-5808, and amendments
33 thereto. For the purposes of this subsection: (1) “Mobility enhancing
34 equipment” means equipment including repair and replacement parts to
35 same, but does not include durable medical equipment, which is primarily
36 and customarily used to provide or increase the ability to move from one
37 place to another and which is appropriate for use either in a home or a
38 motor vehicle; is not generally used by persons with normal mobility; and
39 does not include any motor vehicle or equipment on a motor vehicle
40 normally provided by a motor vehicle manufacturer; and (2) “prosthetic
41 device” means a replacement, corrective or supportive device including
42 repair and replacement parts for same worn on or in the body to artificially
43 replace a missing portion of the body, prevent or correct physical defor-

- 1 mity or malfunction or support a weak or deformed portion of the body;
- 2 (s) except as provided in K.S.A. 2007 Supp. 82a-2101, and amend-
3 ments thereto, all sales of tangible personal property or services pur-
4 chased directly or indirectly by a groundwater management district or-
5 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and
6 amendments thereto, by a rural water district organized or operating un-
7 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
8 water supply district organized or operating under the authority of K.S.A.
9 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
10 which property or services are used in the construction activities, opera-
11 tion or maintenance of the district;
- 12 (t) all sales of farm machinery and equipment or aquaculture ma-
13 chinery and equipment, repair and replacement parts therefor and serv-
14 ices performed in the repair and maintenance of such machinery and
15 equipment. For the purposes of this subsection the term “farm machinery
16 and equipment or aquaculture machinery and equipment” shall include
17 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
18 thereto, and is equipped with a bed or cargo box for hauling materials,
19 and shall also include machinery and equipment used in the operation of
20 Christmas tree farming but shall not include any passenger vehicle, truck,
21 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
22 as such terms are defined by K.S.A. 8-126 and amendments thereto.
23 “Farm machinery and equipment” includes precision farming equipment
24 that is portable or is installed or purchased to be installed on farm ma-
25 chinery and equipment. “Precision farming equipment” includes the fol-
26 lowing items used only in computer-assisted farming, ranching or aqua-
27 culture production operations: Soil testing sensors, yield monitors,
28 computers, monitors, software, global positioning and mapping systems,
29 guiding systems, modems, data communications equipment and any nec-
30 essary mounting hardware, wiring and antennas. Each purchaser of farm
31 machinery and equipment or aquaculture machinery and equipment ex-
32 empted herein must certify in writing on the copy of the invoice or sales
33 ticket to be retained by the seller that the farm machinery and equipment
34 or aquaculture machinery and equipment purchased will be used only in
35 farming, ranching or aquaculture production. Farming or ranching shall
36 include the operation of a feedlot and farm and ranch work for hire and
37 the operation of a nursery;
- 38 (u) all leases or rentals of tangible personal property used as a dwell-
39 ing if such tangible personal property is leased or rented for a period of
40 more than 28 consecutive days;
- 41 (v) all sales of tangible personal property to any contractor for use in
42 preparing meals for delivery to homebound elderly persons over 60 years
43 of age and to homebound disabled persons or to be served at a group-

1 sitting at a location outside of the home to otherwise homebound elderly
2 persons over 60 years of age and to otherwise homebound disabled per-
3 sons, as all or part of any food service project funded in whole or in part
4 by government or as part of a private nonprofit food service project avail-
5 able to all such elderly or disabled persons residing within an area of
6 service designated by the private nonprofit organization, and all sales of
7 tangible personal property for use in preparing meals for consumption by
8 indigent or homeless individuals whether or not such meals are consumed
9 at a place designated for such purpose, and all sales of food products by
10 or on behalf of any such contractor or organization for any such purpose;

11 (w) all sales of natural gas, electricity, heat and water delivered
12 through mains, lines or pipes: (1) To residential premises for noncom-
13 mercial use by the occupant of such premises; (2) for agricultural use and
14 also, for such use, all sales of propane gas; (3) for use in the severing of
15 oil; and (4) to any property which is exempt from property taxation pur-
16 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
17 “severing” shall have the meaning ascribed thereto by subsection (k) of
18 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
19 electricity and heat delivered through mains, lines or pipes pursuant to
20 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
21 section shall expire on December 31, 2005;

22 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
23 for the production of heat or lighting for noncommercial use of an oc-
24 cupant of residential premises occurring prior to January 1, 2006;

25 (y) all sales of materials and services used in the repairing, servicing,
26 altering, maintaining, manufacturing, remanufacturing, or modification of
27 railroad rolling stock for use in interstate or foreign commerce under
28 authority of the laws of the United States;

29 (z) all sales of tangible personal property and services purchased di-
30 rectly by a port authority or by a contractor therefor as provided by the
31 provisions of K.S.A. 12-3418 and amendments thereto;

32 (aa) all sales of materials and services applied to equipment which is
33 transported into the state from without the state for repair, service, al-
34 teration, maintenance, remanufacture or modification and which is sub-
35 sequently transported outside the state for use in the transmission of
36 liquids or natural gas by means of pipeline in interstate or foreign com-
37 merce under authority of the laws of the United States;

38 (bb) all sales of used mobile homes or manufactured homes. As used
39 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
40 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
41 thereto; and (2) “sales of used mobile homes or manufactured homes”
42 means sales other than the original retail sale thereof;

43 (cc) all sales of tangible personal property or services purchased for

1 the purpose of and in conjunction with constructing, reconstructing, en-
2 larging or remodeling a business or retail business which meets the
3 requirements established in K.S.A. 74-50,115 and amendments thereto,
4 and the sale and installation of machinery and equipment purchased for
5 installation at any such business or retail business. When a person shall
6 contract for the construction, reconstruction, enlargement or remodeling
7 of any such business or retail business, such person shall obtain from the
8 state and furnish to the contractor an exemption certificate for the project
9 involved, and the contractor may purchase materials, machinery and
10 equipment for incorporation in such project. The contractor shall furnish
11 the number of such certificates to all suppliers from whom such purchases
12 are made, and such suppliers shall execute invoices covering the same
13 bearing the number of such certificate. Upon completion of the project
14 the contractor shall furnish to the owner of the business or retail business
15 a sworn statement, on a form to be provided by the director of taxation,
16 that all purchases so made were entitled to exemption under this subsec-
17 tion. All invoices shall be held by the contractor for a period of five years
18 and shall be subject to audit by the director of taxation. Any contractor
19 or any agent, employee or subcontractor thereof, who shall use or oth-
20 erwise dispose of any materials, machinery or equipment purchased un-
21 der such a certificate for any purpose other than that for which such a
22 certificate is issued without the payment of the sales or compensating tax
23 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
24 conviction therefor, shall be subject to the penalties provided for in sub-
25 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
26 subsection, "business" and "retail business" have the meanings respec-
27 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

28 (dd) all sales of tangible personal property purchased with food
29 stamps issued by the United States department of agriculture;

30 (ee) all sales of lottery tickets and shares made as part of a lottery
31 operated by the state of Kansas;

32 (ff) on and after July 1, 1988, all sales of new mobile homes or man-
33 ufactured homes to the extent of 40% of the gross receipts, determined
34 without regard to any trade-in allowance, received from such sale. As used
35 in this subsection, "mobile homes" and "manufactured homes" shall have
36 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
37 thereto;

38 (gg) all sales of tangible personal property purchased in accordance
39 with vouchers issued pursuant to the federal special supplemental food
40 program for women, infants and children;

41 (hh) all sales of medical supplies and equipment, including durable
42 medical equipment, purchased directly by a nonprofit skilled nursing
43 home or nonprofit intermediate nursing care home, as defined by K.S.A.

1 39-923, and amendments thereto, for the purpose of providing medical
2 services to residents thereof. This exemption shall not apply to tangible
3 personal property customarily used for human habitation purposes. As
4 used in this subsection, “durable medical equipment” means equipment
5 including repair and replacement parts for such equipment, which can
6 withstand repeated use, is primarily and customarily used to serve a med-
7 ical purpose, generally is not useful to a person in the absence of illness
8 or injury and is not worn in or on the body, but does not include mobility
9 enhancing equipment as defined in subsection (r), oxygen delivery equip-
10 ment, kidney dialysis equipment or enteral feeding systems;

11 (ii) all sales of tangible personal property purchased directly by a non-
12 profit organization for nonsectarian comprehensive multidiscipline youth
13 development programs and activities provided or sponsored by such or-
14 ganization, and all sales of tangible personal property by or on behalf of
15 any such organization. This exemption shall not apply to tangible personal
16 property customarily used for human habitation purposes;

17 (jj) all sales of tangible personal property or services, including the
18 renting and leasing of tangible personal property, purchased directly on
19 behalf of a community-based mental retardation facility or mental health
20 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
21 thereto, and licensed in accordance with the provisions of K.S.A. 75-
22 3307b and amendments thereto and all sales of tangible personal property
23 or services purchased by contractors during the time period from July,
24 2003, through June, 2006, for the purpose of constructing, equipping,
25 maintaining or furnishing a new facility for a community-based mental
26 retardation facility or mental health center located in Riverton, Cherokee
27 County, Kansas, which would have been eligible for sales tax exemption
28 pursuant to this subsection if purchased directly by such facility or center.
29 This exemption shall not apply to tangible personal property customarily
30 used for human habitation purposes;

31 (kk) (1) (A) all sales of machinery and equipment which are used in
32 this state as an integral or essential part of an integrated production op-
33 eration by a manufacturing or processing plant or facility;

34 (B) all sales of installation, repair and maintenance services per-
35 formed on such machinery and equipment; and

36 (C) all sales of repair and replacement parts and accessories pur-
37 chased for such machinery and equipment.

38 (2) For purposes of this subsection:

39 (A) “Integrated production operation” means an integrated series of
40 operations engaged in at a manufacturing or processing plant or facility
41 to process, transform or convert tangible personal property by physical,
42 chemical or other means into a different form, composition or character
43 from that in which it originally existed. Integrated production operations

1 shall include: (i) Production line operations, including packaging opera-
2 tions; (ii) preproduction operations to handle, store and treat raw mate-
3 rials; (iii) post production handling, storage, warehousing and distribution
4 operations; and (iv) waste, pollution and environmental control opera-
5 tions, if any;

6 (B) “production line” means the assemblage of machinery and equip-
7 ment at a manufacturing or processing plant or facility where the actual
8 transformation or processing of tangible personal property occurs;

9 (C) “manufacturing or processing plant or facility” means a single,
10 fixed location owned or controlled by a manufacturing or processing busi-
11 ness that consists of one or more structures or buildings in a contiguous
12 area where integrated production operations are conducted to manufac-
13 ture or process tangible personal property to be ultimately sold at retail.
14 Such term shall not include any facility primarily operated for the purpose
15 of conveying or assisting in the conveyance of natural gas, electricity, oil
16 or water. A business may operate one or more manufacturing or proc-
17 essing plants or facilities at different locations to manufacture or process
18 a single product of tangible personal property to be ultimately sold at
19 retail;

20 (D) “manufacturing or processing business” means a business that
21 utilizes an integrated production operation to manufacture, process, fab-
22 ricate, finish, or assemble items for wholesale and retail distribution as
23 part of what is commonly regarded by the general public as an industrial
24 manufacturing or processing operation or an agricultural commodity
25 processing operation. (i) Industrial manufacturing or processing opera-
26 tions include, by way of illustration but not of limitation, the fabrication
27 of automobiles, airplanes, machinery or transportation equipment, the
28 fabrication of metal, plastic, wood, or paper products, electricity power
29 generation, water treatment, petroleum refining, chemical production,
30 wholesale bottling, newspaper printing, ready mixed concrete production,
31 and the remanufacturing of used parts for wholesale or retail sale. Such
32 processing operations shall include operations at an oil well, gas well, mine
33 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
34 or gravel that has been extracted from the earth is cleaned, separated,
35 crushed, ground, milled, screened, washed, or otherwise treated or pre-
36 pared before its transmission to a refinery or before any other wholesale
37 or retail distribution. (ii) Agricultural commodity processing operations
38 include, by way of illustration but not of limitation, meat packing, poultry
39 slaughtering and dressing, processing and packaging farm and dairy prod-
40 ucts in sealed containers for wholesale and retail distribution, feed grind-
41 ing, grain milling, frozen food processing, and grain handling, cleaning,
42 blending, fumigation, drying and aeration operations engaged in by grain
43 elevators or other grain storage facilities. (iii) Manufacturing or processing

1 businesses do not include, by way of illustration but not of limitation,
2 nonindustrial businesses whose operations are primarily retail and that
3 produce or process tangible personal property as an incidental part of
4 conducting the retail business, such as retailers who bake, cook or prepare
5 food products in the regular course of their retail trade, grocery stores,
6 meat lockers and meat markets that butcher or dress livestock or poultry
7 in the regular course of their retail trade, contractors who alter, service,
8 repair or improve real property, and retail businesses that clean, service
9 or refurbish and repair tangible personal property for its owner;

10 (E) “repair and replacement parts and accessories” means all parts
11 and accessories for exempt machinery and equipment, including, but not
12 limited to, dies, jigs, molds, patterns and safety devices that are attached
13 to exempt machinery or that are otherwise used in production, and parts
14 and accessories that require periodic replacement such as belts, drill bits,
15 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
16 other refractory items for exempt kiln equipment used in production
17 operations;

18 (F) “primary” or “primarily” mean more than 50% of the time.

19 (3) For purposes of this subsection, machinery and equipment shall
20 be deemed to be used as an integral or essential part of an integrated
21 production operation when used:

22 (A) To receive, transport, convey, handle, treat or store raw materials
23 in preparation of its placement on the production line;

24 (B) to transport, convey, handle or store the property undergoing
25 manufacturing or processing at any point from the beginning of the pro-
26 duction line through any warehousing or distribution operation of the
27 final product that occurs at the plant or facility;

28 (C) to act upon, effect, promote or otherwise facilitate a physical
29 change to the property undergoing manufacturing or processing;

30 (D) to guide, control or direct the movement of property undergoing
31 manufacturing or processing;

32 (E) to test or measure raw materials, the property undergoing man-
33 ufacturing or processing or the finished product, as a necessary part of
34 the manufacturer’s integrated production operations;

35 (F) to plan, manage, control or record the receipt and flow of inven-
36 tories of raw materials, consumables and component parts, the flow of
37 the property undergoing manufacturing or processing and the manage-
38 ment of inventories of the finished product;

39 (G) to produce energy for, lubricate, control the operating of or oth-
40 erwise enable the functioning of other production machinery and equip-
41 ment and the continuation of production operations;

42 (H) to package the property being manufactured or processed in a
43 container or wrapping in which such property is normally sold or

1 transported;

2 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
3 ilar substances used in production operations from the point of genera-
4 tion, if produced by the manufacturer or processor at the plant site, to
5 that manufacturer's production operation; or, if purchased or delivered
6 from offsite, from the point where the substance enters the site of the
7 plant or facility to that manufacturer's production operations;

8 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
9 oil, solvents or other substances that are used in production operations;

10 (K) to provide and control an environment required to maintain cer-
11 tain levels of air quality, humidity or temperature in special and limited
12 areas of the plant or facility, where such regulation of temperature or
13 humidity is part of and essential to the production process;

14 (L) to treat, transport or store waste or other byproducts of produc-
15 tion operations at the plant or facility; or

16 (M) to control pollution at the plant or facility where the pollution is
17 produced by the manufacturing or processing operation.

18 (4) The following machinery, equipment and materials shall be
19 deemed to be exempt even though it may not otherwise qualify as ma-
20 chinery and equipment used as an integral or essential part of an inte-
21 grated production operation: (A) Computers and related peripheral
22 equipment that are utilized by a manufacturing or processing business
23 for engineering of the finished product or for research and development
24 or product design; (B) machinery and equipment that is utilized by a
25 manufacturing or processing business to manufacture or rebuild tangible
26 personal property that is used in manufacturing or processing operations,
27 including tools, dies, molds, forms and other parts of qualifying machinery
28 and equipment; (C) portable plants for aggregate concrete, bulk cement
29 and asphalt including cement mixing drums to be attached to a motor
30 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
31 dations necessary for manufacturing and production operations, and ma-
32 terials and other tangible personal property sold for the purpose of fab-
33 ricating such fixtures, devices, facilities and foundations. An exemption
34 certificate for such purchases shall be signed by the manufacturer or
35 processor. If the fabricator purchases such material, the fabricator shall
36 also sign the exemption certificate; and (E) a manufacturing or processing
37 business' laboratory equipment that is not located at the plant or facility,
38 but that would otherwise qualify for exemption under subsection (3)(E).

39 (5) "Machinery and equipment used as an integral or essential part
40 of an integrated production operation" shall not include:

41 (A) Machinery and equipment used for nonproduction purposes, in-
42 cluding, but not limited to, machinery and equipment used for plant se-
43 curity, fire prevention, first aid, accounting, administration, record keep-

- 1 ing, advertising, marketing, sales or other related activities, plant cleaning,
2 plant communications, and employee work scheduling;
- 3 (B) machinery, equipment and tools used primarily in maintaining
4 and repairing any type of machinery and equipment or the building and
5 plant;
- 6 (C) transportation, transmission and distribution equipment not pri-
7 marily used in a production, warehousing or material handling operation
8 at the plant or facility, including the means of conveyance of natural gas,
9 electricity, oil or water, and equipment related thereto, located outside
10 the plant or facility;
- 11 (D) office machines and equipment including computers and related
12 peripheral equipment not used directly and primarily to control or mea-
13 sure the manufacturing process;
- 14 (E) furniture and other furnishings;
- 15 (F) buildings, other than exempt machinery and equipment that is
16 permanently affixed to or becomes a physical part of the building, and
17 any other part of real estate that is not otherwise exempt;
- 18 (G) building fixtures that are not integral to the manufacturing op-
19 eration, such as utility systems for heating, ventilation, air conditioning,
20 communications, plumbing or electrical;
- 21 (H) machinery and equipment used for general plant heating, cooling
22 and lighting;
- 23 (I) motor vehicles that are registered for operation on public high-
24 ways; or
- 25 (J) employee apparel, except safety and protective apparel that is pur-
26 chased by an employer and furnished gratuitously to employees who are
27 involved in production or research activities.
- 28 (6) Subsections (3) and (5) shall not be construed as exclusive listings
29 of the machinery and equipment that qualify or do not qualify as an
30 integral or essential part of an integrated production operation. When
31 machinery or equipment is used as an integral or essential part of pro-
32 duction operations part of the time and for nonproduction purpose at
33 other times, the primary use of the machinery or equipment shall deter-
34 mine whether or not such machinery or equipment qualifies for
35 exemption.
- 36 (7) The secretary of revenue shall adopt rules and regulations nec-
37 essary to administer the provisions of this subsection;
- 38 (ll) all sales of educational materials purchased for distribution to the
39 public at no charge by a nonprofit corporation organized for the purpose
40 of encouraging, fostering and conducting programs for the improvement
41 of public health;
- 42 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
43 herbicides, germicides, pesticides and fungicides; and services, purchased

- 1 and used for the purpose of producing plants in order to prevent soil
2 erosion on land devoted to agricultural use;
- 3 (nn) except as otherwise provided in this act, all sales of services ren-
4 dered by an advertising agency or licensed broadcast station or any mem-
5 ber, agent or employee thereof;
- 6 (oo) all sales of tangible personal property purchased by a community
7 action group or agency for the exclusive purpose of repairing or weath-
8 erizing housing occupied by low income individuals;
- 9 (pp) all sales of drill bits and explosives actually utilized in the explo-
10 ration and production of oil or gas;
- 11 (qq) all sales of tangible personal property and services purchased by
12 a nonprofit museum or historical society or any combination thereof, in-
13 cluding a nonprofit organization which is organized for the purpose of
14 stimulating public interest in the exploration of space by providing edu-
15 cational information, exhibits and experiences, which is exempt from fed-
16 eral income taxation pursuant to section 501(c)(3) of the federal internal
17 revenue code of 1986;
- 18 (rr) all sales of tangible personal property which will admit the pur-
19 chaser thereof to any annual event sponsored by a nonprofit organization
20 which is exempt from federal income taxation pursuant to section
21 501(c)(3) of the federal internal revenue code of 1986;
- 22 (ss) all sales of tangible personal property and services purchased by
23 a public broadcasting station licensed by the federal communications
24 commission as a noncommercial educational television or radio station;
- 25 (tt) all sales of tangible personal property and services purchased by
26 or on behalf of a not-for-profit corporation which is exempt from federal
27 income taxation pursuant to section 501(c)(3) of the federal internal rev-
28 enue code of 1986, for the sole purpose of constructing a Kansas Korean
29 War memorial;
- 30 (uu) all sales of tangible personal property and services purchased by
31 or on behalf of any rural volunteer fire-fighting organization for use ex-
32 clusively in the performance of its duties and functions;
- 33 (vv) all sales of tangible personal property purchased by any of the
34 following organizations which are exempt from federal income taxation
35 pursuant to section 501 (c)(3) of the federal internal revenue code of
36 1986, for the following purposes, and all sales of any such property by or
37 on behalf of any such organization for any such purpose:
- 38 (1) The American Heart Association, Kansas Affiliate, Inc. for the
39 purposes of providing education, training, certification in emergency car-
40 diac care, research and other related services to reduce disability and
41 death from cardiovascular diseases and stroke;
- 42 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
43 advocacy for persons with mental illness and to education, research and

1 support for their families;

2 (3) the Kansas Mental Illness Awareness Council for the purposes of
3 advocacy for persons who are mentally ill and to education, research and
4 support for them and their families;

5 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
6 purpose of eliminating diabetes through medical research, public edu-
7 cation focusing on disease prevention and education, patient education
8 including information on coping with diabetes, and professional education
9 and training;

10 (5) the American Lung Association of Kansas, Inc. for the purpose of
11 eliminating all lung diseases through medical research, public education
12 including information on coping with lung diseases, professional educa-
13 tion and training related to lung disease and other related services to
14 reduce the incidence of disability and death due to lung disease;

15 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
16 orders Association, Inc. for the purpose of providing assistance and sup-
17 port to persons in Kansas with Alzheimer's disease, and their families and
18 caregivers;

19 (7) the Kansas chapters of the Parkinson's disease association for the
20 purpose of eliminating Parkinson's disease through medical research and
21 public and professional education related to such disease;

22 (8) the National Kidney Foundation of Kansas and Western Missouri
23 for the purpose of eliminating kidney disease through medical research
24 and public and private education related to such disease;

25 (9) the heartstrings community foundation for the purpose of provid-
26 ing training, employment and activities for adults with developmental
27 disabilities;

28 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
29 the purposes of assuring the development of the means to cure and con-
30 trol cystic fibrosis and improving the quality of life for those with the
31 disease;

32 (11) the spina bifida association of Kansas for the purpose of provid-
33 ing financial, educational and practical aid to families and individuals with
34 spina bifida. Such aid includes, but is not limited to, funding for medical
35 devices, counseling and medical educational opportunities;

36 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-
37 borhoods through the construction of new homes, acquiring and reno-
38 vating existing homes and other related activities, and promoting eco-
39 nomic development in such neighborhoods;

40 (13) the cross-lines cooperative council for the purpose of providing
41 social services to low income individuals and families;

42 (14) the Dreams Work, Inc., for the purpose of providing young adult
43 day services to individuals with developmental disabilities and assisting

- 1 families in avoiding institutional or nursing home care for a developmen-
2 tally disabled member of their family;
- 3 (15) the KSDS, Inc., for the purpose of promoting the independence
4 and inclusion of people with disabilities as fully participating and contrib-
5 uting members of their communities and society through the training and
6 providing of guide and service dogs to people with disabilities, and pro-
7 viding disability education and awareness to the general public;
- 8 (16) the lyme association of greater Kansas City, Inc., for the purpose
9 of providing support to persons with lyme disease and public education
10 relating to the prevention, treatment and cure of lyme disease;
- 11 (17) the Dream Factory, Inc., for the purpose of granting the dreams
12 of children with critical and chronic illnesses;
- 13 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
14 students and families with education and resources necessary to enable
15 each child to develop fine character and musical ability to the fullest
16 potential;
- 17 (19) the International Association of Lions Clubs for the purpose of
18 creating and fostering a spirit of understanding among all people for hu-
19 manitarian needs by providing voluntary services through community in-
20 volvement and international cooperation;
- 21 (20) the Johnson county young matrons, inc., for the purpose of pro-
22 moting a positive future for members of the community through volun-
23 teerism, financial support and education through the efforts of an all
24 volunteer organization;
- 25 (21) the American Cancer Society, Inc., for the purpose of eliminat-
26 ing cancer as a major health problem by preventing cancer, saving lives
27 and diminishing suffering from cancer, through research, education, ad-
28 vocacy and service;
- 29 (22) the community services of Shawnee, inc., for the purpose of
30 providing food and clothing to those in need; and
- 31 (23) the angel babies association, for the purpose of providing assis-
32 tance, support and items of necessity to teenage mothers and their babies;
- 33 (ww) all sales of tangible personal property purchased by the Habitat
34 for Humanity for the exclusive use of being incorporated within a housing
35 project constructed by such organization;
- 36 (xx) all sales of tangible personal property and services purchased by
37 a nonprofit zoo which is exempt from federal income taxation pursuant
38 to section 501(c)(3) of the federal internal revenue code of 1986, or on
39 behalf of such zoo by an entity itself exempt from federal income taxation
40 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
41 contracted with to operate such zoo and all sales of tangible personal
42 property or services purchased by a contractor for the purpose of con-
43 structing, equipping, reconstructing, maintaining, repairing, enlarging,

1 furnishing or remodeling facilities for any nonprofit zoo which would be
2 exempt from taxation under the provisions of this section if purchased
3 directly by such nonprofit zoo or the entity operating such zoo. Nothing
4 in this subsection shall be deemed to exempt the purchase of any con-
5 struction machinery, equipment or tools used in the constructing, equip-
6 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
7 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
8 contract for the purpose of constructing, equipping, reconstructing, main-
9 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
10 obtain from the state and furnish to the contractor an exemption certifi-
11 cate for the project involved, and the contractor may purchase materials
12 for incorporation in such project. The contractor shall furnish the number
13 of such certificate to all suppliers from whom such purchases are made,
14 and such suppliers shall execute invoices covering the same bearing the
15 number of such certificate. Upon completion of the project the contractor
16 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
17 to be provided by the director of taxation, that all purchases so made were
18 entitled to exemption under this subsection. All invoices shall be held by
19 the contractor for a period of five years and shall be subject to audit by
20 the director of taxation. If any materials purchased under such a certifi-
21 cate are found not to have been incorporated in the building or other
22 project or not to have been returned for credit or the sales or compen-
23 sating tax otherwise imposed upon such materials which will not be so
24 incorporated in the building or other project reported and paid by such
25 contractor to the director of taxation not later than the 20th day of the
26 month following the close of the month in which it shall be determined
27 that such materials will not be used for the purpose for which such cer-
28 tificate was issued, the nonprofit zoo concerned shall be liable for tax on
29 all materials purchased for the project, and upon payment thereof it may
30 recover the same from the contractor together with reasonable attorney
31 fees. Any contractor or any agent, employee or subcontractor thereof,
32 who shall use or otherwise dispose of any materials purchased under such
33 a certificate for any purpose other than that for which such a certificate
34 is issued without the payment of the sales or compensating tax otherwise
35 imposed upon such materials, shall be guilty of a misdemeanor and, upon
36 conviction therefor, shall be subject to the penalties provided for in sub-
37 section (g) of K.S.A. 79-3615, and amendments thereto;

38 (yy) all sales of tangible personal property and services purchased by
39 a parent-teacher association or organization, and all sales of tangible per-
40 sonal property by or on behalf of such association or organization;

41 (zz) all sales of machinery and equipment purchased by over-the-air,
42 free access radio or television station which is used directly and primarily
43 for the purpose of producing a broadcast signal or is such that the failure

1 of the machinery or equipment to operate would cause broadcasting to
2 cease. For purposes of this subsection, machinery and equipment shall
3 include, but not be limited to, that required by rules and regulations of
4 the federal communications commission, and all sales of electricity which
5 are essential or necessary for the purpose of producing a broadcast signal
6 or is such that the failure of the electricity would cause broadcasting to
7 cease;

8 (aaa) all sales of tangible personal property and services purchased
9 by a religious organization which is exempt from federal income taxation
10 pursuant to section 501(c)(3) of the federal internal revenue code, and
11 used exclusively for religious purposes, and all sales of tangible personal
12 property or services purchased by a contractor for the purpose of con-
13 structing, equipping, reconstructing, maintaining, repairing, enlarging,
14 furnishing or remodeling facilities for any such organization which would
15 be exempt from taxation under the provisions of this section if purchased
16 directly by such organization. Nothing in this subsection shall be deemed
17 to exempt the purchase of any construction machinery, equipment or
18 tools used in the constructing, equipping, reconstructing, maintaining,
19 repairing, enlarging, furnishing or remodeling facilities for any such or-
20 ganization. When any such organization shall contract for the purpose of
21 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
22 ing, furnishing or remodeling facilities, it shall obtain from the state and
23 furnish to the contractor an exemption certificate for the project involved,
24 and the contractor may purchase materials for incorporation in such pro-
25 ject. The contractor shall furnish the number of such certificate to all
26 suppliers from whom such purchases are made, and such suppliers shall
27 execute invoices covering the same bearing the number of such certifi-
28 cate. Upon completion of the project the contractor shall furnish to such
29 organization concerned a sworn statement, on a form to be provided by
30 the director of taxation, that all purchases so made were entitled to ex-
31 emption under this subsection. All invoices shall be held by the contractor
32 for a period of five years and shall be subject to audit by the director of
33 taxation. If any materials purchased under such a certificate are found
34 not to have been incorporated in the building or other project or not to
35 have been returned for credit or the sales or compensating tax otherwise
36 imposed upon such materials which will not be so incorporated in the
37 building or other project reported and paid by such contractor to the
38 director of taxation not later than the 20th day of the month following
39 the close of the month in which it shall be determined that such materials
40 will not be used for the purpose for which such certificate was issued,
41 such organization concerned shall be liable for tax on all materials pur-
42 chased for the project, and upon payment thereof it may recover the same
43 from the contractor together with reasonable attorney fees. Any contrac-

1 tor or any agent, employee or subcontractor thereof, who shall use or
2 otherwise dispose of any materials purchased under such a certificate for
3 any purpose other than that for which such a certificate is issued without
4 the payment of the sales or compensating tax otherwise imposed upon
5 such materials, shall be guilty of a misdemeanor and, upon conviction
6 therefor, shall be subject to the penalties provided for in subsection (g)
7 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
8 July 1, 1998, but prior to the effective date of this act upon the gross
9 receipts received from any sale exempted by the amendatory provisions
10 of this subsection shall be refunded. Each claim for a sales tax refund
11 shall be verified and submitted to the director of taxation upon forms
12 furnished by the director and shall be accompanied by any additional
13 documentation required by the director. The director shall review each
14 claim and shall refund that amount of sales tax paid as determined under
15 the provisions of this subsection. All refunds shall be paid from the sales
16 tax refund fund upon warrants of the director of accounts and reports
17 pursuant to vouchers approved by the director or the director's designee;

18 (bbb) all sales of food for human consumption by an organization
19 which is exempt from federal income taxation pursuant to section 501
20 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
21 distribution program which offers such food at a price below cost in
22 exchange for the performance of community service by the purchaser
23 thereof;

24 (ccc) on and after July 1, 1999, all sales of tangible personal property
25 and services purchased by a primary care clinic or health center the pri-
26 mary purpose of which is to provide services to medically underserved
27 individuals and families, and which is exempt from federal income taxa-
28 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
29 and all sales of tangible personal property or services purchased by a
30 contractor for the purpose of constructing, equipping, reconstructing,
31 maintaining, repairing, enlarging, furnishing or remodeling facilities for
32 any such clinic or center which would be exempt from taxation under the
33 provisions of this section if purchased directly by such clinic or center.
34 Nothing in this subsection shall be deemed to exempt the purchase of
35 any construction machinery, equipment or tools used in the constructing,
36 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
37 or remodeling facilities for any such clinic or center. When any such clinic
38 or center shall contract for the purpose of constructing, equipping, re-
39 constructing, maintaining, repairing, enlarging, furnishing or remodeling
40 facilities, it shall obtain from the state and furnish to the contractor an
41 exemption certificate for the project involved, and the contractor may
42 purchase materials for incorporation in such project. The contractor shall
43 furnish the number of such certificate to all suppliers from whom such

1 purchases are made, and such suppliers shall execute invoices covering
2 the same bearing the number of such certificate. Upon completion of the
3 project the contractor shall furnish to such clinic or center concerned a
4 sworn statement, on a form to be provided by the director of taxation,
5 that all purchases so made were entitled to exemption under this subsec-
6 tion. All invoices shall be held by the contractor for a period of five years
7 and shall be subject to audit by the director of taxation. If any materials
8 purchased under such a certificate are found not to have been incorpo-
9 rated in the building or other project or not to have been returned for
10 credit or the sales or compensating tax otherwise imposed upon such
11 materials which will not be so incorporated in the building or other pro-
12 ject reported and paid by such contractor to the director of taxation not
13 later than the 20th day of the month following the close of the month in
14 which it shall be determined that such materials will not be used for the
15 purpose for which such certificate was issued, such clinic or center con-
16 cerned shall be liable for tax on all materials purchased for the project,
17 and upon payment thereof it may recover the same from the contractor
18 together with reasonable attorney fees. Any contractor or any agent, em-
19 ployee or subcontractor thereof, who shall use or otherwise dispose of
20 any materials purchased under such a certificate for any purpose other
21 than that for which such a certificate is issued without the payment of
22 the sales or compensating tax otherwise imposed upon such materials,
23 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
24 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
25 and amendments thereto;

26 (ddd) on and after January 1, 1999, and before January 1, 2000, all
27 sales of materials and services purchased by any class II or III railroad as
28 classified by the federal surface transportation board for the construction,
29 renovation, repair or replacement of class II or III railroad track and
30 facilities used directly in interstate commerce. In the event any such track
31 or facility for which materials and services were purchased sales tax ex-
32 empt is not operational for five years succeeding the allowance of such
33 exemption, the total amount of sales tax which would have been payable
34 except for the operation of this subsection shall be recouped in accord-
35 ance with rules and regulations adopted for such purpose by the secretary
36 of revenue;

37 (eee) on and after January 1, 1999, and before January 1, 2001, all
38 sales of materials and services purchased for the original construction,
39 reconstruction, repair or replacement of grain storage facilities, including
40 railroad sidings providing access thereto;

41 (fff) all sales of material handling equipment, racking systems and
42 other related machinery and equipment that is used for the handling,
43 movement or storage of tangible personal property in a warehouse or

1 distribution facility in this state; all sales of installation, repair and main-
2 tenance services performed on such machinery and equipment; and all
3 sales of repair and replacement parts for such machinery and equipment.
4 For purposes of this subsection, a warehouse or distribution facility means
5 a single, fixed location that consists of buildings or structures in a contig-
6 uous area where storage or distribution operations are conducted that are
7 separate and apart from the business' retail operations, if any, and which
8 do not otherwise qualify for exemption as occurring at a manufacturing
9 or processing plant or facility. Material handling and storage equipment
10 shall include aeration, dust control, cleaning, handling and other such
11 equipment that is used in a public grain warehouse or other commercial
12 grain storage facility, whether used for grain handling, grain storage, grain
13 refining or processing, or other grain treatment operation;

14 (ggg) all sales of tangible personal property and services purchased
15 by or on behalf of the Kansas Academy of Science which is exempt from
16 federal income taxation pursuant to section 501(c)(3) of the federal in-
17 ternal revenue code of 1986, and used solely by such academy for the
18 preparation, publication and dissemination of education materials;

19 (hhh) all sales of tangible personal property and services purchased
20 by or on behalf of all domestic violence shelters that are member agencies
21 of the Kansas coalition against sexual and domestic violence;

22 (iii) all sales of personal property and services purchased by an or-
23 ganization which is exempt from federal income taxation pursuant to sec-
24 tion 501(c)(3) of the federal internal revenue code of 1986, and which
25 such personal property and services are used by any such organization in
26 the collection, storage and distribution of food products to nonprofit or-
27 ganizations which distribute such food products to persons pursuant to a
28 food distribution program on a charitable basis without fee or charge, and
29 all sales of tangible personal property or services purchased by a contrac-
30 tor for the purpose of constructing, equipping, reconstructing, maintain-
31 ing, repairing, enlarging, furnishing or remodeling facilities used for the
32 collection and storage of such food products for any such organization
33 which is exempt from federal income taxation pursuant to section
34 501(c)(3) of the federal internal revenue code of 1986, which would be
35 exempt from taxation under the provisions of this section if purchased
36 directly by such organization. Nothing in this subsection shall be deemed
37 to exempt the purchase of any construction machinery, equipment or
38 tools used in the constructing, equipping, reconstructing, maintaining,
39 repairing, enlarging, furnishing or remodeling facilities for any such or-
40 ganization. When any such organization shall contract for the purpose of
41 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
42 ing, furnishing or remodeling facilities, it shall obtain from the state and
43 furnish to the contractor an exemption certificate for the project involved,

1 and the contractor may purchase materials for incorporation in such pro-
2 ject. The contractor shall furnish the number of such certificate to all
3 suppliers from whom such purchases are made, and such suppliers shall
4 execute invoices covering the same bearing the number of such certifi-
5 cate. Upon completion of the project the contractor shall furnish to such
6 organization concerned a sworn statement, on a form to be provided by
7 the director of taxation, that all purchases so made were entitled to ex-
8 emption under this subsection. All invoices shall be held by the contractor
9 for a period of five years and shall be subject to audit by the director of
10 taxation. If any materials purchased under such a certificate are found
11 not to have been incorporated in such facilities or not to have been re-
12 turned for credit or the sales or compensating tax otherwise imposed upon
13 such materials which will not be so incorporated in such facilities reported
14 and paid by such contractor to the director of taxation not later than the
15 20th day of the month following the close of the month in which it shall
16 be determined that such materials will not be used for the purpose for
17 which such certificate was issued, such organization concerned shall be
18 liable for tax on all materials purchased for the project, and upon payment
19 thereof it may recover the same from the contractor together with reason-
20 able attorney fees. Any contractor or any agent, employee or subcon-
21 tractor thereof, who shall use or otherwise dispose of any materials pur-
22 chased under such a certificate for any purpose other than that for which
23 such a certificate is issued without the payment of the sales or compen-
24 sating tax otherwise imposed upon such materials, shall be guilty of a
25 misdemeanor and, upon conviction therefor, shall be subject to the pen-
26 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
27 thereto. Sales tax paid on and after July 1, 2005, but prior to the effective
28 date of this act upon the gross receipts received from any sale exempted
29 by the amendatory provisions of this subsection shall be refunded. Each
30 claim for a sales tax refund shall be verified and submitted to the director
31 of taxation upon forms furnished by the director and shall be accompanied
32 by any additional documentation required by the director. The director
33 shall review each claim and shall refund that amount of sales tax paid as
34 determined under the provisions of this subsection. All refunds shall be
35 paid from the sales tax refund fund upon warrants of the director of
36 accounts and reports pursuant to vouchers approved by the director or
37 the director's designee;

38 (jjj) all sales of dietary supplements dispensed pursuant to a prescrip-
39 tion order by a licensed practitioner or a mid-level practitioner as defined
40 by K.S.A. 65-1626, and amendments thereto. As used in this subsection,
41 "dietary supplement" means any product, other than tobacco, intended
42 to supplement the diet that: (1) Contains one or more of the following
43 dietary ingredients: A vitamin, a mineral, an herb or other botanical, an

1 amino acid, a dietary substance for use by humans to supplement the diet
2 by increasing the total dietary intake or a concentrate, metabolite, con-
3 stituent, extract or combination of any such ingredient; (2) is intended
4 for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or
5 if not intended for ingestion, in such a form, is not represented as con-
6 ventional food and is not represented for use as a sole item of a meal or
7 of the diet; and (3) is required to be labeled as a dietary supplement,
8 identifiable by the supplemental facts box found on the label and as re-
9 quired pursuant to 21 C.F.R. § 101.36;

10 (lll) all sales of tangible personal property and services purchased by
11 special olympics Kansas, inc. for the purpose of providing year-round
12 sports training and athletic competition in a variety of olympic-type sports
13 for individuals with intellectual disabilities by giving them continuing op-
14 portunities to develop physical fitness, demonstrate courage, experience
15 joy and participate in a sharing of gifts, skills and friendship with their
16 families, other special olympics athletes and the community, and activities
17 provided or sponsored by such organization, and all sales of tangible per-
18 sonal property by or on behalf of any such organization;

19 (mmm) all sales of tangible personal property purchased by or on
20 behalf of the Marillac Center, Inc., which is exempt from federal income
21 taxation pursuant to section 501(c)(3) of the federal internal revenue
22 code, for the purpose of providing psycho-social-biological and special
23 education services to children, and all sales of any such property by or on
24 behalf of such organization for such purpose;

25 (nnn) all sales of tangible personal property and services purchased
26 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Char-
27 itable Fund for the purpose of constructing a boundless playground which
28 is an integrated, barrier free and developmentally advantageous play en-
29 vironment for children of all abilities and disabilities;

30 (ooo) all sales of tangible personal property by or on behalf of a public
31 library serving the general public and supported in whole or in part with
32 tax money or a not-for-profit organization whose purpose is to raise funds
33 for or provide services or other benefits to any such public library;

34 (ppp) all sales of tangible personal property and services purchased
35 by or on behalf of a homeless shelter which is exempt from federal income
36 taxation pursuant to section 501(c)(3) of the federal income tax code of
37 1986, and used by any such homeless shelter to provide emergency and
38 transitional housing for individuals and families experiencing homeless-
39 ness, and all sales of any such property by or on behalf of any such home-
40 less shelter for any such purpose;

41 (qqq) all sales of tangible personal property and services purchased
42 by TLC for children and families, inc., hereinafter referred to as TLC,
43 which is exempt from federal income taxation pursuant to section

1 501(c)(3) of the federal internal revenue code of 1986, and which such
2 property and services are used for the purpose of providing emergency
3 shelter and treatment for abused and neglected children as well as meet-
4 ing additional critical needs for children, juveniles and family, and all sales
5 of any such property by or on behalf of TLC for any such purpose; and
6 all sales of tangible personal property or services purchased by a contrac-
7 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-
8 nishing or remodeling facilities for the operation of services for TLC for
9 any such purpose which would be exempt from taxation under the pro-
10 visions of this section if purchased directly by TLC. Nothing in this sub-
11 section shall be deemed to exempt the purchase of any construction ma-
12 chinery, equipment or tools used in the constructing, maintaining,
13 repairing, enlarging, furnishing or remodeling such facilities for TLC.
14 When TLC contracts for the purpose of constructing, maintaining, re-
15 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
16 from the state and furnish to the contractor an exemption certificate for
17 the project involved, and the contractor may purchase materials for in-
18 corporation in such project. The contractor shall furnish the number of
19 such certificate to all suppliers from whom such purchases are made, and
20 such suppliers shall execute invoices covering the same bearing the num-
21 ber of such certificate. Upon completion of the project the contractor
22 shall furnish to TLC a sworn statement, on a form to be provided by the
23 director of taxation, that all purchases so made were entitled to exemption
24 under this subsection. All invoices shall be held by the contractor for a
25 period of five years and shall be subject to audit by the director of taxation.
26 If any materials purchased under such a certificate are found not to have
27 been incorporated in the building or other project or not to have been
28 returned for credit or the sales or compensating tax otherwise imposed
29 upon such materials which will not be so incorporated in the building or
30 other project reported and paid by such contractor to the director of
31 taxation not later than the 20th day of the month following the close of
32 the month in which it shall be determined that such materials will not be
33 used for the purpose for which such certificate was issued, TLC shall be
34 liable for tax on all materials purchased for the project, and upon payment
35 thereof it may recover the same from the contractor together with rea-
36 sonable attorney fees. Any contractor or any agent, employee or subcon-
37 tractor thereof, who shall use or otherwise dispose of any materials pur-
38 chased under such a certificate for any purpose other than that for which
39 such a certificate is issued without the payment of the sales or compen-
40 sating tax otherwise imposed upon such materials, shall be guilty of a
41 misdemeanor and, upon conviction therefor, shall be subject to the pen-
42 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
43 thereto;

1 (rrr) all sales of tangible personal property and services purchased by
2 any county law library maintained pursuant to law and sales of tangible
3 personal property and services purchased by an organization which would
4 have been exempt from taxation under the provisions of this subsection
5 if purchased directly by the county law library for the purpose of providing
6 legal resources to attorneys, judges, students and the general public, and
7 all sales of any such property by or on behalf of any such county law
8 library;

9 (sss) all sales of tangible personal property and services purchased by
10 catholic charities or youthville, hereinafter referred to as charitable family
11 providers, which is exempt from federal income taxation pursuant to sec-
12 tion 501(c)(3) of the federal internal revenue code of 1986, and which
13 such property and services are used for the purpose of providing emer-
14 gency shelter and treatment for abused and neglected children as well as
15 meeting additional critical needs for children, juveniles and family, and
16 all sales of any such property by or on behalf of charitable family providers
17 for any such purpose; and all sales of tangible personal property or serv-
18 ices purchased by a contractor for the purpose of constructing, maintain-
19 ing, repairing, enlarging, furnishing or remodeling facilities for the op-
20 eration of services for charitable family providers for any such purpose
21 which would be exempt from taxation under the provisions of this section
22 if purchased directly by charitable family providers. Nothing in this sub-
23 section shall be deemed to exempt the purchase of any construction ma-
24 chinery, equipment or tools used in the constructing, maintaining, re-
25 pairing, enlarging, furnishing or remodeling such facilities for charitable
26 family providers. When charitable family providers contracts for the pur-
27 pose of constructing, maintaining, repairing, enlarging, furnishing or re-
28 modeling such facilities, it shall obtain from the state and furnish to the
29 contractor an exemption certificate for the project involved, and the con-
30 tractor may purchase materials for incorporation in such project. The
31 contractor shall furnish the number of such certificate to all suppliers
32 from whom such purchases are made, and such suppliers shall execute
33 invoices covering the same bearing the number of such certificate. Upon
34 completion of the project the contractor shall furnish to charitable family
35 providers a sworn statement, on a form to be provided by the director of
36 taxation, that all purchases so made were entitled to exemption under
37 this subsection. All invoices shall be held by the contractor for a period
38 of five years and shall be subject to audit by the director of taxation. If
39 any materials purchased under such a certificate are found not to have
40 been incorporated in the building or other project or not to have been
41 returned for credit or the sales or compensating tax otherwise imposed
42 upon such materials which will not be so incorporated in the building or
43 other project reported and paid by such contractor to the director of

1 taxation not later than the 20th day of the month following the close of
2 the month in which it shall be determined that such materials will not be
3 used for the purpose for which such certificate was issued, charitable
4 family providers shall be liable for tax on all materials purchased for the
5 project, and upon payment thereof it may recover the same from the
6 contractor together with reasonable attorney fees. Any contractor or any
7 agent, employee or subcontractor thereof, who shall use or otherwise
8 dispose of any materials purchased under such a certificate for any pur-
9 pose other than that for which such a certificate is issued without the
10 payment of the sales or compensating tax otherwise imposed upon such
11 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
12 shall be subject to the penalties provided for in subsection (g) of K.S.A.
13 79-3615, and amendments thereto;

14 (ttt) all sales of tangible personal property or services purchased by
15 a contractor for a project for the purpose of restoring, constructing, equip-
16 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
17 modeling a home or facility owned by a nonprofit museum which has
18 been granted an exemption pursuant to subsection (qq), which such home
19 or facility is located in a city which has been designated as a qualified
20 hometown pursuant to the provisions of K.S.A. 75-5071, et seq., and
21 amendments thereto, and which such project is related to the purposes
22 of K.S.A. 75-5071, et seq., and amendments thereto, and which would
23 be exempt from taxation under the provisions of this section if purchased
24 directly by such nonprofit museum. Nothing in this subsection shall be
25 deemed to exempt the purchase of any construction machinery, equip-
26 ment or tools used in the restoring, constructing, equipping, reconstruct-
27 ing, maintaining, repairing, enlarging, furnishing or remodeling a home
28 or facility for any such nonprofit museum. When any such nonprofit mu-
29 seum shall contract for the purpose of restoring, constructing, equipping,
30 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
31 ing a home or facility, it shall obtain from the state and furnish to the
32 contractor an exemption certificate for the project involved, and the con-
33 tractor may purchase materials for incorporation in such project. The
34 contractor shall furnish the number of such certificates to all suppliers
35 from whom such purchases are made, and such suppliers shall execute
36 invoices covering the same bearing the number of such certificate. Upon
37 completion of the project, the contractor shall furnish to such nonprofit
38 museum a sworn statement on a form to be provided by the director of
39 taxation that all purchases so made were entitled to exemption under this
40 subsection. All invoices shall be held by the contractor for a period of five
41 years and shall be subject to audit by the director of taxation. If any
42 materials purchased under such a certificate are found not to have been
43 incorporated in the building or other project or not to have been returned

1 for credit or the sales or compensating tax otherwise imposed upon such
2 materials which will not be so incorporated in a home or facility or other
3 project reported and paid by such contractor to the director of taxation
4 not later than the 20th day of the month following the close of the month
5 in which it shall be determined that such materials will not be used for
6 the purpose for which such certificate was issued, such nonprofit museum
7 shall be liable for tax on all materials purchased for the project, and upon
8 payment thereof it may recover the same from the contractor together
9 with reasonable attorney fees. Any contractor or any agent, employee or
10 subcontractor thereof, who shall use or otherwise dispose of any materials
11 purchased under such a certificate for any purpose other than that for
12 which such a certificate is issued without the payment of the sales or
13 compensating tax otherwise imposed upon such materials, shall be guilty
14 of a misdemeanor and, upon conviction therefor, shall be subject to the
15 penalties provided for in subsection (g) of K.S.A. 79-3615, and amend-
16 ments thereto;

17 (uuu) all sales of tangible personal property and services purchased
18 by Kansas children's service league, hereinafter referred to as KCSL,
19 which is exempt from federal income taxation pursuant to section
20 501(c)(3) of the federal internal revenue code of 1986, and which such
21 property and services are used for the purpose of providing for the pre-
22 vention and treatment of child abuse and maltreatment as well as meeting
23 additional critical needs for children, juveniles and family, and all sales of
24 any such property by or on behalf of KCSL for any such purpose; and all
25 sales of tangible personal property or services purchased by a contractor
26 for the purpose of constructing, maintaining, repairing, enlarging, fur-
27 nishing or remodeling facilities for the operation of services for KCSL
28 for any such purpose which would be exempt from taxation under the
29 provisions of this section if purchased directly by KCSL. Nothing in this
30 subsection shall be deemed to exempt the purchase of any construction
31 machinery, equipment or tools used in the constructing, maintaining, re-
32 pairing, enlarging, furnishing or remodeling such facilities for KCSL.
33 When KCSL contracts for the purpose of constructing, maintaining, re-
34 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
35 from the state and furnish to the contractor an exemption certificate for
36 the project involved, and the contractor may purchase materials for in-
37 corporation in such project. The contractor shall furnish the number of
38 such certificate to all suppliers from whom such purchases are made, and
39 such suppliers shall execute invoices covering the same bearing the num-
40 ber of such certificate. Upon completion of the project the contractor
41 shall furnish to KCSL a sworn statement, on a form to be provided by
42 the director of taxation, that all purchases so made were entitled to ex-
43 emption under this subsection. All invoices shall be held by the contractor

1 for a period of five years and shall be subject to audit by the director of
2 taxation. If any materials purchased under such a certificate are found
3 not to have been incorporated in the building or other project or not to
4 have been returned for credit or the sales or compensating tax otherwise
5 imposed upon such materials which will not be so incorporated in the
6 building or other project reported and paid by such contractor to the
7 director of taxation not later than the 20th day of the month following
8 the close of the month in which it shall be determined that such materials
9 will not be used for the purpose for which such certificate was issued,
10 KCSL shall be liable for tax on all materials purchased for the project,
11 and upon payment thereof it may recover the same from the contractor
12 together with reasonable attorney fees. Any contractor or any agent, em-
13 ployee or subcontractor thereof, who shall use or otherwise dispose of
14 any materials purchased under such a certificate for any purpose other
15 than that for which such a certificate is issued without the payment of
16 the sales or compensating tax otherwise imposed upon such materials,
17 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
18 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
19 and amendments thereto;

20 (vvv) all sales of tangible personal property or services, including the
21 renting and leasing of tangible personal property or services, *purchased*
22 by Jazz in the Woods, Inc., a Kansas corporation which is exempt from
23 federal income taxation pursuant to section 501 (c)(3) of the federal in-
24 ternal revenue code, for the purpose of providing Jazz in the Woods, an
25 event benefiting children-in-need and other nonprofit charities assisting
26 such children, and all sales of any such property by or on behalf of such
27 organization for such purpose;

28 (www) all sales of tangible personal property purchased by or on be-
29 half of the Frontenac Education Foundation, which is exempt from fed-
30 eral income taxation pursuant to section 501 (c)(3) of the federal internal
31 revenue code, for the purpose of providing education support for stu-
32 dents, and all sales of any such property by or on behalf of such organi-
33 zation for such purpose;

34 (xxx) all sales of personal property and services purchased by the
35 booth theatre foundation, inc., an organization which is exempt from fed-
36 eral income taxation pursuant to section 501(c)(3) of the federal internal
37 revenue code of 1986, and which such personal property and services are
38 used by any such organization in the constructing, equipping, recon-
39 structing, maintaining, repairing, enlarging, furnishing or remodeling of
40 the booth theatre, and all sales of tangible personal property or services
41 purchased by a contractor for the purpose of constructing, equipping,
42 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
43 ing the booth theatre for such organization, which would be exempt from

1 taxation under the provisions of this section if purchased directly by such
2 organization. Nothing in this subsection shall be deemed to exempt the
3 purchase of any construction machinery, equipment or tools used in the
4 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
5 ing, furnishing or remodeling facilities for any such organization. When
6 any such organization shall contract for the purpose of constructing,
7 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
8 or remodeling facilities, it shall obtain from the state and furnish to the
9 contractor an exemption certificate for the project involved, and the con-
10 tractor may purchase materials for incorporation in such project. The
11 contractor shall furnish the number of such certificate to all suppliers
12 from whom such purchases are made, and such suppliers shall execute
13 invoices covering the same bearing the number of such certificate. Upon
14 completion of the project the contractor shall furnish to such organization
15 concerned a sworn statement, on a form to be provided by the director
16 of taxation, that all purchases so made were entitled to exemption under
17 this subsection. All invoices shall be held by the contractor for a period
18 of five years and shall be subject to audit by the director of taxation. If
19 any materials purchased under such a certificate are found not to have
20 been incorporated in such facilities or not to have been returned for credit
21 or the sales or compensating tax otherwise imposed upon such materials
22 which will not be so incorporated in such facilities reported and paid by
23 such contractor to the director of taxation not later than the 20th day of
24 the month following the close of the month in which it shall be deter-
25 mined that such materials will not be used for the purpose for which such
26 certificate was issued, such organization concerned shall be liable for tax
27 on all materials purchased for the project, and upon payment thereof it
28 may recover the same from the contractor together with reasonable at-
29 torney fees. Any contractor or any agent, employee or subcontractor
30 thereof, who shall use or otherwise dispose of any materials purchased
31 under such a certificate for any purpose other than that for which such a
32 certificate is issued without the payment of the sales or compensating tax
33 otherwise imposed upon such materials, shall be guilty of a misdemeanor
34 and, upon conviction therefor, shall be subject to the penalties provided
35 for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales
36 tax paid on and after January 1, 2007, but prior to the effective date of
37 this act upon the gross receipts received from any sale which would have
38 been exempted by the provisions of this subsection had such sale occurred
39 after the effective date of this act shall be refunded. Each claim for a
40 sales tax refund shall be verified and submitted to the director of taxation
41 upon forms furnished by the director and shall be accompanied by any
42 additional documentation required by the director. The director shall
43 review each claim and shall refund that amount of sales tax paid as de-

1 terminated under the provisions of this subsection. All refunds shall be paid
2 from the sales tax refund fund upon warrants of the director of accounts
3 and reports pursuant to vouchers approved by the director or the direc-
4 tor's designee;

5 (yyy) all sales of tangible personal property and services purchased
6 by TLC charities foundation, inc., hereinafter referred to as TLC chari-
7 ties, which is exempt from federal income taxation pursuant to section
8 501(c)(3) of the federal internal revenue code of 1986, and which such
9 property and services are used for the purpose of encouraging private
10 philanthropy to further the vision, values, and goals of TLC for children
11 and families, inc.; and all sales of such property and services by or on
12 behalf of TLC charities for any such purpose and all sales of tangible
13 personal property or services purchased by a contractor for the purpose
14 of constructing, maintaining, repairing, enlarging, furnishing or remodel-
15 ing facilities for the operation of services for TLC charities for any such
16 purpose which would be exempt from taxation under the provisions of
17 this section if purchased directly by TLC charities. Nothing in this sub-
18 section shall be deemed to exempt the purchase of any construction ma-
19 chinery, equipment or tools used in the constructing, maintaining, re-
20 pairing, enlarging, furnishing or remodeling such facilities for TLC
21 charities. When TLC charities contracts for the purpose of constructing,
22 maintaining, repairing, enlarging, furnishing or remodeling such facilities,
23 it shall obtain from the state and furnish to the contractor an exemption
24 certificate for the project involved, and the contractor may purchase ma-
25 terials for incorporation in such project. The contractor shall furnish the
26 number of such certificate to all suppliers from whom such purchases are
27 made, and such suppliers shall execute invoices covering the same bearing
28 the number of such certificate. Upon completion of the project the con-
29 tractor shall furnish to TLC charities a sworn statement, on a form to be
30 provided by the director of taxation, that all purchases so made were
31 entitled to exemption under this subsection. All invoices shall be held by
32 the contractor for a period of five years and shall be subject to audit by
33 the director of taxation. If any materials purchased under such a certifi-
34 cate are found not to have been incorporated in the building or other
35 project or not to have been returned for credit or the sales or compen-
36 sating tax otherwise imposed upon such materials which will not be in-
37 corporated into the building or other project reported and paid by such
38 contractor to the director of taxation not later than the 20th day of the
39 month following the close of the month in which it shall be determined
40 that such materials will not be used for the purpose for which such cer-
41 tificate was issued, TLC charities shall be liable for tax on all materials
42 purchased for the project, and upon payment thereof it may recover the
43 same from the contractor together with reasonable attorney fees. Any

1 contractor or any agent, employee or subcontractor thereof, who shall use
2 or otherwise dispose of any materials purchased under such a certificate
3 for any purpose other than that for which such a certificate is issued
4 without the payment of the sales or compensating tax otherwise imposed
5 upon such materials, shall be guilty of a misdemeanor and, upon conviction
6 therefor, shall be subject to the penalties provided for in subsection
7 (g) of K.S.A. 79-3615, and amendments thereto;

8 (zzz) all sales of tangible personal property purchased by the rotary
9 club of shawnee foundation which is exempt from federal income taxation
10 pursuant to section 501 (c)(3) of the federal internal revenue code of
11 1986, as amended, used for the purpose of providing contributions to
12 community service organizations and scholarships; and

13 (aaaa) all sales of personal property and services purchased by or on
14 behalf of victory in the valley, inc., which is exempt from federal income
15 taxation pursuant to section 501 (c)(3) of the federal internal revenue
16 code, for the purpose of providing a cancer support group and services
17 for persons with cancer, and all sales of any such property by or on behalf
18 of any such organization for any such purpose.

19 Sec. 60. K.S.A. 79-4101 is hereby amended to read as follows: 79-
20 4101. (a) For the purpose of providing revenue which may be used by
21 the state, counties and cities in the enforcement of the provisions of this
22 act, from and after the effective date of this act, for the privilege of en-
23 gaging in the business of selling alcoholic liquor by *liquor* retailers or farm
24 wineries to consumers in this state, *selling cereal malt beverage by liquor*
25 *retailers or cereal malt beverage retailers to consumers in this state* or
26 selling alcoholic liquor or cereal malt beverage by distributors to clubs,
27 drinking establishments or caterers in this state, there is hereby levied
28 and there shall be collected and paid a tax at the rate of 8% upon the
29 gross receipts received from: (1) The sale of alcoholic liquor by *liquor*
30 retailers, microbreweries or farm wineries to consumers within this state;
31 ~~and~~ (2) *the sale of cereal malt beverage by liquor retailers and cereal malt*
32 *beverage retailers to consumers in this state; and* (3) the sale of alcoholic
33 liquor or cereal malt beverage by distributors to clubs, drinking estab-
34 lishments or caterers in this state.

35 (b) The tax imposed by this section shall be in addition to the license
36 fee imposed on distributors, *liquor* retailers, microbreweries and farm
37 wineries by K.S.A. 41-310, and amendments thereto, *and in addition to*
38 *the license fee imposed on cereal malt beverage retailers by section 46,*
39 *and amendments thereto.*

40 Sec. 61. K.S.A. 79-4102 is hereby amended to read as follows: 79-
41 4102. The tax levied under K.S.A. 79-4101, and amendments thereto,
42 shall be paid by the consumer or user to the *liquor retailer, cereal malt*
43 *beverage* retailer, microbrewery or farm winery or by the club, drinking

1 establishment or caterer to the distributor. It shall be the duty of each
2 *liquor retailer, cereal malt beverage* retailer, microbrewery, farm winery
3 or distributor in this state to collect from the purchaser the full amount
4 of the tax imposed by this act, or an amount equal as nearly as possible
5 or practicable, to the average equivalent thereof.

6 Sec. 62. K.S.A. 79-4103 is hereby amended to read as follows: 79-
7 4103. On or before the 25th day of each calendar month, every person
8 engaged in the business of selling alcoholic liquor *or cereal malt beverage*
9 at retail, every microbrewery selling beer to consumers, every farm winery
10 selling wine to consumers in this state and every distributor selling alco-
11 holic liquor or cereal malt beverage to clubs, drinking establishments or
12 caterers in this state during the preceding calendar month shall make a
13 return to the director of taxation upon forms prescribed and furnished
14 by the director, stating: (a) The name and address of the seller; (b) the
15 total amount of gross sales subject to the tax imposed by K.S.A. 79-4101,
16 and amendments thereto, during the preceding calendar month; and (c)
17 any other pertinent information the director requires. The person making
18 the return shall, at the time of making the return, pay to the director of
19 taxation the amount of tax imposed by K.S.A. 79-4101, and amendments
20 thereto. The director of taxation may extend the time for making returns
21 and paying the tax for any period not to exceed 60 days, under rules and
22 regulations adopted by the secretary of revenue.

23 Sec. 63. K.S.A. 79-4104 is hereby amended to read as follows: 79-
24 4104. Whenever the director of alcoholic beverage control issues a *liquor*
25 *retailer's, cereal malt beverage* retailer's, distributor's, microbrewery or
26 farm winery license, the director of alcoholic beverage control shall
27 promptly notify the director of taxation of its issuance. The notice shall
28 include the name of the licensee and, in the case of a *liquor retailer,*
29 *cereal malt beverage* retailer, microbrewery or farm winery, the address
30 of the licensed premises. Whenever the director of alcoholic beverage
31 control revokes or suspends any *liquor retailer's, cereal malt beverage*
32 retailer's, distributor's, microbrewery or farm winery license or whenever
33 any retailer's, distributor's, microbrewery or farm winery license expires,
34 the director of alcoholic beverage control *also shall likewise* notify the
35 director of taxation.

36 Sec. 64. K.S.A. 79-41a01 is hereby amended to read as follows: 79-
37 41a01. As used in K.S.A. 79-41a01 through 79-41a09, and amendments
38 thereto:

39 (a) "Alcoholic liquor" means alcoholic liquor, as defined by K.S.A.
40 41-102, and amendments thereto, and cereal malt beverage, as defined
41 by K.S.A. 41-2701, and amendments thereto.

42 (b) "Caterer," "club," "drinking establishment" and "temporary per-
43 mit" have the meanings provided by K.S.A. 41-2601, and amendments

1 thereto.

2 (c) “Cereal malt beverage retailer” means a cereal malt beverage re-
3 tailer, as defined by K.S.A. 41-2701, and amendments thereto, which is
4 licensed under the Kansas cereal malt beverage act to sell cereal malt
5 beverage for consumption on the licensed premises.

6 ~~(c)~~ (d) “Gross receipts derived from the sale of alcoholic liquor”
7 means the amount charged the consumer for a drink containing alcoholic
8 liquor or cereal malt beverage, including any portion of that amount at-
9 tributable to the cost of any ingredient mixed with or added to the alco-
10 holic liquor contained in such drink.

11 Sec. 65. K.S.A. 79-41a02 is hereby amended to read as follows: 79-
12 41a02. (a) There is hereby imposed, for the privilege of selling alcoholic
13 liquor, a tax at the rate of 10% upon the gross receipts derived from the
14 sale of alcoholic liquor by any *cereal malt beverage retailer*, club, caterer,
15 drinking establishment or temporary permit holder.

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

28 Sec. 66. K.S.A. 2007 Supp. 79-41a03 is hereby amended to read as
29 follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-
30 41a02, and amendments thereto, shall become due and payable by the
31 *cereal malt beverage retailer*, club, caterer, drinking establishment or
32 temporary permit holder monthly, or on or before the 25th day of the
33 month immediately succeeding the month in which it is collected, but
34 any *cereal malt beverage retailer*, club, caterer, drinking establishment or
35 temporary permit holder filing an annual or quarterly return under the
36 Kansas retailers’ sales tax act, as prescribed in K.S.A. 79-3607, and amend-
37 ments thereto, shall, upon such conditions as the secretary of revenue
38 may prescribe, pay the tax required by this act on the same basis and at
39 the same time the *cereal malt beverage retailer*, club, caterer, drinking
40 establishment or temporary permit holder pays such retailers’ sales tax.
41 Each *cereal malt beverage retailer*, club, caterer, drinking establishment
42 or temporary permit holder shall make a true report to the department
43 of revenue, on a form prescribed by the secretary of revenue, providing

1 such information as may be necessary to determine the amounts to which
2 any such tax shall apply for all gross receipts derived from the sale of
3 alcoholic liquor *or cereal malt beverage* by the *cereal malt beverage re-*
4 *tailer*, club, caterer, drinking establishment or temporary permit holder
5 for the applicable month or months, which report shall be accompanied
6 by the tax disclosed thereby. Records of gross receipts derived from the
7 sale of alcoholic liquor *or cereal malt beverage* shall be kept separate and
8 apart from the records of other retail sales made by a *cereal malt beverage*
9 *retailer*, club, caterer, drinking establishment or temporary permit holder
10 in order to facilitate the examination of books and records as provided
11 herein.

12 (b) The secretary of revenue or the secretary's authorized represen-
13 tative shall have the right at all reasonable times during business hours
14 to make such examination and inspection of the books and records of a
15 *cereal malt beverage retailer*, club, caterer, drinking establishment or
16 temporary permit holder as may be necessary to determine the accuracy
17 of such reports required hereunder.

18 (c) The secretary of revenue is hereby authorized to administer and
19 collect the tax imposed hereunder and to adopt such rules and regulations
20 as may be necessary for the efficient and effective administration and
21 enforcement of the collection thereof. Whenever any *cereal malt beverage*
22 *retailer*, club, caterer, drinking establishment or temporary permit holder
23 liable to pay the tax imposed hereunder refuses or neglects to pay the
24 same, the amount, including any penalty, shall be collected in the manner
25 prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617,
26 and amendments thereto.

27 (d) The secretary of revenue shall remit all revenue collected under
28 the provisions of this act to the state treasurer in accordance with the
29 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
30 each such remittance, the state treasurer shall deposit the entire amount
31 in the state treasury. Subject to the maintenance requirements of the
32 local alcoholic liquor refund fund created under K.S.A. 79-41a09, and
33 amendments thereto, 25% of the remittance shall be credited to the state
34 general fund, 5% shall be credited to the community alcoholism and in-
35 toxication programs fund created by K.S.A. 41-1126, and amendments
36 thereto, and the balance shall be credited to the local alcoholic liquor
37 fund created by K.S.A. 79-41a04, and amendments thereto.

38 (e) Whenever, in the judgment of the secretary of revenue, it is nec-
39 essary, in order to secure the collection of any tax, penalties or interest
40 due, or to become due, under the provisions of this act, the secretary may
41 require any person subject to such tax to file a bond with the director of
42 taxation under conditions established by and in such form and amount as
43 prescribed by rules and regulations adopted by the secretary.

1 (f) The amount of tax imposed by this act shall be assessed within
2 three years after the return is filed, and no proceedings in court for the
3 collection of such taxes shall be begun after the expiration of such period
4 except in the cases of fraud. In the case of a false or fraudulent return
5 with intent to evade tax, the tax may be assessed or a proceeding in court
6 for collection of such tax may be begun at any time, within two years from
7 the discovery of such fraud. No refund or credit shall be allowed by the
8 director after three years from the date of payment of the tax as provided
9 in this act unless before the expiration of such period a claim therefor is
10 filed by the taxpayer, and no suit or action to recover on any claim for
11 refund shall be commenced until after the expiration of six months from
12 the date of filing a claim therefor with the director. Before the expiration
13 of time prescribed in this section for the assessment of additional tax or
14 the filing of a claim for refund, the director is hereby authorized to enter
15 into an agreement in writing with the taxpayer consenting to the extension
16 of the periods of limitations for the assessment of tax or for the filing of
17 a claim for refund, at any time prior to the expiration of the periods of
18 limitations. The period so agreed upon may be extended by subsequent
19 agreements in writing made before the expiration of the period previously
20 agreed upon.

21 Sec. 67. K.S.A. 79-41a04 is hereby amended to read as follows: 79-
22 41a04. (a) There is hereby created, in the state treasury, the local alcoholic
23 liquor fund. Moneys credited to such fund pursuant to this act or any
24 other law shall be expended only for the purpose and in the manner
25 provided by this act.

26 (b) All moneys credited to the local alcoholic liquor fund shall be
27 allocated to the several cities and counties of the state as follows:

28 (1) Each city that has a population of more than 6,000 shall receive
29 70% of the amount which is collected pursuant to this act from *cereal*
30 *malt beverage retailers*, clubs or drinking establishments located in such
31 city, from caterers whose principal places of business are so located or
32 from temporary permit holders whose permitted events are so located
33 and which is paid into the state treasury during the period for which the
34 allocation is made.

35 (2) Each city that has a population of 6,000 or less shall receive 46 $\frac{2}{3}$ %
36 of the amount which is collected pursuant to this act from *cereal malt*
37 *beverage retailers*, clubs or drinking establishments located in such city,
38 from caterers whose principal places of business are so located or from
39 temporary permit holders whose permitted events are so located and
40 which is paid into the state treasury during the period for which the
41 allocation is made.

42 (3) Each county shall receive: (A) 70% of the amount which is col-
43 lected pursuant to this act from *cereal malt beverage retailers*, clubs or

1 drinking establishments located in such county and outside the corporate
2 limits of any city, from caterers whose principal places of business are so
3 located or from temporary permit holders whose permitted events are so
4 located and which is paid into the state treasury during the period for
5 which the allocation is made; and (B) $23\frac{1}{3}\%$ of the amount which is
6 collected pursuant to this act from *cereal malt beverage retailers*, clubs
7 or drinking establishments located in the county and within a city that
8 has a population of 6,000 or less, from caterers whose principal places of
9 business are so located or from temporary permit holders whose permit-
10 ted events are so located and which is paid into the state treasury during
11 the period for which the allocation is made.

12 (c) The state treasurer shall make distributions from the local alco-
13 holic liquor fund in accordance with the allocation formula prescribed by
14 subsection (b) on March 15, June 15, September 15 and December 15
15 of each year. The director of accounts and reports shall draw warrants on
16 the state treasurer in favor of the several county treasurers and city treas-
17 urers on the dates and in the amounts determined under this section.
18 Such distributions shall be paid directly to the several county treasurers
19 and city treasurers.

20 (d) Except as otherwise provided by this subsection, each city trea-
21 surer of a city that has a population of more than 6,000, upon receipt of
22 any moneys distributed under this section, shall deposit the full amount
23 in the city treasury and shall credit $\frac{1}{3}$ of the deposit to the general fund
24 of the city, $\frac{1}{3}$ to a special parks and recreation fund in the city treasury
25 and $\frac{1}{3}$ to a special alcohol and drug programs fund in the city treasury.
26 Each city treasurer of a city that has a population of 6,000 or less, upon
27 receipt of any moneys distributed under this section, shall deposit the full
28 amount in the city treasury and shall credit $\frac{1}{2}$ of the deposit to the general
29 fund of the city and $\frac{1}{2}$ to a special parks and recreation fund in the city
30 treasury. Moneys in such special funds shall be under the direction and
31 control of the governing body of the city. Moneys in the special parks and
32 recreation fund may be expended only for the purchase, establishment,
33 maintenance or expansion of park and recreational services, programs and
34 facilities. One-half of the moneys distributed under this section to cities
35 located in Butler county shall be deposited in a special community sup-
36 port program and parks and recreation fund in the city treasury. Moneys
37 in the special community support program and parks and recreation fund
38 may be expended only for (1) the establishment and operation of a do-
39 mestic violence program operated by a not-for-profit organization or (2)
40 the purchase, establishment, maintenance or expansion of park and rec-
41 reational services, programs and facilities. Moneys in the special alcohol
42 and drug programs fund shall be expended only for the purchase, estab-
43 lishment, maintenance or expansion of services or programs whose prin-

1 cipal purpose is alcoholism and drug abuse prevention and education,
2 alcohol and drug detoxification, intervention in alcohol and drug abuse
3 or treatment of persons who are alcoholics or drug abusers or are in
4 danger of becoming alcoholics or drug abusers.

5 (e) Except as otherwise provided by this subsection, each county trea-
6 surer, upon receipt of any moneys distributed under this section, shall
7 deposit the full amount in the county treasury and shall credit to a special
8 alcohol and drug programs fund in the county treasury 23 $\frac{1}{3}$ % of the
9 amount which is collected pursuant to this act from *cereal malt beverage*
10 *retailers*, clubs or drinking establishments located in the county and
11 within a city that has a population of 6,000 or less, from caterers whose
12 principal place of business is so located or from temporary permit holders
13 whose permitted events are so located and which is paid into the state
14 treasury during the period for which the allocation is made; of the re-
15 mainder, the treasurer shall credit $\frac{1}{3}$ to the general fund of the county,
16 $\frac{1}{3}$ to a special parks and recreation fund in the county treasury and $\frac{1}{3}$ to
17 the special alcohol and drug programs fund. Moneys in such special funds
18 shall be under the direction and control of the board of county commis-
19 sioners. Moneys in the special parks and recreation fund may be expended
20 only for the purchase, establishment, maintenance or expansion of park
21 and recreational services, programs and facilities. One-third of the mon-
22 eys distributed under this section to Butler county shall be deposited in
23 a special community support program and parks and recreation fund in
24 the county treasury. Moneys in the special community support program
25 and parks and recreation fund may be expended only for (1) the estab-
26 lishment and operation of a domestic violence program operated by a
27 not-for-profit organization or (2) the purchase, establishment, mainte-
28 nance or expansion of park and recreational services, programs and fa-
29 cilities. Moneys in the special alcohol and drug programs fund shall be
30 expended only for the purchase, establishment, maintenance or expansion
31 of services or programs whose principal purpose is alcoholism and drug
32 abuse prevention and education, alcohol and drug detoxification, inter-
33 vention in alcohol and drug abuse or treatment of persons who are al-
34 cholics or drug abusers or are in danger of becoming alcoholics or drug
35 abusers. In any county in which there has been organized an alcohol and
36 drug advisory committee, the board of county commissioners shall re-
37 quest and obtain, prior to making any expenditures from the special al-
38 colol and drug programs fund, the recommendations of the advisory
39 committee concerning such expenditures. The board of county commis-
40 sioners shall adopt the recommendations of the advisory committee con-
41 cerning such expenditures unless the board, by unanimous vote of all
42 commissioners, adopts a different plan for such expenditures.

43 (f) Each year, the county treasurer shall estimate the amount of

1 money the county and each city in the county will receive from the local
2 alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05,
3 and amendments thereto. The state treasurer shall advise each county
4 treasurer, prior to June 1 of each year of the amount in the local alcoholic
5 liquor fund that the state treasurer estimates, using the most recent avail-
6 able information, will be allocated to such county in the following year.
7 The county treasurer shall, before June 15 of each year, notify the trea-
8 surer of each city of the estimated amount in dollars of the distribution
9 to be made from the local alcoholic liquor fund and pursuant to K.S.A.
10 79-41a05, and amendments thereto.

11 Sec. 68. K.S.A. 79-41a06 is hereby amended to read as follows: 79-
12 41a06. No *cereal malt beverage retailer*, club, drinking establishment,
13 caterer or temporary permit holder shall sell any alcoholic liquor *or cereal*
14 *malt beverage* without a registration certificate from the secretary of rev-
15 enue. Application for such certificate shall be made to the secretary upon
16 forms provided by the secretary and shall contain such information as the
17 secretary deems necessary for the purposes of administering the provi-
18 sions of this act. The registration certificate shall be conspicuously dis-
19 played in the licensed premises or permitted for which it is issued.

20 Upon violation of any of the provisions of K.S.A. 79-41a01 *et seq.*, and
21 amendments thereto, or any of the terms of this act, and upon due notice
22 and opportunity for hearing in accordance with the provisions of the Kan-
23 sas administrative procedure act, the secretary may revoke such registra-
24 tion certificate.

25 Sec. 69. K.S.A. 79-41a07 is hereby amended to read as follows: 79-
26 41a07. (a) The director of taxation or the director of alcoholic beverage
27 control may enjoin any person from engaging in business as a *cereal malt*
28 *beverage retailer*, club, drinking establishment, caterer or temporary per-
29 mit holder when the club, drinking establishment, caterer or temporary
30 permit holder is in violation of any of the provisions of K.S.A. 79-41a01
31 *et seq.*, and amendments thereto, or any of the terms of this act and shall
32 be entitled in any proceeding brought for that purpose to have an order
33 restraining the person from engaging in business as a *cereal malt beverage*
34 *retailer*, club, drinking establishment, caterer or temporary permit holder.
35 No bond shall be required for any such restraining order or for any tem-
36 porary or permanent injunction issued in that proceeding.

37 (b) If a *cereal malt beverage retailer*, club, drinking establishment or
38 caterer licensed by the director of alcoholic beverage control or a tem-
39 porary permit holder violates any of the provisions of K.S.A. 79-41a01 *et*
40 *seq.*, and amendments thereto, or any of the terms of this act, the director
41 of alcoholic beverage control may suspend or revoke the license of such
42 *cereal malt beverage retailer*, club, establishment or caterer in accordance
43 with K.S.A. 41-2609, and amendments thereto, or may impose a civil fine

1 on the licensee or permit holder in the manner provided by K.S.A. 41-
2 2633a, and amendments thereto.

3 Sec. 70. K.S.A. 79-41a08 is hereby amended to read as follows: 79-
4 41a08. The tax imposed by this act shall be a lien upon the business and
5 any property of the *cereal malt beverage retailer*, club, drinking estab-
6 lishment, caterer or permit holder which may be sold. The person ac-
7 quiring such business or property shall withhold a sufficient amount of
8 the purchase price thereof to cover the amount of any taxes due and
9 unpaid by the seller, until the seller shall furnish the purchaser with a
10 receipt from the secretary of revenue, as herein provided, showing that
11 such taxes have been paid. The purchaser shall be personally liable for
12 the payment of any unpaid taxes of the seller, to the extent of the value
13 of the business or property received by the purchaser, and if a receipt is
14 not furnished by such seller within 20 days from the date of sale of such
15 business or property, the purchaser shall remit the amount of such unpaid
16 taxes to the secretary on or before the 20th day of the month succeeding
17 that in which such purchaser acquired such business or property.

18 Sec. 71. K.S.A. 41-102, 41-103, 41-210, 41-211, 41-304, 41-307, 41-
19 308, 41-601, 41-602, 41-701, 41-708, 41-717, 41-718, 41-724, 41-725, 41-
20 726, 41-729, 41-806, 41-901, 41-905, 41-1001, 41-1002, 41-1004, 41-1101,
21 41-1102, 41-1122, 41-1123, 41-1125, 41-2604, 41-2610, 41-2614, 41-
22 2632, 41-2637, 41-2641, 41-2642, 41-2643, 41-2705, 41-2706, 41-2707,
23 41-2709, 41-2712, 41-2722, 41-2726, 79-4101, 79-4102, 79-4103, 79-
24 4104, 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07 and 79-41a08
25 and K.S.A. 2007 Supp. 41-104, 41-209, 41-308b, 41-712, 41-805, 41-2611,
26 41-2645, 41-2701, 41-2702, 41-2703, 41-2704, 41-2708, 41-2728, 79-3606
27 and 79-41a03 are hereby repealed.

28 Sec. 72. This act shall take effect and be in force from and after
29 January 1, 2009, and its publication in the statute book.