

**SENATE BILL No. 277**

By Committee on Federal and State Affairs

1-12

1 AN ACT concerning alcoholic beverages; relating to the licensing of  
2 microdistilleries; amending K.S.A. 41-304, 41-316 and 41-320 and  
3 K.S.A. 2011 Supp. 41-102, 41-310, 41-317 and 41-319 and repealing  
4 the existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) A microdistillery license shall allow:

8 (1) The manufacture of not more than 50,000 gallons of spirits ~~during~~  
9 ~~the license~~ *per* year and the storage thereof;

10 (2) the sale to spirit distributors of spirits, manufactured by the  
11 licensee;

12 (3) the sale, on the licensed premises in the original unopened  
13 container to consumers for consumption off the licensed premises, of  
14 spirits manufactured by the licensee;

15 (4) the serving free of charge on the licensed premises *and at special*  
16 *events, monitored and regulated by the division of alcoholic beverage*  
17 *control*, of samples of spirits manufactured by the licensee, if the premises  
18 are located in a county where the sale of alcoholic liquor is permitted by  
19 law in licensed drinking establishments;

20 (5) if the licensee is also licensed as a club or drinking establishment,  
21 the sale of spirits and other alcoholic liquor for consumption on the  
22 licensed premises as authorized by the club and drinking establishment  
23 act; and

24 (6) if the licensee is also licensed as a caterer, the sale of spirits and  
25 other alcoholic liquor for consumption on unlicensed premises as  
26 authorized by the club and drinking establishment act.

27 (b) Upon application and payment of the fee prescribed by K.S.A. 41-  
28 310, and amendments thereto, by a microdistillery licensee, the director  
29 may issue not to exceed one microdistillery packaging and warehousing  
30 facility license to the microdistillery licensee. A microdistillery packaging  
31 and warehousing facility license shall allow:

32 (1) The transfer, from the licensed premises of the microdistillery to  
33 the licensed premises of the microdistillery packaging and warehousing  
34 facility, of spirits manufactured by the licensee, for the purpose of  
35 packaging or storage, or both;

36 (2) the transfer, from the licensed premises of the microdistillery

1 packaging and warehousing facility to the licensed premises of the  
2 microdistillery, of spirits manufactured by the licensee; or

3 (3) the removal from the licensed premises of the microdistillery  
4 packaging and warehousing facility of spirits manufactured by the licensee  
5 for the purpose of delivery to a licensed spirits wholesaler.

6 (c) A microdistillery may sell spirits in the original unopened  
7 container to consumers for consumption off the licensed premises at any  
8 time between 6 a.m. and 12 midnight on any day except Sunday and  
9 between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a  
10 microdistillery may serve samples of spirits and serve and sell spirits and  
11 other alcoholic liquor for consumption on the licensed premises at any  
12 time when a club or drinking establishment is authorized to serve and sell  
13 alcoholic liquor.

14 (d) The director may issue to the Kansas state fair or any bona fide  
15 group of distillers a permit to import into this state small quantities of  
16 spirits. Such spirits shall be used only for bona fide educational and  
17 scientific tasting programs and shall not be resold. Such spirits shall not be  
18 subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The  
19 permit shall identify specifically the brand and type of spirit to be  
20 imported, the quantity to be imported, the tasting programs for which the  
21 spirit is to be used and the times and locations of such programs. The  
22 secretary shall adopt rules and regulations governing the importation of  
23 spirits pursuant to this subsection and the conduct of tasting programs for  
24 which such spirits are imported.

25 (e) A microdistillery license or microdistillery packaging and  
26 warehousing facility license shall apply only to the premises described in  
27 the application and in the license issued and only one location shall be  
28 described in the license.

29 (f) No microdistillery shall:

30 (1) Employ any person under the age of 18 years in connection with  
31 the manufacture, sale or serving of any alcoholic liquor;

32 (2) permit any employee of the licensee who is under the age of 21  
33 years to work on the licensed premises at any time when not under the on-  
34 premises supervision of either the licensee or an employee of the licensee  
35 who is 21 years of age or over;

36 (3) employ any person under 21 years of age in connection with  
37 mixing or dispensing alcoholic liquor; or

38 (4) employ any person in connection with the manufacture or sale of  
39 alcoholic liquor if the person has been convicted of a felony.

40 (g) Whenever a microdistillery licensee is convicted of a violation of  
41 the Kansas liquor control act, the director may revoke the licensee's license  
42 and all fees paid for the license in accordance with the Kansas  
43 administrative procedure act.

1       Sec. 2. K.S.A. 2011 Supp. 41-102 is hereby amended to read as  
2 follows: 41-102. As used in this act, unless the context clearly requires  
3 otherwise:

4       (a) "Alcohol" means the product of distillation of any fermented  
5 liquid, whether rectified or diluted, whatever its origin, and includes  
6 synthetic ethyl alcohol but does not include denatured alcohol or wood  
7 alcohol.

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

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

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

18       (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-  
19 2701, and amendments thereto.

20       (f) "Club" has the meaning provided by K.S.A. 41-2601, and  
21 amendments thereto.

22       (g) "Director" means the director of alcoholic beverage control of the  
23 department of revenue.

24       (h) "Distributor" means the person importing or causing to be  
25 imported into the state, or purchasing or causing to be purchased within  
26 the state, alcoholic liquor for sale or resale to retailers licensed under this  
27 act or cereal malt beverage for sale or resale to retailers licensed under  
28 K.S.A. 41-2702, and amendments thereto.

29       (i) "Domestic beer" means beer which contains not more than 10%  
30 alcohol by weight and which is manufactured in this state.

31       (j) "Domestic fortified wine" means wine which contains more than  
32 14%, but not more than 20% alcohol by volume and which is  
33 manufactured in this state.

34       (k) "Domestic table wine" means wine which contains not more than  
35 14% alcohol by volume and which is manufactured without rectification or  
36 fortification in this state.

37       (l) "Drinking establishment" has the meaning provided by K.S.A. 41-  
38 2601, and amendments thereto.

39       (m) "Farm winery" means a winery licensed by the director to  
40 manufacture, store and sell domestic table wine and domestic fortified  
41 wine.

42       (n) "Manufacture" means to distill, rectify, ferment, brew, make, mix,  
43 concoct, process, blend, bottle or fill an original package with any

1 alcoholic liquor, beer or cereal malt beverage.

2 (o) (1) "Manufacturer" means every brewer, fermenter, distiller,  
3 rectifier, wine maker, blender, processor, bottler or person who fills or  
4 refills an original package and others engaged in brewing, fermenting,  
5 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt  
6 beverage.

7 (2) "Manufacturer" does not include a microbrewery, *microdistillery*  
8 or a farm winery.

9 (p) "Microbrewery" means a brewery licensed by the director to  
10 manufacture, store and sell domestic beer.

11 (q) "~~Microdistillery~~ **facility which produces**  
12 **spirits from any source or substance that is** licensed by the director to  
13 *manufacture, store and sell spirits.*

14 (r) "Minor" means any person under 21 years of age.

15 (s) "Nonbeverage user" means any manufacturer of any of the  
16 products set forth and described in K.S.A. 41-501, and amendments  
17 thereto, when the products contain alcohol or wine, and all laboratories  
18 using alcohol for nonbeverage purposes.

19 (t) "Original package" means any bottle, flask, jug, can, cask,  
20 barrel, keg, hogshead or other receptacle or container whatsoever, used,  
21 corked or capped, sealed and labeled by the manufacturer of alcoholic  
22 liquor, to contain and to convey any alcoholic liquor. Original container  
23 does not include a sleeve.

24 (u) "Person" means any natural person, corporation, partnership,  
25 trust or association.

26 (v) "Primary American source of supply" means the manufacturer,  
27 the owner of alcoholic liquor at the time it becomes a marketable product  
28 or the manufacturer's or owner's exclusive agent who, if the alcoholic  
29 liquor cannot be secured directly from such manufacturer or owner by  
30 American wholesalers, is the source closest to such manufacturer or owner  
31 in the channel of commerce from which the product can be secured by  
32 American wholesalers.

33 (w) (1) "Retailer" means a person who sells at retail, or offers for  
34 sale at retail, alcoholic liquors.

35 (2) "Retailer" does not include a microbrewery, *microdistillery* or a  
36 farm winery.

37 (x) "Sale" means any transfer, exchange or barter in any manner  
38 or by any means whatsoever for a consideration and includes all sales  
39 made by any person, whether principal, proprietor, agent, servant or  
40 employee.

41 (y) "Salesperson" means any natural person who:

42 (1) Procures or seeks to procure an order, bargain, contract or  
43 agreement for the sale of alcoholic liquor or cereal malt beverage; or

1 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt  
2 beverage, or in promoting the business of any person, firm or corporation  
3 engaged in the manufacturing and selling of alcoholic liquor or cereal malt  
4 beverage, whether the seller resides within the state of Kansas and sells to  
5 licensed buyers within the state of Kansas, or whether the seller resides  
6 without the state of Kansas and sells to licensed buyers within the state of  
7 Kansas.

8 ~~(y)~~ (z) "Secretary" means the secretary of revenue.

9 ~~(z)~~ (aa) (1) "Sell at retail" and "sale at retail" refer to and mean sales  
10 for use or consumption and not for resale in any form and sales to clubs,  
11 licensed drinking establishments, licensed caterers or holders of temporary  
12 permits.

13 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by  
14 a distributor, a microbrewery, a farm winery, a licensed club, a licensed  
15 drinking establishment, a licensed caterer or a holder of a temporary  
16 permit.

17 ~~(aa)~~ (bb) "To sell" includes to solicit or receive an order for, to keep  
18 or expose for sale and to keep with intent to sell.

19 ~~(bb)~~ (cc) "Sleeve" means a package of two or more 50-milliliter (3.2-  
20 fluid-ounce) containers of spirits.

21 ~~(ee)~~ (dd) "Spirits" means any beverage which contains alcohol  
22 obtained by distillation, mixed with water or other substance in solution,  
23 and includes brandy, rum, whiskey, gin or other spirituous liquors, and  
24 such liquors when rectified, blended or otherwise mixed with alcohol or  
25 other substances.

26 ~~(dd)~~ (ee) "Supplier" means a manufacturer of alcoholic liquor or  
27 cereal malt beverage or an agent of such manufacturer, other than a  
28 salesperson.

29 ~~(ee)~~ (ff) "Temporary permit" has the meaning provided by K.S.A. 41-  
30 2601, and amendments thereto.

31 ~~(ff)~~ (gg) "Wine" means any alcoholic beverage obtained by the  
32 normal alcoholic fermentation of the juice of sound, ripe grapes, fruits,  
33 berries or other agricultural products, including such beverages containing  
34 added alcohol or spirits or containing sugar added for the purpose of  
35 correcting natural deficiencies.

36 Sec. 3. K.S.A. 41-304 is hereby amended to read as follows: 41-304.  
37 Licenses issued by the director shall be of the following classes: (a)  
38 Manufacturer's license; (b) spirits distributor's license; (c) wine  
39 distributor's license; (d) beer distributor's license; (e) retailer's license; (f)  
40 microbrewery license; (g) *microdistillery license*; (h) farm winery license;  
41 and ~~(h)~~(i) nonbeverage user's license.

42 Sec. 4. K.S.A. 2011 Supp. 41-310 is hereby amended to read as  
43 follows: 41-310. (a) At the time application is made to the director for a

1 license of any class, the applicant shall pay the fee provided by this  
2 section.

3 (b) The fee for a manufacturer's license to manufacture alcohol and  
4 spirits shall be \$5,000.

5 (c) The fee for a manufacturer's license to manufacture beer and  
6 cereal malt beverage shall be:

7 (1) For 1 to 100 barrel daily capacity or any part thereof, \$400.

8 (2) For 100 to 150 barrel daily capacity, \$800.

9 (3) For 150 to 200 barrel daily capacity, \$1,400.

10 (4) For 200 to 300 barrel daily capacity, \$2,000.

11 (5) For 300 to 400 barrel daily capacity, \$2,600.

12 (6) For 400 to 500 barrel daily capacity, \$2,800.

13 (7) For 500 or more barrel daily capacity, \$3,200.

14 As used in this subsection, "daily capacity" means the average daily  
15 barrel production for the previous 12 months of manufacturing operation.  
16 If no basis for comparison exists, the licensee shall pay in advance for  
17 operation during the first term of the license a fee of \$2,000.

18 (d) The fee for a manufacturer's license to manufacture wine shall be  
19 \$1,000.

20 (e) (1) The fee for a microbrewery license, a *microdistillery license* or  
21 a farm winery license shall be \$500.

22 (2) The fee for a winery outlet license shall be \$100.

23 (3) The fee for a microbrewery packaging and warehousing facility  
24 license shall be \$200.

25 (4) *The fee for a microdistillery packaging and warehousing facility*  
26 *license shall be \$200.*

27 (f) The fee for a spirits distributor's license for the first and each  
28 additional distributing place of business operated in this state by the  
29 licensee and wholesaling and jobbing spirits shall be \$2,000.

30 (g) The fee for a wine distributor's license for the first and each  
31 additional distributing place of business operated in this state by the  
32 licensee and wholesaling and jobbing wine shall be \$2,000.

33 (h) The fee for a beer distributor's license, for the first and each  
34 additional wholesale distributing place of business operated in this state by  
35 the licensee and wholesaling or jobbing beer and cereal malt beverage  
36 shall be \$2,000.

37 (i) The fee for a nonbeverage user's license shall be:

38 (1) For class 1, \$20.

39 (2) For class 2, \$100.

40 (3) For class 3, \$200.

41 (4) For class 4, \$400.

42 (5) For class 5, \$1,000.

43 (j) In addition to the license fees prescribed by subsections (b), (c),

1 (d), (f), (g), (h) and (i):

2 (1) Any city in which the licensed premises are located may levy and  
3 collect a biennial occupation or license tax on the licensee in an amount  
4 not exceeding the amount of the license fee required to be paid under this  
5 act to obtain the license, but no city shall impose an occupation or  
6 privilege tax on the licensee in excess of that amount; and

7 (2) any township in which the licensed premises are located may levy  
8 and collect a biennial occupation or license tax on the licensee in an  
9 amount not exceeding the amount of the license fee required to be paid  
10 under this act to obtain the license, but no township shall impose an  
11 occupation or privilege tax on the licensee in excess of that amount; the  
12 township board of the township is authorized to fix and impose the tax and  
13 the tax shall be paid by the licensee to the township treasurer, who shall  
14 issue a receipt therefor to the licensee and shall cause the tax paid to be  
15 placed in the general fund of the township.

16 (k) The fee for a retailer's license shall be \$500.

17 (l) In addition to the license fee prescribed by subsection (k):

18 (1) Any city in which the licensed premises are located may levy and  
19 collect a biennial occupation or license tax on the licensee in an amount  
20 not less than \$200 nor more than \$600, but no other occupation or excise  
21 tax or license fee shall be levied by any city against or collected from the  
22 licensee; and

23 (2) any township in which the licensed premises are located may levy  
24 and collect a biennial occupation or license tax on the licensee in an  
25 amount not less than \$200 nor more than \$600; the township board of the  
26 township is authorized to fix and impose the tax and the tax shall be paid  
27 by the licensee to the township treasurer, who shall issue a receipt therefor  
28 to the licensee and shall cause the tax paid to be placed in the general fund  
29 of the township.

30 (m) The license term for a license shall commence on the date the  
31 license is issued by the director and shall end two years after that date. The  
32 director may, at the director's sole discretion and after examination of the  
33 circumstances, extend the license term of any license for not more than 30  
34 days beyond the date such license would expire pursuant to this section.  
35 Any extension of the license term by the director pursuant to this section  
36 shall automatically extend the due date for payment by the licensee of any  
37 occupation or license tax levied by a city or township pursuant to this  
38 section by the same number of days the director has extended the license  
39 term.

40 Sec. 5. K.S.A. 41-316 is hereby amended to read as follows: 41-316.  
41 Licenses to manufacturers, distributors, microbreweries, *microdistilleries*,  
42 farm wineries and nonbeverage users of alcoholic liquors shall be issued  
43 and renewed by the director to qualified applicants upon written

1 application, receipt of bond properly executed and payment in advance of  
2 the state registration fee and the license fee.

3 Sec. 6. K.S.A. 2011 Supp. 41-317 is hereby amended to read as  
4 follows: 41-317. (a) Applications for all licenses under this act shall be  
5 completed and submitted to the director in a manner prescribed by the  
6 director. Each applicant shall submit an application fee of \$50 for each  
7 initial application and \$10 for each renewal application to defray the cost  
8 of processing the application.

9 (b) Each applicant shall submit to the division of alcoholic beverage  
10 control the full amount of the application fee and:

11 (1) The full amount of the license fee required to be paid for the kind  
12 of license specified in the application; or

13 (2) one-half of the full amount of the license fee required to be paid  
14 for the kind of license specified in the application.

15 (c) If the applicant elects to pay only one-half of the license fee  
16 pursuant to subsection (b)(2), the remaining one-half of the license fee  
17 plus 10% of such remaining balance shall be due and payable one year  
18 from the date of issuance of the license. Notwithstanding any other  
19 provision of law, failure to pay the full amount due under this paragraph  
20 on the date it is due shall result in the automatic cancellation of such  
21 license for the remainder of the license term. The director may, at the  
22 director's sole discretion and after examination of the circumstances,  
23 extend the date payment is due pursuant to this paragraph for not more  
24 than 30 days beyond the date such payment is originally due.

25 (d) Any license fee paid by an applicant shall be returned to the  
26 applicant if the application is denied.

27 (e) Payment of all fees required to be paid pursuant to this section  
28 may be made by personal, certified or cashier's check, United States post  
29 office money order, debit or credit card or cash, or by electronic payment  
30 authorized by the applicant in a manner prescribed by the director.

31 (f) All fees received by the director pursuant to this section shall be  
32 remitted by the director to the state treasurer in accordance with the  
33 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
34 each such remittance, the state treasurer shall deposit the entire amount in  
35 the state treasury to the credit of the state general fund.

36 (g) Every applicant for a manufacturer's, distributor's, nonbeverage  
37 user's, microbrewery, *microdistillery*, farm winery, retailer's or special  
38 order shipping license shall file with the application a joint and several  
39 bond on a form prescribed by the director and executed by good and  
40 sufficient corporate sureties licensed to do business within the state of  
41 Kansas to the director, in the following amounts:

42 (1) For a manufacturer, \$25,000;

43 (2) for a spirits distributor, \$15,000 or an amount equal to the highest



1 monthly liability of the distributor for taxes imposed by the Kansas liquor  
2 control act for any of the 12 months immediately prior to renewal of the  
3 distributor's license, whichever amount is greater;

4 (3) for a beer or wine distributor, \$5,000 or an amount equal to the  
5 highest monthly liability of the distributor for taxes imposed by the Kansas  
6 liquor control act for any of the 12 months immediately prior to renewal of  
7 the distributor's license, whichever amount is greater;

8 (4) for a retailer, \$2,000;

9 (5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000  
10 for class 3, \$5,000 for class 4 and \$10,000 for class 5;

11 (6) for a microbrewery, *microdistillery* or a farm winery, \$2,000; and

12 (7) for a winery holding a special order shipping license, \$750, unless  
13 the winery has already complied with subsection (g)(6).

14 If a distributor holds or applies for more than one distributor's license,  
15 only one bond for all such licenses shall be required, which bond shall be  
16 in an amount equal to the highest applicable bond.

17 (h) All bonds required by this section shall be conditioned on the  
18 licensee's compliance with the provisions of this act and payment of all  
19 taxes, fees, fines and forfeitures which may be assessed against the  
20 licensee.

21 Sec. 7. K.S.A. 2011 Supp. 41-319 is hereby amended to read as  
22 follows: 41-319. (a) Except as provided by subsection (b), within 30 days  
23 after an application is filed for a retailer's, microbrewery, *microdistillery* or  
24 farm winery license and within 20 days after an application is filed for a  
25 manufacturer's, distributor's or nonbeverage user's license, the director  
26 shall enter an order either refusing or granting the license. If the director  
27 does not enter an order within the time prescribed, the license applied for  
28 shall be deemed to have been refused. The director, with the written  
29 consent of the applicant for a license, may delay entering an order on an  
30 application for an additional period of not to exceed 30 days.

31 (b) In order to complete any national criminal history record check of  
32 an applicant who submitted any application after January 31, 2001, and if  
33 the applicant is not a resident of the state of Kansas on the date of  
34 submission of such application or has not been a resident for at least one  
35 year immediately preceding the date of submission of such application the  
36 director shall enter an order either refusing or granting the license within  
37 90 days after such application is filed. If the director does not enter an  
38 order within the time prescribed, the license applied for shall be deemed to  
39 have been refused. The director, with the written consent of the applicant  
40 for a license, may delay entering an order on an application for an  
41 additional period of not to exceed 30 days.

42 Sec. 8. K.S.A. 41-320 is hereby amended to read as follows: 41-320.

43 (a) All proceedings for the suspension and revocation of licenses of

1 manufacturers, distributors, retailers, microbreweries, *microdistilleries*,  
2 farm wineries and nonbeverage users shall be before the director, and the  
3 proceedings shall be in accordance with the provisions of the Kansas  
4 administrative procedure act. Except as provided in subsection (b), no  
5 license shall be suspended or revoked except after a hearing by the  
6 director.

7 (b) When proceedings for the suspension or revocation of a  
8 distributor's license are filed and the distributor has been issued more than  
9 one license for distributing places of business in this state, any order of the  
10 director suspending or revoking the license at any one place of business  
11 shall suspend or revoke all licenses issued to the distributor. When one  
12 person is the holder of stock in two or more corporations licensed as  
13 distributors under the provisions of this act, any order of the director  
14 suspending or revoking the license of any such corporation shall operate as  
15 a suspension or revocation of the license of all corporations licensed as  
16 distributors in which the person is a stockholder.

17 Sec. 9. K.S.A. 41-304, 41-316 and 41-320 and K.S.A. 2011 Supp. 41-  
18 102, 41-310, 41-317 and 41-319 are hereby repealed.

19 Sec. 10. This act shall take effect and be in force from and after its  
20 publication in the statute book.  
21