

SENATE BILL No. 203

By Committee on Federal and State Affairs

2-14

1 AN ACT concerning intoxicating liquor; dealing with club and drinking
2 establishments; amending K.S.A. 2012 Supp. *41-104 and* 41-2640 and
3 repealing the existing ~~section~~ *sections*.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 *Section 1. K.S.A. 2012 Supp. 41-104 is hereby amended to read as*
7 *follows: 41-104. No person shall manufacture, bottle, blend, sell, barter,*
8 *transport, deliver, furnish or possess any alcoholic liquor for beverage*
9 *purposes, except as specifically provided in this act, the club and*
10 *drinking establishment act or article 27 of chapter 41 of the Kansas*
11 *Statutes Annotated, and amendments thereto, except that nothing*
12 *contained in this act shall prevent:*

13 *(a) The possession and transportation of alcoholic liquor for the*
14 *personal use of the possessor, the possessor's family and guests except*
15 *that the provisions of K.S.A. 41-407, and amendments thereto, shall be*
16 *applicable to all persons;*

17 *(b) the making of wine, cider or beer by a person from fruits,*
18 *vegetables or grains, or the product thereof, by simple fermentation and*
19 *without distillation, if it is made solely for the use of the maker and the*
20 *maker's family;*

21 *(c) any duly licensed practicing physician or dentist from*
22 *possessing or using alcoholic liquor in the strict practice of the medical*
23 *or dental profession;*

24 *(d) any hospital or other institution caring for sick and diseased*
25 *persons, from possessing and using alcoholic liquor for the treatment of*
26 *bona fide patients of such hospital or institution;*

27 *(e) any drugstore employing a licensed pharmacist from possessing*
28 *and using alcoholic liquor in the compounding of prescriptions of duly*
29 *licensed physicians;*

30 *(f) the possession and dispensation of wine by an authorized*
31 *representative of any church for the purpose of conducting any bona*
32 *fide rite or religious ceremony conducted by such church; or*

33 *(g) the sale of wine to a consumer in this state by a person which*
34 *holds a valid license authorizing the manufacture of wine in this or*

1 *another state and the shipment of such wine directly to such consumer,*
2 *subject to the following: (1) The consumer must be at least 21 years of*
3 *age; (2) the consumer must purchase the wine while physically present*
4 *on the premises of the wine manufacturer; (3) the wine must be for the*
5 *consumer's personal consumption and not for resale; and (4) the*
6 *consumer shall comply with the provisions of K.S.A. 41-407, and*
7 *amendments thereto, by payment of all applicable taxes within such time*
8 *after purchase of the wine as prescribed by rules and regulations*
9 *adopted by the secretary.*

10 *(h) The serving of complimentary alcoholic liquor or cereal malt*
11 *beverages at fund raising activities of charitable organizations as*
12 *defined by K.S.A. 17-1760, and amendments thereto, and as qualified*
13 *pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to*
14 *K.S.A. 25-4142 et seq., and amendments thereto. The serving of such*
15 *alcoholic liquor at such fund raising activities shall not constitute a sale*
16 *pursuant to this act, the club and drinking establishment act or article*
17 *27 of chapter 41 of the Kansas Statutes Annotated, and amendments*
18 *thereto. Any such fund raising activity shall not be required to obtain a*
19 *license or a temporary permit pursuant to this act, the club and drinking*
20 *establishment act or article 27 of chapter 41 of the Kansas Statutes*
21 *Annotated, and amendments thereto.*

22 *(i) The serving of complimentary alcoholic liquor or cereal malt*
23 *beverage on the unlicensed premises of a business by the business owner*
24 *or owner's agent at an event sponsored by a nonprofit organization*
25 *promoting the arts and which has been approved by ordinance or*
26 *resolution of the governing body of the city, county or township wherein*
27 *the event will take place and whereby the director of the alcoholic*
28 *beverage control has been notified thereof no less than 10 days in*
29 *advance.*

30 ~~Section 1-~~ **Sec. 2.** K.S.A. 2012 Supp. 41-2640 is hereby amended to
31 read as follows: 41-2640. (a) No club, drinking establishment, caterer or
32 holder of a temporary permit, nor any person acting as an employee or
33 agent thereof, shall:

34 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in
35 any form to any person;

36 (2) offer or serve to any person an individual drink at a price that is
37 less than the acquisition cost of the individual drink to the licensee or
38 permit holder;

39 (3) sell, offer to sell or serve to any person an unlimited number of
40 individual drinks during any set period of time for a fixed price, except at
41 private functions not open to the general public or to the general
42 membership of a club;

43 (4) encourage or permit, on the licensed premises, any game or

1 contest which involves drinking alcoholic liquor or cereal malt beverage or
2 the awarding of individual drinks as prizes; or

3 (5) advertise or promote in any way, whether on or off the licensed
4 premises, any of the practices prohibited under subsections (a)(1) through
5 (4).

6 (b) No public venue, nor any person acting as an employee or agent
7 thereof, shall:

8 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in
9 any form to any person;

10 (2) offer or serve to any person a drink or original container of
11 alcoholic liquor or cereal malt beverage at a price that is less than the
12 acquisition cost of the drink or original container of alcoholic liquor or
13 cereal malt beverage to the licensee;

14 (3) sell or serve alcoholic liquor in glass containers to customers in
15 the general admission area;

16 (4) sell or serve more than two drinks per customer at any one time in
17 the general admission area;

18 (5) encourage or permit, on the licensed premises, any game or
19 contest which involves drinking alcoholic liquor or cereal malt beverage or
20 the awarding of drinks as prizes; or

21 (6) advertise or promote in any way, whether on or off the licensed
22 premises, any of the practices prohibited under subsections (b)(1) through
23 (5).

24 (c) A public venue club, drinking establishment, caterer or holder of a
25 temporary permit may:

26 (1) Offer free food or entertainment at any time;

27 (2) sell or deliver wine by the bottle or carafe;

28 (3) sell, offer to sell and serve individual drinks at different prices
29 throughout any day; ~~or~~

30 (4) sell or serve beer or cereal malt beverage in a pitcher capable of
31 containing not more than 64 fluid ounces; ~~or~~

32 (5) *sell or serve margarita, sangria, daiquiri, mojito or other mixed*
33 *alcoholic beverages as approved by the director in a pitcher containing*
34 *not more than 64 fluid ounces; ~~or~~*

35 ~~(6) offer customer self-service of alcoholic liquor, beer, cereal malt~~
36 ~~beverage or wine from automated devices on the licensee's premises so~~
37 ~~long as the licensee monitors and has the ability to control the~~
38 ~~consumption of such alcoholic liquor, beer, cereal malt beverage or wine~~
39 ~~from such automated devices; and such consumption is monitored by~~
40 ~~video surveillance under the real-time review of the licensee's~~
41 ~~management and the Kansas racing and gaming commission.~~

42 (d) *A public venue club, drinking establishment, caterer or holder*
43 *of a temporary permit may, upon the approval of the director, offer*

1 *customer self-service of alcoholic liquor or cereal malt beverage from*
2 *automated devices on the licensed premises provided that the licensee*
3 *monitors and has the ability to control the consumption of such*
4 *alcoholic liquor and cereal malt beverage from automated devices.*

5 *Criteria that the director shall require for approval of such*
6 *automated devices include, but are not limited to, having video*
7 *surveillance, operation of such devices by a smart card system capable of*
8 *limiting or ceasing service, and limiting operation of the devices during*
9 *business hours when the licensee's management is present at the*
10 *licensed premises and maintains constant visual contact with the*
11 *automated devices.*

12 *(e) A hotel of which the entire premises is licensed as a drinking*
13 *establishment may, in accordance with rules and regulations adopted by*
14 *the secretary, distribute to its guests coupons redeemable on the hotel*
15 *premises for drinks containing alcoholic liquor. The hotel shall remit*
16 *liquor drink tax in accordance with the provisions of the liquor drink tax*
17 *act, K.S.A. 79-41a01 et seq., and amendments thereto, on each drink*
18 *served based on a price which is not less than the acquisition cost of the*
19 *drink.*

20 ~~(e)~~ **(f)** *A hotel of which the entire premises is not licensed as a*
21 *drinking establishment may, in accordance with rules and regulations*
22 *adopted by the secretary, through an agreement with one or more clubs or*
23 *drinking establishments, distribute to its guests coupons redeemable at*
24 *such clubs or drinking establishments for drinks containing alcoholic*
25 *liquor. Each club or drinking establishment redeeming coupons issued by*
26 *a hotel shall collect from the hotel the agreed price, which shall be not*
27 *less than the acquisition cost of the drink plus the liquor drink tax for each*
28 *drink served. The club or drinking establishment shall collect and remit*
29 *the liquor drink tax in accordance with the provisions of the liquor drink*
30 *tax act, K.S.A. 79-41a01 et seq., and amendments thereto.*

31 ~~(d)~~ ~~(f)~~ **(g)** *Violation of any provision of this section is a misdemeanor*
32 *punishable as provided by K.S.A. 41-2633, and amendments thereto.*

33 ~~(e)~~ ~~(g)~~ **(h)** *Violation of any provision of this section shall be grounds*
34 *for suspension or revocation of the licensee's license as provided by*
35 *K.S.A. 41-2609, and amendments thereto, and for imposition of a civil*
36 *fine on the licensee or temporary permit holder as provided by K.S.A. 41-*
37 *2633a, and amendments thereto.*

38 ~~(f) Every licensed club and drinking establishment shall make~~
39 ~~available at any time upon request a price list showing the club's or~~
40 ~~drinking establishment's current prices per individual drink for all~~
41 ~~individual drinks.~~

42 *New Sec. 2- 3. (a) If a person who has attained 18 years of age, or is*
43 *an emancipated minor, enters premises licensed pursuant to the Kansas*

1 *liquor control act or club and drinking establishment act where*
2 *alcoholic liquor or cereal malt beverages are sold and offers or presents*
3 *to a licensee or an agent or employee of the licensee written evidence of*
4 *age, that is fraudulent or false or that is not actually the person's own,*
5 *or otherwise misrepresents the person's age, for the purpose of inducing*
6 *the licensee or an agent or employee of the licensee to sell, give, serve or*
7 *furnish alcoholic beverages contrary to the law, shall be liable, in*
8 *addition to any criminal penalty provided by law, for damages of \$1,000*
9 *and, in addition, costs and reasonable attorney fees in a civil action*
10 *brought by the licensee.*

11 *(b) A person who is of legal age for the consumption of alcoholic*
12 *liquor or cereal malt beverage who solicits another person or who*
13 *themselves purchases or receives alcoholic liquor from a licensee under*
14 *the liquor control act or the club and drinking establishment act, an*
15 *agent or employee of the licensee, or another person, for the purpose of*
16 *selling, giving, or serving it to a person under the age of 21 years shall*
17 *be liable to the licensee for damages in a civil action for a penalty of*
18 *\$1,000 and, in addition, costs and reasonable attorney fees.*

19 *(c) It is a condition precedent to maintaining a civil action under*
20 *this section that the licensee send by first class mail to the defendant at*
21 *the defendant's last known address 15 days or more before the civil*
22 *action is commenced, a notice demanding the relief authorized. It is not*
23 *a condition precedent to maintaining an action under this section that*
24 *the person who allegedly violated subsection (a) or (b) was charged with*
25 *or convicted under any criminal statute or ordinance regarding*
26 *furnishing cereal malt beverages or alcoholic liquor to minors.*

27 *(d) A person does not violate this section if the person performs an*
28 *act proscribed under this section at the request of law enforcement or*
29 *the alcoholic beverage control, and such enforcement officers*
30 *accompany, supervise or otherwise observe the person's act, and the*
31 *purpose of the act is to assist in the enforcement of and compliance with*
32 *Kansas law.*

33 ~~Sec. 2.~~ **3 4.** K.S.A. 2012 Supp. 41-104 and 41-2640 is *are* hereby
34 repealed.

35 ~~Sec. 3-4-5.~~ This act shall take effect and be in force from and after its
36 publication in the statute book.