

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2252

By Committee on Federal and State Affairs

2-5

1 AN ACT concerning alcoholic liquor; relating to wineries; special
2 shipping order licensees; creating fulfillment house licensure;
3 authorizing the storage and shipment of alcoholic liquors for a special
4 order shipping licensee; amending K.S.A. 2020 Supp. 41-102 and
5 repealing the existing section.

6

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

8 New Section 1. (a) Before making or causing any shipment of
9 alcoholic liquor to Kansas residents, a fulfillment house shall pay a ~~\$100~~
10 **\$50** license fee and obtain such license that will be applicable for ~~all~~
11 ~~locations that are~~ **each location that is** involved in the shipping process to
12 Kansas residents. A fulfillment house license shall commence on the date
13 **specified on** the license ~~is issued by the director~~ and expire two years after
14 such date. The holder of a fulfillment house license may only provide
15 services for the warehousing, packaging and shipping of alcoholic liquors
16 produced by, and belonging to, a special order shipping licensee in
17 accordance with K.S.A. 41-350, and amendments thereto. A fulfillment
18 house licensee shall make reasonable efforts to confirm that any winery
19 that they ship alcoholic liquor for holds a special order shipping license
20 and may rely on the representations of each such winery for such
21 assurance.

22 (b) As part of a fulfillment house license application, the applicant
23 shall provide:

24 ~~(1) All locations under the license from which lawful alcoholic~~
25 ~~liquors shall be shipped; and~~

26 ~~(2) any other~~ information as required by rules and regulations adopted
27 by the director and contained in the fulfillment house license application
28 form established by the director.

29 (c) If the holder of the license is an out-of-state entity, the licensee
30 shall be deemed to have appointed the secretary of state as the resident
31 agent and representative of the licensee to accept service of process from
32 the secretary of revenue, the director and the courts of this state concerning
33 enforcement of this section, K.S.A. 41-501 et seq., and amendments
34 thereto, and any rules and regulations adopted thereunder and to accept
35 service of any notice or order provided for in the liquor control act.

36 (d) (1) A fulfillment house licensee shall ensure all containers of

1 alcoholic liquors shipped directly to an individual in this state are labeled
2 with the name, address and license number of the fulfillment house
3 licensee ~~and special order shipping licensee~~. All such containers shall
4 contain a conspicuously printed statement of "SIGNATURE OF PERSON
5 AGE 21 OR OLDER REQUIRED FOR DELIVERY".

6 (2) All containers of alcoholic liquors shipped directly to a resident of
7 this state shall be shipped using a common carrier pursuant to K.S.A. 41-
8 725, and amendments thereto.

9 (e) (1) A fulfillment house licensee shall:

10 (A) Maintain records of all shipments for a minimum of three years
11 after the shipment date, that shall include the:

12 (i) Name, address and license number of the special order shipping
13 licensee;

14 (ii) name and license number of the express company or common
15 carrier;

16 (iii) date of each shipment;

17 (iv) carrier tracking number;

18 (v) name and address of the consignee of such alcoholic liquors; and

19 (vi) weight of the package and product type of alcoholic liquors
20 shipped.

21 (B) Submit these records as an electronic report to the director
22 monthly in the form and format prescribed by the director.

23 (2) Reports submitted pursuant to this subsection shall be open
24 records available for public inspection in accordance with the open records
25 act. Any information relating to the name or address of a consignee of any
26 alcoholic liquors shall be redacted from the reports that are made available
27 for public inspection. The provisions of this paragraph providing for the
28 confidentiality of certain public records shall expire on July 1, 2026,
29 unless the legislature reviews and reenacts such provisions in accordance
30 with K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

31 (f) A fulfillment house that willfully fails, neglects or refuses to file
32 any report pursuant to subsection (e) shall be subject to a civil penalty of
33 not more than \$100. After notice and an opportunity for hearing in
34 accordance with the Kansas administrative procedure act, the director may
35 refuse to issue or renew or may revoke a fulfillment house license upon a
36 finding that the licensee has failed to comply with any provision of this
37 section.

38 (g) The secretary of revenue shall adopt rules and regulations to
39 implement, administer and enforce the provisions of this section.

40 (h) The provisions of this section shall be a part of and supplemental
41 to the Kansas liquor control act.

42 Sec. 2. K.S.A. 2020 Supp. 41-102 is hereby amended to read as
43 follows: 41-102. As used in this act, unless the context clearly requires

1 otherwise:

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

6 (b) "Alcoholic candy" means:

7 (1) For purposes of manufacturing, any candy or other confectionery
8 product with an alcohol content greater than 0.5% alcohol by volume; and

9 (2) for purposes of sale at retail, any candy or other confectionery
10 product with an alcohol content greater than 1% alcohol by volume.

11 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, alcoholic
12 candy and every liquid or solid, patented or not, containing alcohol, spirits,
13 wine or beer and capable of being consumed by a human being, but shall
14 not include any cereal malt beverage.

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

19 (e) "Caterer" ~~has the meaning provided~~ *means the same as defined* by
20 K.S.A. 41-2601, and amendments thereto.

21 (f) "Cereal malt beverage" ~~has the meaning provided~~ *means the same*
22 *as defined* by K.S.A. 41-2701, and amendments thereto.

23 (g) "Club" ~~has the meaning provided~~ *means the same as defined* by
24 K.S.A. 41-2601, and amendments thereto.

25 (h) "Director" means the director of alcoholic beverage control of the
26 department of revenue.

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

32 (j) "Domestic beer" means beer which contains not more than 15%
33 alcohol by weight and which is manufactured in this state.

34 (k) "Domestic fortified wine" means wine which contains more than
35 14%, but not more than 20% alcohol by volume and which is
36 manufactured in this state.

37 (l) "Domestic table wine" means wine which contains not more than
38 14% alcohol by volume and which is manufactured without rectification or
39 fortification in this state.

40 (m) "Drinking establishment" ~~has the meaning provided~~ *means the*
41 *same as defined* by K.S.A. 41-2601, and amendments thereto.

42 (n) "Farm winery" means a winery licensed by the director to
43 manufacture, store and sell domestic table wine and domestic fortified

1 wine.

2 (o) ~~"Fulfillment house" means all locations and facilities~~ **any**
3 **location or facility** for any in-state or out-of-state entity that handles
4 logistics, including warehousing, packaging, order fulfillment or shipping
5 services, on behalf of the holder of a special order shipping license issued
6 pursuant to K.S.A. 41-350, and amendments thereto.

7 (p) "Hard cider" means any alcoholic beverage that:

8 (1) Contains less than 8.5% alcohol by volume;

9 (2) has a carbonation level that does not exceed 6.4 grams per liter;
10 and

11 (3) is obtained by the normal alcoholic fermentation of the juice of
12 sound, ripe apples or pears, including such beverages containing sugar
13 added for the purpose of correcting natural deficiencies.

14 ~~(q)~~(g) "Manufacture" means to distill, rectify, ferment, brew, make,
15 mix, concoct, process, blend, bottle or fill an original package with any
16 alcoholic liquor, beer or cereal malt beverage.

17 ~~(r)~~(1) "Manufacturer" means every brewer, fermenter, distiller,
18 rectifier, wine maker, blender, processor, bottler or person who fills or
19 refills an original package and others engaged in brewing, fermenting,
20 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
21 beverage.

22 (2) "Manufacturer" does not include a microbrewery, microdistillery
23 or a farm winery.

24 ~~(s)~~(s) "Microbrewery" means a brewery licensed by the director to
25 manufacture, store and sell domestic beer and hard cider.

26 ~~(t)~~(t) "Microdistillery" means a facility which produces spirits from
27 any source or substance that is licensed by the director to manufacture,
28 store and sell spirits.

29 ~~(u)~~(u) "Minor" means any person under 21 years of age.

30 ~~(v)~~(v) "Nonbeverage user" means any manufacturer of any of the
31 products set forth and described in K.S.A. 41-501, and amendments
32 thereto, when the products contain alcohol or wine, and all laboratories
33 using alcohol for nonbeverage purposes.

34 ~~(w)~~(w) "Original package" means any bottle, flask, jug, can, cask,
35 barrel, keg, hogshead or other receptacle or container whatsoever, used,
36 corked or capped, sealed and labeled by the manufacturer of alcoholic
37 liquor, to contain and to convey any alcoholic liquor. Original container
38 does not include a sleeve.

39 ~~(x)~~(x) "Person" means any natural person, corporation, partnership,
40 trust or association.

41 ~~(y)~~(y) "Powdered alcohol" means alcohol that is prepared in a
42 powdered or crystal form for either direct use or for reconstitution in a
43 nonalcoholic liquid.

1 ~~(y)~~(z) "Primary American source of supply" means the manufacturer,
2 the owner of alcoholic liquor at the time it becomes a marketable product
3 or the manufacturer's or owner's exclusive agent who, if the alcoholic
4 liquor cannot be secured directly from such manufacturer or owner by
5 American wholesalers, is the source closest to such manufacturer or owner
6 in the channel of commerce from which the product can be secured by
7 American wholesalers.

8 ~~(z)~~(aa) (1) "Retailer" means a person who is licensed under the
9 Kansas liquor control act and sells at retail, or offers for sale at retail,
10 alcoholic liquors or cereal malt beverages.

11 (2) "Retailer" does not include a microbrewery, microdistillery or a
12 farm winery.

13 ~~(aa)~~(bb) "Sale" means any transfer, exchange or barter in any manner
14 or by any means whatsoever for a consideration and includes all sales
15 made by any person, whether principal, proprietor, agent, servant or
16 employee.

17 ~~(bb)~~(cc) "Salesperson" means any natural person who:

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

20 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
21 beverage, or in promoting the business of any person, firm or corporation
22 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
23 beverage, whether the seller resides within the state of Kansas and sells to
24 licensed buyers within the state of Kansas, or whether the seller resides
25 without the state of Kansas and sells to licensed buyers within the state of
26 Kansas.

27 ~~(ee)~~(dd) "Sample" means a serving of alcoholic liquor that contains
28 not more than: (1) One-half ounce of distilled spirits; (2) one ounce of
29 wine; or (3) two ounces of beer or cereal malt beverage. A sample of a
30 mixed alcoholic beverage shall contain not more than ½ ounce of distilled
31 spirits.

32 ~~(dd)~~(ee) "Secretary" means the secretary of revenue.

33 ~~(ee)~~(ff) (1) "Sell at retail" and "sale at retail" refer to and mean sales
34 for use or consumption and not for resale in any form and sales to clubs,
35 licensed drinking establishments, licensed caterers or holders of temporary
36 permits.

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

41 ~~(ff)~~(gg) "To sell" includes to solicit or receive an order for, to keep or
42 expose for sale and to keep with intent to sell.

43 ~~(gg)~~(hh) "Sleeve" means a package of two or more 50-milliliter *or*

1 (3.2-fluid-ounce) containers of spirits.

2 ~~(hh)~~(ii) "Spirits" means any beverage which contains alcohol
3 obtained by distillation, mixed with water or other substance in solution,
4 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
5 such liquors when rectified, blended or otherwise mixed with alcohol or
6 other substances.

7 ~~(ii)~~(jj) "Supplier" means a manufacturer of alcoholic liquor or cereal
8 malt beverage or an agent of such manufacturer, other than a salesperson.

9 ~~(jj)~~(kk) "Temporary permit" ~~has the meaning provided~~ means the
10 same as defined by K.S.A. 41-2601, and amendments thereto.

11 ~~(kk)~~(ll) "Wine" means any alcoholic beverage obtained by the normal
12 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or
13 other agricultural products, including such beverages containing added
14 alcohol or spirits or containing sugar added for the purpose of correcting
15 natural deficiencies. ~~The term "Wine" shall include~~ includes hard cider and
16 any other product that is commonly known as a subset of wine.

17 Sec. 3. K.S.A. 2020 Supp. 41-102 is hereby repealed.

18 Sec. 4. This act shall take effect and be in force from and after its
19 publication in the statute book.