



KANSAS ADMINISTRATIVE REGULATIONS

Agency 14 - Division of Alcoholic Beverage Control

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INDEX

Articles 1 - 4	(Not in active use)
Article 5	Transportation, Carrier and Storage
Article 6	Containers and Labels
Article 7	Tax and Tax Stamps; Crowns and Lids
Article 8	Advertising
Article 9	(Not in active use)
Article 10	Trade Practices
Article 11	Farm Wineries
Article 12	(Not in active use)
Article 13	Retail Liquor Dealer
Article 14	Manufacturers (Suppliers), Distributors, Nonbeverage Users, Farm Wineries, Microbreweries
Article 15	Beer and Cereal Malt Beverage Keg Registration
Article 16	Licenses; Suspension and Revocation
Article 17	Miscellaneous
Article 18	(Not in active use)
Article 19	Class A Clubs
Article 20	Class B Clubs
Article 21	Drinking Establishments
Article 22	Caterer
Article 23	Temporary Permits
Article 24	Winery Shipping Permits

Article 5 - TRANSPORTATION, CARRIERS AND STORAGE

(Last amended in 1990)

14-5-1. Alcoholic liquor (except beer) transported into state or federal area only by bonded carriers. (a) All alcoholic liquor, except beer, shipped into the state of Kansas shall be transported only by common, contract or private carriers that hold liquor carrier permits issued by the director.

(b) Except as provided in subsection (c), all alcoholic liquor that is taxable under the act and shipped into this state or a federal area in interstate commerce and that is consigned to a consignee or person located, residing, or stationed on or at a federal area shall be transported into this state or a federal area only by common, contract or private carriers that hold liquor carrier permits issued by the director.

(c) When a licensed distributor is the holder of a valid private carrier permit issued by the Kansas corporation commission and is also the holder of a valid liquor carrier permit issued by the director, the distributor may transport only alcoholic liquor owned exclusively by that distributor into the state of Kansas in compliance with the laws, rules and regulations of the interstate commerce commission and the Kansas corporation commission.

(Authorized by K.S.A. 41-211, 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-408 as amended by L. 1987, Ch. 182, Sec. 36, 41-501a; effective Jan. 1, 1966; amended, T-88-22, July 1, 1987; amended May 1, 1988.)

14-5-2. Carriers' permits; application; fees. (a) A common, contract or private carrier shall not transport alcoholic liquor within or into the state, for delivery within the state, without first having obtained a permit to do so from the director.

(b) Applications for permits to transport alcoholic liquor within or into the state shall be filed with the director and shall contain any information the director may require. A permit fee of \$5.00 shall be paid at the time of application.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-211; implementing K.S.A. 41-408 as amended by L. 1987, Ch. 182, Sec. 36; effective Jan. 1, 1966; amended Jan. 1, 1974; amended, T-88-22, July 1, 1987; amended May 1, 1988.)

14-5-3. (Authorized by K.S.A. 41-211, 41-501a, K.S.A. 1968 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1969; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-5-4. Storage of alcoholic liquor and cereal malt beverage in transit in public liquor warehouses; reports of warehouseman. Whenever alcoholic liquor or cereal malt beverage is transported into this state, consigned to a licensed distributor or licensed manufacturer of alcoholic liquor or cereal malt beverage, the alcoholic liquor or cereal malt beverage shall be considered to remain in transit until it is delivered to the bonded warehouse of the consignee. Alcoholic liquor and cereal malt beverage may be stored in transit in a public bonded liquor warehouse within the state of Kansas, upon the following terms and conditions:

(a) Any public bonded liquor warehouse in which alcoholic liquor or cereal malt beverage is stored in transit shall, within 48 hours of receipt of the alcoholic liquor or cereal malt beverage, give written notice to the director of the receipt, stating the names and addresses of the consignor and consignee, the description of the liquor, and the name of the carrier that delivered the liquor to that warehouse.

(b) Each public bonded liquor warehouse shall make delivery of the alcoholic liquor or cereal malt beverage, or any part of it, only to a carrier that has been designated by the director as a liquor carrier, for delivery by the carrier to a licensed manufacturer or licensed distributor who is the consignee of such liquor.

(c) Within 48 hours after the alcoholic liquor or cereal malt beverage has been removed from the public bonded liquor warehouse for delivery to the consignee, the warehouse shall make a written report to the director setting out the name of the carrier to which the liquor has been delivered, the name and address of the consignee, and a description of the liquor delivered.

(Authorized by K.S.A. 41-211, K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-408, 41-409; effective Jan. 1, 1966; amended, T-88-22, July 1, 1987; amended May 1, 1988; amended Aug. 6, 1990.)

14-5-5. (Authorized by K.S.A. 41-210, K.S.A. 1979 Supp. 41-211, 41-407; effective Jan. 1, 1966; revoked, E-80-28, Dec. 12, 1979; revoked May 1, 1980.)

14-5-6. Required delivery of alcoholic liquor to distributor by common carrier. All alcoholic liquor transported into this state and consigned to a licensed distributor or a licensed manufacturer of alcoholic liquor shall be delivered to the consignee in the state of Kansas and shall be received into the consignee's bonded warehouse. No part of the liquor shall remain in the hands of the carrier nor shall any carrier acquire any property rights in such alcoholic liquor.

(Authorized by K.S.A. 41-211, 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-408 as amended by L. 1987, Ch. 182, Sec. 36; effective Jan. 1, 1966; amended, T-88-22, July 1, 1987; amended May 1, 1988.)

Article 6 - CONTAINERS AND LABELS

(Last amended in 1990)

14-6-1. Containers, nature and form; change of original containers or labels. (a)(1) Each original package of alcoholic liquor or cereal malt beverage sold or offered for sale in this state shall be constructed of such material and be in such form as has been generally founded by the industry and recognized by federal and state enforcement officers to be safe, sanitary, and in no manner prejudicial to the health or interest of the public.

(2) All original packages of alcoholic liquor shall, before being offered for sale or sold, be approved by the director as to nature and form. Each manufacturer or corporate subsidiary of any manufacturer who markets the manufacturer's products through a subsidiary, each rectifier, distiller, and fermenter and each distributor of alcoholic liquor bottled in foreign countries shall submit an approved copy of the federal label approval form for each container offered for sale in this state.

(3) Each manufacturer or corporate subsidiary of a manufacturer who markets the manufacturer's products through a subsidiary, each rectifier, distiller, and fermenter, and each distributor of alcoholic liquor bottled in foreign countries, wishing to offer alcoholic liquor for sale in this state shall, upon requesting authority to do so, furnish a copy of the price list containing the information required by K.A.R. 14-14-10.

(4) After a container has been approved as to nature and form for sale in Kansas, further approval shall not be required.

(5) Each item shall be approved prior to posting it on the first of any month. No new container embodying changes as to nature and form for the same brand or kind of merchandise shall be sold or offered for sale until an approved copy of the federal label approval form has been submitted to the director.

(6) Imported containers embodying substantially the same brand, type and age of alcoholic liquor as that offered domestically by the same manufacturer or supplier, or a subsidiary of same, may be approved for sale in Kansas by the director.

(7) A container shall not be approved for sale in this state which, because of its design, composition or form, is obscene material.

(b) Whenever any original package of alcoholic liquor which has been approved as provided by subsection (a) of this regulation is changed by different labeling, closure, container, age or proof or changed in any other respect which, in the opinion of the director, constitutes a significant package change, the following procedures shall be followed:

(1) The new package, which reflects the change or changes, shall, before being offered for sale or sold, be approved by the director as to nature and form and shall be subject to all other provisions of subsection (a) of this regulation.

(2) To insure the orderly depletion of old packages in the inventories of licensed distributors, the manufacturer or supplier, subject to approval by the director, may redistribute at the expense of the manufacturer or supplier, among licensed distributors, the remaining stocks of the old packages prior to the release of the new packages. All inventories of the old package in the hands of the distributors shall be depleted before the new package may be offered for sale.

(Authorized by K.S.A. 1989 Supp. 41-210, implementing K.S.A. 41-211; effective Jan. , 1966; amended Jan. 1, 1969; amended Jan. 1, 1970; amended Jan. 1, 1971; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended Oct. 1, 1988, amended Aug. 6, 1990.)

14-6-2. (Authorized by K.S.A. 41-210, 41-211, 41-1117; implementing K.S.A 41-211; effective Jan. 1, 1966; amended Jan. 1, 1967; amended Jan. 1, 1968; amended Jan. 1, 1972; amended May 1,

1975; amended Feb. 15, 1977; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1982; revoked May 1, 1983.)

14-6-2a. Capacities of containers. Alcoholic liquor may be sold or offered for retail sale in this state in original containers of the following capacities: (a) Beer: 6.5, 7, 8, 10, 11, 11.2, 11.5, 12, 15, 16, 17, 21.4, 24, 25.6 or 40 fluid ounces; 1 quart; 1/2 gallon; 2 liters; 1 gallon; 5 liters; 2 1/2 gallons (tapper); 1/8 barrel (3 7/8 gallons); 1/6 barrel (5 1/6 gallons); 1/4 barrel (7 3/4 gallons); 1/2 barrel (15 1/2 gallons); or 1 barrel (31 gallons).

(b) Wines: 222 milliliters or, 207 milliliters or 187 milliliters; 250 milliliters; 4/5 pint or 375 milliliters; 1 pint (imports only); 14.4 ounces or 500 milliliters; 4/5 quart or 750 milliliters; 1 quart or 1 liter; 1/2 gallon; 2/5 gallon or 1.5 liter; 1 gallon or 3 liters; or 4 liters through 19 liters. Any brand or type of wine may be permitted in 2/5 gallon or 1.5 liters; 1 gallon or 3 liters; 4 liters through 19 liters; 7.75 gallons; 30 liters; 15.5 gallons; or 60 liters, if they are measured in full liter quantities. Aperitif wine, including vermouth, may be sold or offered for retail sale in this state in original containers having a capacity of 15/16 quart, if the gallonage tax is paid at the full quart rate per bottle.

(c) Alcoholic liquor other than beer and wine: 1/2 pint or 187 milliliters or 200 milliliters; 1/10 gallon or 375 milliliters; 1 pint or 14.4 ounces or 500 milliliters; 4/5 quart or 750 milliliters; 1 quart or 1 liter; 1/2 gallon or 1.75 liter; or 1 gallon.

(1) Domestic whiskey, including bonded bourbon, bonded rye, straight bourbon, straight rye, all blends of neutral spirits, corn whiskey, alcohol, domestic and imported gin, vodka, tequila, and Canadian imported whiskey shall not be offered for sale in containers of 1/10 gallon.

(2) Domestic brandies, prepared cocktails, rum, American cordials, liqueurs and specialties, flavored gin, flavored vodka, flavored whiskey, and scotch whiskey shall not be offered for sale in containers of 1 pint size, but may be offered in containers of 500 milliliters size.

(3) Any brand or type of merchandise, except as restricted in paragraphs (1) and (2) of this subsection (c) may be permitted in any one of the following: 1/10 gallon, 375 milliliter, 1 pint, or 500 milliliters size.

(d) For tax approval purposes on containers offered for sale, a variance in content may be permitted within 2 fluid ounces or 59.14 milliliters from the approved sizes in subsections (a) through (c).

(1) Each supplier of spirits authorized to do business in the state of Kansas may post for sale both a 375 ml size container and a 500 ml size container for a particular product. Once a supplier of spirits ships to Kansas an item in a 375 ml container, that supplier is prohibited from shipping a 500 ml container of that same item to a licensed Kansas distributor.

(2) Each licensed Kansas distributor shall, upon receipt of a particular item in the 375ml size containers, first deplete their inventories of 500 ml size containers of that particular item. Upon depletion of a distributor's stock of 500 ml size containers, the distributor may introduce the 375ml size containers of that particular item into the distributor's franchise territory.

(3) Upon the filing of an affidavit by the supplier that the supplier has discontinued the distribution and sale of 375 ml containers for an item in the state of Kansas, the supplier, with authorization of the director and under conditions the director deems necessary to maintain an orderly market, may report and ship 500 ml containers to licensed Kansas distributors.

(e) Alcoholic liquor may be sold or offered for retail sale in this state in original containers of capacities other than those specified in subsection (a) through (c) inclusive only upon written approval from the director.

(1) Upon receipt of a request to approve a new container size, licensees and other interested parties shall be notified by the director that a request has been received, and that the request will be acted upon within 30 days after the date that public notice is given. The notice shall further state that any licensee or other interested party may submit written comments to the director either in favor of or opposed to an approval of the proposed size during the 30 day period. All comments submitted prior to approving or disapproving any new size shall be considered. Any party requesting approval for a new

size, or any party that submitted written comments on a requested approval for a new size, who is aggrieved by the decision of the director may appeal the decision through the appeal procedure set forth in K.A.R. 14-16-14 et. seq.

(Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 41-211, and K.S.A. 41-1119; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Sept. 26, 1988.)

14-6-3. Labels on containers of alcoholic liquor except beer. Each original package of alcoholic liquor, except beer, offered for sale in this state shall bear a label setting forth in plain and legible print, in the English language:

- (a) The quantity of liquor in the original package;
 - (b) the class and type of liquor together with the alcoholic content;
 - (c) the name of the importer or manufacturer. If the name of the importer on the label and on the federal, approved label is not the same as the supplier wanting to post the brand or item, a letter of authority or other documentation from the importer shall be submitted; and
 - (d) the percentage of all ingredients contained in liquor that is a blended product (except wine).
- However, if any of the provisions of this regulation are contrary to or in violation of regulations promulgated by the bureau of alcohol, tobacco and firearms of the United States treasury, the federal regulation shall be followed in all labeling of alcoholic liquor sold or offered for sale in the state of Kansas.

(Authorized by K.S.A. 1987 Supp. 41-210; K.S.A. 41-211; implementing K.S.A. 41-211, 41-706; effective Jan. 1, 1966; amended May 1, 1987; amended Sept. 26, 1988.)

14-6-4. Labels on containers of beer and cereal malt beverage. (a) Each original package of beer and cereal malt beverage offered for sale in this state shall bear a label setting forth in plain and legible print in the English language, and in the manner permitted by federal laws and regulations with respect to the labeling of beer:

- (1) The word "beer" or "ale" or the name listed in subsection (c) of K.S.A. 1989 Supp. 41-102;
 - (2) The number of fluid ounces contained therein;
 - (3) The name of the beer or cereal malt beverage manufacturer or importer. If the name of the importer on the label and on the federal, approved label is not the same as the supplier wanting to post the brand or item, a letter of authority or other documentation from the importer shall be submitted;
 - (4) A statement that the contents contain no more than 3.2% alcohol by weight; except that any kind or brand of cereal malt beverage that contains less than 1/2 of 1% of alcohol by volume, may show a statement that the contents contain less than 0.5% alcohol by volume; and
 - (5) Any additional information required by other laws and regulations.
- (b) Prior to the shipment of any beer into the state, each label shall be submitted in duplicate to the director, accompanied by a federal label approval form when applicable.

(Authorized by K.S.A. 41-211; implementing K.S.A. 41-211, 41-706; effective Jan. 1, 1966; amended May 1, 1985; amended Oct. 1, 1988; amended Aug. 6, 1990.)

14-6-5. Labels, false representations prohibited. No label on any original package of alcoholic liquor shall contain any false or misleading representations.

(Authorized by K.S.A. 41-209, 41-211, 41-706, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-6-6. Private labels, requirements for use of. A licensed distributor may be authorized to bottle, label and sell to licensed retailers, under labels owned by the distributor, alcoholic liquors except beer purchased in bulk by class or type providing such liquors are labeled in accordance with the following:

(1) Before a distributor shall offer for sale or sell such liquor, said distributor shall submit an application, verified positively, for approval of each label to be used in the bottling of alcoholic liquors purchased by class or type.

(2) Said application shall consist of the following:

(a) Ownership. The application shall include a statement that the label, including brand name, designs, pictures, slogans and descriptive phraseology, is the exclusive property of the applicant. If the label or any component part thereof has been used previously, full particulars relating to said use shall be given including prior users, where used, and how said label or part thereof was acquired.

(b) Copyright or trademark. If said label or any brand name, design, picture, slogan or phraseology has been the subject of a copyright, patent or trademark under the laws of the United States or the various states, the application shall show where and by whom such action was taken with dates and identifying numbers being given.

(c) Acquisition of label. A statement shall be included stating that the label was created and designed by the distributor or setting out from whom said label including brand name, designs, pictures, slogans or phraseology was secured. Copies of contracts or agreements relating to the acquisition of said label and relating to the bottling of said liquors shall be attached. If said contracts or agreements are implemented by letters of intent, oral or other commitments, copies of all instruments with a statement of the details of oral commitments shall be attached.

(d) Resemblance to other labels. A statement shall be included that the proposed label including brand name, designs, pictures, slogans and phraseology bears no resemblance in any material manner to any label now used by any person, association or corporation in this or another state in the knowledge and belief of the applicant.

(e) Submission of copies. Two copies of each front and back label, neck label and any other design, picture, slogan or descriptive phraseology which shall be attached to the container shall be submitted with the application, with a photostatic or certified copy of the formal certificate of label approval issued by the United States government.

(3) All labels to be affixed to alcoholic liquors for bottling and labeling pursuant to this regulation shall include thereon the statement, "distilled and bottled by" or "bottled by" as the case may be, followed by the name of the person, association or corporation first offering said alcoholic liquors for sale in Kansas to licensed distributors for bottling under labels owned by a distributor.

(4) On receipt of the foregoing, the director shall approve or disapprove said label. Additional information may be required in support of the application. If after approval, the label is changed, a new application shall be submitted.

(5) If it shall appear that the information upon which approval was given is incorrect or that a label exists resembling the approved label in a material feature, an inquiry shall be made and approval of the label may be withdrawn if the facts warrant. Misrepresentation, withholding of information, or fraud shall be cause for the issuance of a citation for the purpose of suspension or revocation of the applicant's license.

(Authorized by K.S.A. 41-211, 41-306, 41-1101, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

Article 7 - TAX AND TAX STAMPS; CROWNS AND LIDS

(Last amended in 1988)

14-7-1. (Authorized by K.S.A. 41-211, 41-501a, 41-502, K.S.A. 1965 Supp. 41-210, 41-501; effective Jan. 1, 1966; revoked May 1, 1986.)

14-7-2. Beer, crowns, lids, and labels; stamping of master carton, keg shipments. (a) Beer containing more than 3.2% of alcohol by weight shall not be required to have an identifying mark on each container evidencing Kansas tax paid.

(b) All labels attached to the original package shall be approved by the director of alcoholic beverage control before the package may be sold in the state of Kansas.

(c) Each case of bottled or canned beer shipped into the state of Kansas by a beer manufacturer or supplier shall have the legend, "Kansas strong," or other appropriate language, stamped in black lettering on the exterior master carton in any position normally used for code dates, or as approved by the director. Labels, crowns and lids used for the packaging of strong beer for the state of Kansas shall not be required to indicate the alcoholic content. All kegs of strong beer shipped into the state of Kansas shall be identified by a distinctive bung.

(Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 41-211, 41-503; effective Jan. 1, 1966; amended Sept. 26, 1988.)

14-7-3. (Authorized by K.S.A. 41-211, 41-504, 41-505, K.S.A. 1972 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1973; revoked Sept. 26, 1988.)

14-7-4. Alcoholic liquor and cereal malt beverage; payment of tax; bond required. (a) The tax on alcoholic liquor and cereal malt beverage, as levied by the act and payable by a distributor, shall be paid by the distributor on or before the 15th day of the calendar month succeeding the month in which the distributor acquires possession of any alcoholic liquor upon which the tax has not been paid. The payment shall be by check and shall be accompanied by a report to the director, upon forms to be furnished by the director. The report shall show separately the exact total amount, in gallons or in fractions of gallons, of the following types of alcoholic beverages received by the distributor during the preceding month:

- (1) Wine containing 14% or less of alcohol by volume;
- (2) Wine containing more than 14% of alcohol by volume;
- (3) Alcohol and spirits;
- (4) Beer, containing more than 3.2% alcohol by weight; and
- (5) Cereal malt beverages, containing 3.2% or less alcohol by weight.

(b) Any sheriff who possesses alcoholic liquor, except beer, that is to be sold under an order of a court which has jurisdiction and upon which the tax has not been paid, shall file a report that provides the description and the amount of all alcoholic liquor to be sold. The report shall be filed on forms furnished by the director. The tax due and owing upon the liquor shall be paid out of the money received by the sheriff at the sale. The tax shall be remitted with the report, by cash, certified check, bank draft, post office or express money order.

(c)(1) Each licensed distributor shall furnish a bond payable to the director for the term of the license of the distributor. The bond shall be in a penal sum fixed and in a form approved by the director, shall be executed by the distributor as principal and by a corporate surety authorized to do business in the state of Kansas as surety and shall be conditioned upon the payment of the tax and penalties imposed by the act and this regulation upon such distributor.

(2) Any distributor may furnish, in lieu of this required bond, one or more certificates of deposit, corporate stock certificates, revenue bonds, or similar forms of collateral in the required amount. The collateral shall be deposited in an escrow account to be held by any recognized professional escrow agent. The escrow agreement shall be submitted upon a form provided by the director. All escrow agreements shall be subject to the director's approval.

(3) The amount of the bond shall be fixed by the director as follows:

(A) Each licensed spirits distributor shall furnish a bond equivalent in amount to the distributor's estimated highest monthly tax liability. However, the total amount of the bond shall not be less than \$15,000.

(B) Each licensed wine distributor shall furnish a bond equivalent to the distributor's estimated highest monthly tax liability. However, the total amount of the bond shall not be less than \$5,000.

(C) Each licensed beer distributor shall furnish a bond equivalent to the distributor's estimated highest monthly tax liability. However, the total amount of the bond shall not be less than \$5,000.

(d) A licensed distributor shall not accept any money from a manufacturer or another distributor to be used for the payment of the tax on alcoholic liquor. A distributor or manufacturer shall not advance any money to a licensed distributor for the purpose of paying that tax.

(Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-409, 41-502, 41-317; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1973; amended Jan. 1, 1974; amended May 1, 1984; amended May 1, 1985; amended Oct. 1, 1988; amended Aug. 6, 1990.)

14-7-5. (Authorized by K.S.A. 41-211, 41-502, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked Jan. 1, 1974.)

14-7-6. Kansas liquor stamps or strips; securing, affixation to original package; who shall affix; placing of stamps or strips. (a) All alcoholic liquor other than beer, wine and brandy, shall be identified by a Kansas liquor identification stamp or strip which shall be placed thereon for identification in accordance with the rules and regulations of the director. The provisions of this regulation shall not apply to beer, wine and brandy sold or distributed in the state of Kansas.

(b) The Kansas liquor identification stamp shall be affixed to each original package of the alcoholic liquor at the place where the alcoholic liquor is manufactured. When alcoholic liquor is bottled in a foreign country and is imported into the United States, the Kansas liquor identification stamps, or strips may be affixed to the original packages by the person importing them into the United States as the place within the United States where the shipment of alcoholic liquor into the state of Kansas originated. A licensed distributor or licensed manufacturer may stamp in the bonded distributor's warehouse any alcoholic liquor bottled in a foreign country, within 96 hours after receiving the alcoholic liquor in the bonded warehouse in the manner prescribed by the act and the rules and regulations of the director. Nothing contained in this rule and regulation shall be construed as changing or altering the provisions of the act or rules and regulations of the director.

(c) Each Kansas liquor identification stamp on alcoholic liquor shall be placed in a horizontal position upon a smooth surface on the front side, neck or shoulder of each original package in such a manner that the stamp will be plainly visible. Discretion shall be exercised in selecting the location for the Kansas liquor stamp to avoid mutilation of the stamp and the covering of any age, designation, bottled-in-bond identification, brand name or other information.

(d) When Kansas liquor identification strips are placed on original containers of alcoholic liquor instead of the identification stamp, each strip shall be placed over the cap or top of the bottle and down the neck, and shoulder of the bottle, in the location where federal revenue strips were formerly placed.

(e) Other alternate stamping methods may be approved by the director.

(Authorized by K.S.A. 41-210 and 41-211, as amended by L. 1985 Ch. 170, Sec. 3; implementing K.S.A. 41-502; effective Jan. 1, 1966; amended Jan. 1, 1984; amended May 1, 1986.)

14-7-7. (Authorized by K.S.A. 41-211, 41-502, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked Jan. 1, 1974.)

14-7-8. (Authorized by K.S.A. 41-211, 41-409, 41-505, K.S.A. 1965 Supp. 41-210, 41-501; effective Jan. 1, 1966; revoked Sept. 26, 1988.)

14-7-9. (Authorized by K.S.A. 41-210, 41-211; effective Jan. 1, 1974; amended, E-74-36, July 2, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1982; revoked May 1, 1983.)

14-7-10. Beer distributors must provide designated geographic territory. Before commencing or continuing business every manufacturer or distributor of beer and every importer of beer must file with the director a diagram in a form approved by the director, showing the designated territory within which the distributor will distribute beer to retailers. The said territory shall be agreed upon in writing by the manufacturer and distributor and a copy of the written agreement concerning the designated geographic territory must be filed with the director.

(Authorized by K.S.A. 41-210, 41-211, K.S.A. 1974 Supp. 41-409; effective May 1, 1975.)

14-7-11. Change or modification of geographic territory. The geographic territory within which any distributor does distribute beer to retailers may not be changed, modified, or cancelled without the written consent of both the manufacturer and distributor and a verified copy of the consent must be filed by the manufacturer and distributor with the office of the alcoholic beverage control division and acknowledged before said change or modification will be effective.

(Authorized by K.S.A. 41-210, 41-211, K.S.A. 1974 Supp. 41-409; effective May 1, 1975.)

14-7-12. Beer distributor selling outside his designated geographic territory. No beer distributor shall sell beer to any retailer who is located outside the geographic territory designated in the notice filed with the director by the distributor: Provided, That, if any beer distributor shall refuse to sell beer or provide service in connection therewith to any retailer located within such beer distributor's geographic territory, it shall be lawful for any other beer distributor to sell beer to such retailer after getting approval from the director.

(Authorized by K.S.A. 41-210, 41-211, K.S.A. 1974 Supp. 41-701; effective May 1, 1975.)

Article 8 - ADVERTISING

(Last amended in 2007)

14-8-1. "Advertisement" defined. The word "advertisement," as used in this article, means any advertisement of alcoholic liquor through the medium of radio, television, newspapers, periodicals, circulars, pamphlets, or other publications or any sign or outdoor advertisement or any other printed or graphic matter.

(Authorized by K.S.A. 41-211, K.S.A. 1987 Supp. 41-714, 41-210; effective Jan. 1, 1966; amended Sept. 26, 1988.)

14-8-2. Prohibited statements and restrictions in the advertising of alcoholic liquor. (a) Advertisements of alcoholic liquor shall not contain any of the following:

- (1) Any statement, design, device or representation that is false or likely to mislead the consumer;
- (2) any statement, design, device, or representation that is obscene, as defined by K.S.A. 21-4301(c)(1) and amendments thereto; or
- (3) any statement concerning the brand of alcoholic liquor that is inconsistent with any statement on the labeling.

(b) Cooperative advertising by two or more retail liquor stores shall be permitted, but advertisements for retail liquor stores shall not directly or indirectly imply, state, or suggest to the public that multiple retail liquor stores have the same ownership or are part of a chain or franchise of retail liquor stores.

(c) Each advertisement shall conspicuously state the full "doing business as" name of each licensed premises included in the advertisement. This name shall be at least as prominent as the stated location of the licensed premises. (Authorized by K.S.A. 41-210, K.S.A. 41-211, and K.S.A. 2006 Supp. 41-714; implementing K.S.A. 41-211 and K.S.A. 2006 Supp. 41-714; effective Jan. 1, 1966; amended Jan. 1, 1971; amended, E-81-36, Dec. 10, 1980; amended, E-82-9, April 27, 1981; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1987; amended Dec. 28, 2007.)

14-8-3. Public display of alcoholic liquor regulated. No public display of alcoholic liquor, except domestic table wine as provided by K.A.R. 14-11-15, intended for retail sale for purposes of consumption shall be made in any place or at any other location than the licensed premises.

(Authorized by K.S.A. 41-210, K.S.A. 41-211, K.S.A. 2006 Supp. 41-714; implementing K.S.A. 2006 Supp. 41-714; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended Dec. 28, 2007.)

14-8-4. (Authorized by K.S.A. 41-211; implementing 1983 Supp. K.S.A. 41-714(d); effective Jan. 1, 1966; amended Jan. 1, 1971; amended Feb. 15, 1977; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1982; amended May 1, 1984; revoked May 1, 1988.)

14-8-5. (Authorized by K.S.A. 41-210, 41-714, K.S.A. 1980 Supp. 41-211; effective Jan. 1, 1966; amended Jan. 1, 1974; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1981; revoked May 1, 1988.)

14-8-6. Advertising on vehicles prohibited. Alcoholic liquor shall not be advertised on any vehicle except that company names, brand names, and logos may appear on vehicles owned by or leased to licensed distributors, manufacturers, nonbeverage users, microbreweries and farm wineries, including any vehicle that is authorized to transport alcoholic liquor pursuant to K.A.R. 14-5-2.

(Authorized by K.S.A. 1987 Supp. 41-210, K.S.A. 41-211; implementing K.S.A. 1987 Supp. 41-714; effective Jan. 1, 1966; amended Jan. 1, 1974; amended May 1, 1986; amended Sept. 26, 1988.)

14-8-7. House-to-house, door-to-door solicitation prohibited. (a) A manufacturer, importer, distributor, club, drinking establishment, caterer, temporary permit holder, farm winery, microbrewery or retailer shall not, directly or indirectly, solicit from house-to-house, from door-to-door, personally, by telephone, by mail or to places of business other than licensed premises authorized by these regulations the purchase or sale of alcoholic liquor, and shall not allow, permit, or suffer any solicitation.

(b) Seminars conducted by manufacturers or distributors, when authorized by the director, may be conducted pursuant to K.A.R. 14-14-6 for other licensees and their employees only.

(Authorized by K.S.A. 1987 Supp. 41-210, K.S.A. 41-211; implementing K.S.A. 1987 Supp. 41-714; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1986; amended Sept. 26, 1988.)

14-8-8. Signs on buildings prohibited. No signs advertising alcoholic liquor shall be painted or in any manner exhibited on the exterior or interior of any building.

(Authorized by K.S.A. 41-211, 41-714, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-8-9. (Authorized by K.S.A. 41-211, 41-714, K.S.A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1971; revoked May 1, 1986.)

14-8-10. (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-714; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1983; revoked May 1, 1986.)

14-8-11. (Authorized by K.S.A. 41-210, 41-714, K.S.A. 1979 Supp. 41-211; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1970; amended Jan. 1, 1972; amended Jan. 1, 1974; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; revoked May 1, 1988.)

14-8-12. Advertising by photographs of licensed premises prohibited. No photographs of the interior or exterior of a retailer's or a distributor's licensed premises shall be used in any manner to advertise or display alcoholic liquors.

(Authorized by K.S.A. 41-211, 41-714, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-8-13. (Authorized by K.S.A. 41-211, 41-712, 41-714, K.S.A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1986.)

Article 10 - TRADE PRACTICES

(Last amended in 1992)

14-10-1. (Authorized by K.S.A. 41-211; implementing K.S.A. 41-211, 41-703, 41-714; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; amended May 1, 1985; amended May 1, 1986; revoked May 1, 1988.)

14-10-1a and 14-10-1b. Not in active use.

Editor's Note: Proposed regulations were rejected by the legislature, see, 1938 C.S.R. 1613.

14-10-2. (Authorized by K.S.A. 41-210, 41-703, 41-714, K.S.A. 1979 Supp. 41-211; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked May 1, 1988.)

14-10-3. (Authorized by K.S.A. 41-210, 41-703, 41-714, K.S.A. 1980 Supp. 41-211; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; amended, E-81-36, Dec. 10, 1980; amended May 1, 1981; revoked May 1, 1988.)

14-10-4. (Authorized by K.S.A. 41-210, 41-703, 41-714, K.S.A. 1980 Supp. 41-211; effective, E-81-36, Dec. 10, 1980; effective May 1, 1981; revoked May 1, 1988.)

14-10-5. Definitions. As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

(a) "Caterer" means a person licensed pursuant to Article 22 of these regulations.

(b) "Club" means the premises or person licensed pursuant to Articles 19 or 20 of these regulations.

(c) "Director" means the director of the division of alcoholic beverage control of the department of revenue.

(d) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 1991 Supp. 41-306, 41-306a, and 41-307, to sell or offer for sale alcoholic liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.

(e) "Drinking establishment" means the premises or person licensed pursuant to Article 21 of these regulations.

(f) "Industry member" means any distributor, manufacturer or supplier, or any agent, salesperson or representative thereof.

(g) "Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler, person or other entity who fills or refills an original package or is engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage. A "manufacturer" shall also mean:

(1) A corporate subsidiary of any manufacturer which markets alcoholic liquor through a subsidiary; and

(2) an American distributor of alcoholic liquor manufactured, produced or bottled in a foreign country. A "manufacturer" shall not include a farm winery or a microbrewery.

(h) "Person" means any natural person, corporation, association, trust or partnership.

(i) "Retailer" means a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto.

(j) "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such a manufacturer, other than a salesperson.

(Authorized by and implementing K.S.A. 1991 Supp. 41-703; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-10-6. General. (a) The use of interpretive memorandums issued by the bureau of alcohol, tobacco and firearms of the United States treasury shall be considered good faith compliance with this article of these regulations unless the director has communicated a contrary interpretation pertaining to the subject of the memorandums.

(b) Subject to the exceptions provided in this article, industry members are prohibited from inducing the purchases of a retailer, club, drinking establishment or caterer by furnishing, giving, renting, lending or selling to the retailer, club, drinking establishment or caterer any equipment, fixtures, signs, supplies, money, services or any other things of value.

(c) This regulation shall take effect on or after October 1, 1988.

(Authorized by and implementing K.S.A. 1987 Supp. 41-703; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-10-7. Indirect inducement through third party arrangements. Indirect furnishing of things of value, as used in this article, shall include furnishing, giving, renting, lending or selling of equipment, fixtures, signs, supplies, money, services, or other things of value by an industry member to a third party, including a retailer association or a display company, where the benefits resulting from the things of value flow to individual retailers. Third parties may furnish, give, rent, lend, or sell equipment, fixtures, signs, supplies, money, services, or things of value to retailers, clubs, drinking establishments or caterers which industry members may lawfully provide to retailers, clubs, drinking establishments or caterers under the provisions of this article. This regulation shall take effect on or after October 1, 1988.

(Authorized by and implementing K.S.A. 1987 Supp. 41-703; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-10-8. Sale of equipment, supplies or services. (a) Selling of equipment, as used in this article, means a transaction in which equipment is sold to a club, drinking establishment or caterer by an industry member, regardless of how sold. An industry member shall not negotiate a special price for a club, drinking establishment or caterer for equipment from an equipment company.

(b) Any industry member may sell glassware to a club, drinking establishment or caterer if the glassware is sold at a price not less than the cost to the industry member who initially purchased it, and if the price is collected upon the date of sale.

(c) Tapping accessories, such as standards, faucets, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves, may be sold to a club, drinking establishment or caterer and installed in those places of business if the tapping accessories are sold at a price not less than the cost to the industry member who initially purchased them, and if the price is collected upon the date of sale.

(d) Carbon dioxide gas or ice may be sold to a club, drinking establishment or caterer, if sold in accordance with the reasonable open market price in the locality where sold, and if the price is collected upon the date of sale.

(e) Coil cleaning service may be furnished, given or sold to a club, drinking establishment or caterer.

(f) Any industry member may, at a retail establishment, stock, rotate and affix the price to distilled spirits, wine, or beer which the member sells, if products purchased from other industry members are not altered or disturbed.

(g) This regulation shall take effect on or after October 1, 1988.

(Authorized by and implementing K.S.A. 1987 Supp. 41-703; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-10-9. Assistance in acquiring a license. An industry member shall not provide any assistance, including financial, legal, administrative or influential, to a retailer, club, drinking establishment or caterer in acquiring a license issued by the director. This regulation shall take effect on or after October 1, 1988.

(Authorized by and implementing K.S.A. 1987 Supp. 41-703; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-10-10. Advertising signs, cooperative advertising, trade journals. (a) An industry member shall not induce a retailer, club, drinking establishment or caterer to make purchases by paying or crediting the retailer, club, drinking establishment or caterer for any advertising, display or distribution service, whether or not the advertising, display or distribution service received is commensurate with the amount paid by the retailer, club, drinking establishment, or caterer.

(1) Any arrangement in which an industry member participates with a retailer, club, drinking establishment or caterer in paying for an advertisement placed by the retailer, club, drinking establishment or caterer shall constitute paying the retailer, club, drinking establishment or caterer for advertising.

(2) The purchase by an industry member, of advertising on signs, scoreboards, programs, scorecards, and the like at ballparks, racetracks or stadiums, from the retail concessionaire shall constitute paying the retailer, club, drinking establishment or caterer for an advertising service.

(3) The purchase, by an industry member, of advertising in a retailer, club, drinking establishment or caterer publication for distribution to consumers or the general public shall constitute paying the retailer, club, drinking establishment or caterer for advertising.

(4) Industry member reimbursements to retailers, clubs, drinking establishments or caterers for setting up product or other displays shall constitute paying the retailer, club, drinking establishment or caterer for rendering a display service.

(5) A promotion whereby an industry member rents display space at a retail establishment shall constitute paying the retailer, club, drinking establishment, or caterer for rendering a display service.

(b) Industry members may furnish signs to retailers, clubs, drinking establishments and caterers under the following limitations:

(1) The sign shall have no secondary value and be of value only as product advertising to the retailer, club, drinking establishment or caterer.

(2) An industry member shall not directly or indirectly pay or credit the retailer, club, drinking establishment or caterer for displaying the sign or for any expense incidental to its installation, removal or operation.

(c) Consumer advertising specialties, including ash trays, bottle or can openers, cork screws, matches, printed recipes, informational pamphlets, cards and leaflets, blotters, post cards, posters, printed sports schedules, pens, pencils and other similar items as approved by the director, which bear advertising matter may be furnished, given or sold to a retailer, club, drinking establishment or caterer for unconditional distribution by the retailer, club, drinking establishment or caterer to the general public. The retailer, club, drinking establishment or caterer shall not be paid or credited in any manner, directly or indirectly, for this distribution service.

(d) Any industry member may furnish, give, rent, loan, or sell wine lists or wine menus to clubs, drinking establishments or caterers.

(e) Newspaper cuts, mats, or engraved blocks for use in retailer, club, drinking establishment or caterer advertisements may be furnished, given, rented, loaned, or sold by an industry member to a retailer, club, drinking establishment or caterer selling the industry members' products.

(Authorized by K.S.A. 1991 Supp. 41-703; implementing K.S.A. 1991 Supp. 41-703; 41-308 as amended by 1992 HB 2840; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-10-11. Item intended for consumers and promotions. (a) A manufacturer may include in packaging with alcoholic liquor other goods intended to be offered directly to the consumer. All costs directly related to the assembly of packages containing alcoholic liquor and other goods shall be borne solely by the manufacturer. A manufacturer shall not include any goods in packaging with alcoholic liquor prior to obtaining written approval from the director and furnishing the distributor with a copy of the approved request. A manufacturer shall request approval by submitting the following information to the director no less than 30 days in advance of the intended shipping date:

- (1) a color photograph, not less than 5 inches by 7 inches in size, of the complete package;
- (2) the cost to the manufacturer of each item to be packaged with the alcoholic liquor;
- (3) the total cost of the complete package, including alcoholic liquor, to be charged to the distributor by the manufacturer;
- (4) a description of each item's intended use or value to the consumer, including a statement identifying the expiration date of any item intended for human consumption; and
- (5) the unimeric code number assigned to the package.

(b) Contest prizes, premium offers, refunds, and like items may be offered by industry members directly to consumers. Retailers, clubs, drinking establishments or caterers shall not seek reimbursement from any industry member for any consumer promotion. Retailers, clubs, drinking establishments or caterers may distribute coupons and other consumer premiums to consumers for redemption by the industry member. The retailer, club, drinking establishment or caterer shall not accept or receive any payment or credit for this distribution service. Officers, employees and representatives of distributors, retailers, clubs, drinking establishments or caterers shall be excluded from participation.

(Authorized by K.S.A. 1991 Supp. 41-703; implementing K.S.A. 1991 Supp. 41-703 and K.S.A. 1991 Supp. 41-308 as amended by 1992 HB 2840; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-10-12. Recordkeeping requirements. Each industry member shall maintain for three years, on the industry member's premises, records of all equipment, supplies, services, and retailer advertising specialty and product display items furnished to retailers, clubs, drinking establishments or caterers. Each industry member shall make these records available for inspection by the director or any agent or employee of the director or secretary upon request. Commercial records or invoices may be used to satisfy this recordkeeping provision if all required information is shown. These records shall show:

- (a) The name and address of the retailer, club, drinking establishment or caterer receiving the item;
- (b) the date furnished;
- (c) the item furnished;
- (d) the industry member's cost of the item furnished as determined by the manufacturer's invoice price; and
- (e) charges to the retailer, club, drinking establishment and caterer for any item.

(Authorized by and implementing K.S.A. 1991 Supp. 41-703; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-10-13. Product displays. (a) An industry member may furnish, give, rent, loan, or sell product displays to a retailer, club, drinking establishment or caterer, subject to the limitations prescribed in subsection (c), below.

(b) Product display means any wine racks, bins, barrels, casks, shelving, and the like from which distilled spirits, wine, or malt beverages are displayed and sold.

(c) Product displays shall be provided under the following limitations:

(1) The total value of all product displays furnished by an industry member under subsection (a), above, shall not exceed the value authorized by the bureau of alcohol, tobacco and firearms of the United States treasury, per brand in use at any time on the licensed premises of a retailer, club, drinking establishment or caterer. The value of a product display shall be the actual cost to the industry member who initially purchased it. Transportation and installation costs shall be excluded.

(2) Industry members shall not pool or combine their dollar limitations to provide a retailer, club, drinking establishment or caterer with a product display valued in excess of the value, as authorized by the bureau of alcohol, tobacco, and firearms of the United States treasury, per brand.

(3) Product displays shall bear conspicuous and substantial advertising matter.

(d) This regulation shall take effect on or after October 1, 1988.

(Authorized by and implementing K.S.A. 41-703; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-10-14. Retail advertising specialties. (a) Any industry member may furnish, give, rent, loan, or sell retail advertising specialties to a retailer, club, drinking establishment or caterer if these items bear advertising matter and are primarily valuable to the retailer, club, drinking establishment or caterer as point of sale advertising. These items include trays, coasters, mats, thermometers, clocks and calendars. Any industry member may add the name or name and address of the retailer, club, drinking establishment or caterer **to the** advertising specialty.

(b) Advertising specialties may be provided under the following limitations:

(1) The total value of all retailer, club, drinking establishment or caterer advertising specialties furnished by an industry member to a retailer, club, drinking establishment or caterer shall not exceed the value authorized by the bureau of alcohol, tobacco, and firearms of the United States treasury, per brand in any one calendar year for each retailer, club, drinking establishment or caterer. The value of a retailer, club, drinking establishment or caterer advertising specialty shall be the actual cost of that item to the industry member who initially purchased it. Transportation and installation costs shall be excluded.

(2) Industry members shall not pool or combine their dollar limitations to provide a retailer, club, drinking establishment or caterer with retail advertising specialties valued in excess of the value authorized by the bureau of alcohol, tobacco and firearms of the United States treasury, per brand.

(c) This regulation shall take effect on or after October 1, 1988.

(Authorized by and implementing K.S.A. 1987 Supp. 41-703; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

[ABC Attorney's Note: The words "to the" were apparently omitted from subsection (a) above when this regulation was approved. Correction was submitted Dec 2005.]

14-10-15. Participation in retailer association activities. Any industry member may participate in retailer, club, drinking establishment or caterer association activities. Any industry member may:

- (a) Display its products at a convention or trade show;
- (b) rent display booth space if the rental fee is not excessive and is the same as paid by all exhibitors;
- (c) provide its own hospitality which is independent from association-sponsored activities;
- (d) purchase tickets to functions and pay registration fees if the payments or fees are not excessive and are the same as paid by all exhibitors; and
- (e) make payments for advertisements in programs or brochures issued by retailer, club, drinking establishment or caterer associations at a convention or trade show if the total payments made by an industry member for all such advertisements do not exceed the value authorized by the bureau of alcohol, tobacco, and firearms of the United States treasury, per year for any retailer, club, drinking establishment or caterer association.

(f) This regulation shall take effect on or after October 1, 1988.

(Authorized by and implementing K.S.A. 1987 Supp. 41-703; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-10-16. Defective liquor containers; repurchase by distributor; when allowed. (a) Liquor containers, except beer containers, that leak, contain foreign matter in the bottle, are short-filled, have broken federal seals, have badly soiled or stained labels, or are not otherwise fit for resale to the general public, shall not be knowingly sold by distributors. Suppliers' representatives shall not arrange to have retailers accept such merchandise.

(b) Any distributor may:

- (1) Buy back any item of alcoholic liquor or cereal malt beverage when required by the supplier;
- (2) buy back any item alcoholic liquor or cereal malt beverage from a club, drinking establishment, caterer or retailer that has obtained the approval of the director to close out; and
- (3) buy back or exchange any item of alcoholic liquor or cereal malt beverage which is damaged, as described in subsection (a), above.

(c) Any alcoholic liquor or cereal malt beverage that is damaged as described in subsection (a), above shall not be knowingly sold by suppliers to distributors and any such damaged merchandise sold by a supplier to a distributor shall be retrieved by the supplier and exchanged for merchandise fit for sale or the supplier may authorize its destruction and refund to the distributor the purchase price thereof.

(d) A product shall not be returned or exchanged because it is overstocked or slow-moving.

(e) Products for which there is only a limited or seasonal demand, including holiday decanters and certain distinctive bottles, shall not be returned or exchanged.

(f) This regulation shall take effect on or after October 1, 1988.

(Authorized by K.S.A. 1987 Supp. 41-703; implementing K.S.A. 1987 Supp. 41-703, 41-728; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

Article 11 - FARM WINERIES

(Last amended in 1989)

14-11-1. Reserved.

14-11-2. (Authorized by K.S.A. 41-210; implementing K.S.A. 41-715; effective May 1, 1984; revoked Jan. 2, 1989.)

14-11-3. Farm winery licensee shall not be employed by a licensed club. No farm winery licensee, or the spouse of any licensee, shall be employed in the capacity of an officer or manager of a club which is licensed by the director and shall not be employed in connection with the mixing, serving, selling and dispensing of alcoholic liquor in such a club. Employees of farm winery licensees shall not purchase, or receive an order to deliver, any alcoholic liquors for a licensed private club.

(Authorized by K.S.A. 41-210; implementing K.S.A. 1983 Supp. 41-311(b)(4); effective May 1, 1984.)

14-11-4. Reserved.

14-11-5. Licensed farm winery's warehouses to be separate. Every licensed farm winery shall provide, at the licensee's own expense, a warehouse area to be situated on and to constitute a part of the farm winery's premises. The warehouse area shall be used solely and exclusively for the purpose of storage of domestic table wine manufactured by that winery. Domestic table wine shall not be stored in any other place, except as provided in K.A.R. 14-5-4.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-401, K.S.A. 1983 Supp. 41-308a; effective May 1, 1984.)

14-11-6. Opened containers of domestic table wine on the licensed premises. A licensed farm winery that sells domestic table wine at retail shall not permit the original package or container of any domestic table wine to be opened in or on that portion of the licensed premises that is used for retail sales. The presence of any unsealed container or original package containing domestic table wine on the retail sales area of the licensed premises shall be considered as prima facie evidence of a violation of the act.

(Authorized by K.S.A. 41-210; implementing K.S.A. 1983 Supp. 41-308a; effective May 1, 1984.)

14-11-7. Retail sales and deliveries shall be made within licensed premises. Retail sales of domestic table wine by a farm winery shall be made only on and within the licensed premises. Deliveries of domestic table wine sold at retail by a farm winery shall be made only within the licensed premises for off-premise consumption.

(Authorized by K.S.A. 41-210; implementing K.S.A. 1983 Supp. 41-308a; effective May 1, 1984.)

14-11-8. (Authorized by K.S.A. 41-210; implementing K.S.A. 41-715; effective May 1, 1984; revoked Jan. 2, 1989.)

14-11-9. Farm winery licensee prohibited from acting as bailee of domestic table wines for retail purchasers for delivery when sales are illegal. No licensed farm winery that sells domestic table wine at retail shall take orders, or otherwise arrange sales of domestic table wine, for retail customers for the purpose of delivering the domestic table wine before the legal opening hour or after the legal closing hour or on any day when sales at retail are prohibited.

(Authorized by K.S.A. 41-210; implementing K.S.A. 1983 Supp. 41-717; effective May 1, 1984.)

14-11-10. Reserved.

14-11-10a. Licensed farm wineries; sworn statement. Every farm winery, before selling or offering to sell any domestic table wine to a licensed distributor, shall file with the director a written statement sworn by the licensee, in which it shall agree that:

(1) it will sell any of the brands or kinds of domestic table wine manufactured or distributed by it to any licensed distributor;

(2) all such sales will be made to all licensed distributors in this state at the same current price and without discrimination; and

(3) price lists showing the current prices will be filed by it in the office of the director each month.

If the licensee is an individual, that person must execute the agreement. If the licensee is a partnership, any partner may execute the agreement. If the licensee is a corporation, any director, officer, or manager who has authority to contract on behalf of the corporate licensee may execute the agreement.

(Authorized by K.S.A. 41-1118; implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984.)

14-11-10b. Licensed farm wineries; price listings. (a) The price listings filed, with the director, by each farm winery under K.A.R. 14-11-10a, shall be the cash price for domestic table wine sold by the case. All price projections required to be filed by farm wineries with the director shall be based on the farm winery's cash price to distributors. A certified copy of each contract used for the sale of domestic table wine shall be filed with the director by the farm winery making those sales.

(b) Price listings for domestic wine in cases shall show:

(1) the place from which shipments will be made;

(2) the price, per case, for each size of original packages of each particular brand or kind of domestic table wine sold or offered for sale by the farm winery; and

(3) any other information that the director may require.

(c) (1) When the domestic wine is sold in bulk, the price list shall show one or more of the following:

(A) the cash price;

(B) the wholly deferred, or partly deferred, payment price; and

(C) transportation charges from the farm winery's warehouse or the point from which the farm winery will make shipment. The price listings shall not include the gallonage tax imposed by the act.

(2) Price listings for domestic table wines in bulk, posted by the barrel, shall also show:

(A) for each class and type of particular brand or brands, if any, under which the domestic table wines in bulk will be bottled, the age, price per proof gallon and original gauge in bond; and

(B) any other information that the director may require.

(Authorized by K.S.A. 41-1118; implementing K.S.A. 41-1112, K.S.A. 1983 Supp. 41-1101; effective May 1, 1984.)

14-11-10c. (Authorized by K.S.A. 41-1118; implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984; revoked Jan. 2, 1989.)

14-11-10d. Sale of wine prohibited prior to filing price schedule; penalties. No farm winery shall sell, offer for sale or deliver to any licensee any domestic table wine before the farm winery files a schedule of prices for that wine in the office of the director as required by K.A.R. 11-3-10b.

The penalty for any violation of the requirements of this regulation shall be suspension or revocation of the license or the imposition of a fine.

(Authorized by K.S.A. 41-1118; implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984.)

14-11-11. Domestic table wine rationing; requirements. Each licensed farm winery that sells its wine to distributors in the state of Kansas shall immediately notify the director if that winery does not have a sufficient supply of domestic table wine, of any of the brands or kinds which it manufactures and distributes, to fill and ship all orders of each licensed distributor who possesses a franchise for that farm winery's brands in this state, in the sequence and order in which those purchase orders are received and within 45 calendar days from the date on the order of the licensed distributor. Such a farm winery shall submit, for the approval or rejection of the director, an equitable plan of distribution of all domestic table wine that is in short supply. The failure of such a farm winery to notify the director or to submit a plan of distribution shall be grounds for the suspension or revocation of the license of that farm winery or for the imposition of a monetary fine.

(Authorized by K.S.A. 41-1118, implementing K.S.A. 1983 Supp. 41-1101; effective May 1, 1984.)

14-11-12. (Authorized by K.S.A. 41-210; implementing K.S.A. 41-702, K.S.A. 1983 Supp. 41-308a; effective May 1, 1984; revoked Jan. 2, 1989.)

14-11-13. (Authorized by K.S.A. 41-211; implementing K.S.A. 41-714, as amended by L. 1983, Ch. 161, Sec. 17; effective May 1, 1984; revoked May 1, 1985.)

14-11-14. Prohibited statements and restrictions in the advertising of domestic table wine. (a) Advertisements of domestic table wine shall not contain:

(1) any statement, design, device, or representation of, or relating to, any guaranty which is false or likely to mislead the consumer;

(2) any statement, design, device, or representation which is obscene, indecent, undignified or in bad taste;

(3) any statement concerning the brand of alcoholic liquor that is inconsistent with any statement of the labeling;

(4) any statement of, or relating to, the price of domestic table wine, except a reference to the authorized discount on case sales, if the advertisement is directed to the public;

(5) any statement, design, or device representing that the use of any domestic table wine has curative or therapeutic effects, if the statement is untrue specifically or tends to create a misleading impression;

(6) any statement, design, device, or representation relating to analysis, standards, or tests, irrespective of falsity, which is likely to mislead the consumer;

(7) any statement that the product is produced, blended, made, bottled, packed, or sold under or in accordance with any authorization, law, or regulation of any municipality, county, state, federal, or foreign government unless this statement is required or specifically authorized by the laws or regulations of that government. If a municipal, county, state or federal permit number is stated, this permit number shall not be accompanied by any additional statement relating to it;

(8) any statement that domestic table wine was manufactured in, or imported from, a place or country other than that of its actual origin, or that it was produced or processed by one who was not in fact the actual producer or processor;

(9) any statement, design, device or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, the American flag, any state flag or of any emblem, seal, insignia, or decoration associated with any flag or the armed forces of the United States. Advertisements shall not contain any statement, device, design, or pictorial representation of, or concerning, any flag, seal, coat of arms, crest, or other insignia that is likely to falsely lead the consumer to believe that the product has been endorsed, made, used by, produced for or under the supervision of, or in accordance with the specifications of, a government, organization, family, or individual with whom the flag, seal, coat of arms, crest, or insignia is associated;

(10) any statement, design, or device that, directly or by implication, concerns age or maturity of any brand or lot of domestic table wine unless a statement of age appears on the label of the advertised product. If a statement, design, or device concerning age or maturity is contained in any advertisement, it shall include, in direct conjunction with and with substantially equal conspicuousness, all parts of the statement concerning age and percentages, if any, which appear on the label.

(b) Licensed farm wineries may advertise the farm winery's products by brand name.

(Authorized by K.S.A. 41-211; implementing K.S.A. 1984 Supp. 41-714; effective May 1, 1984; amended May 1, 1985.)

14-11-15. Public display of domestic table wine regulated. Domestic table wine intended for retail sale for purposes of consumption shall not be placed on public display in any place or at any other location than the licensed premises. Licensed farm wineries may, if approved by the director upon receipt of a written request, display domestic table wines at state or county fairs or other agricultural shows if no free samples are dispensed, no retail sales are made at the fair or show, and no orders are taken for subsequent sales.

(Authorized by K.S.A. 41-211; implementing K.S.A. 1983 Supp. 41-714; effective May 1, 1984.)

14-11-16. Farm wineries that sell at retail; marking price on original packages; use of price or inventory control tags, or both; shelf markings; and price marking on point of sale materials. Kansas farm wineries that sell domestic table wine at retail may mark the retail selling price on the glass portion of the original container by means of crayon, grease pencil, or other similar method. Price marking on the container's label, Kansas ID stamps, or federal strip shall be prohibited. Licensees may affix, to an original container, a price or inventory control paper tag or both. Luminous, fluorescent or similar paper may be used for price or inventory control tags.

Farm winery licensees having authorized coolers or refrigerators may place on the refrigerator or cooler or on a nearby wall the list of cold items available and the price per item or case. In addition, licensees may place price information on point of sale materials as authorized and defined by K.A.R. 14-10-1.

(Authorized by K.S.A. 41-211; implementing K.S.A. 1983 Supp. 41-714; effective May 1, 1984.)

14-11-17 through 14-11-21. (Authorized by K.S.A. 41-211; implementing K.S.A. 1983 Supp. 41-714; effective May 1, 1984; revoked Jan. 2, 1989.)

Article 13 - RETAIL LIQUOR DEALER

(Last amended in 2003)

14-13-1 Definitions. As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

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

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

(c) "Beneficial interest" means any ownership interest by a person or that person's spouse in a business, corporation, partnership, trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization.

(d) "Bulk wine" means wine which is sold to a club either by a retailer or a distributor in barrels, casks or bulk containers which individually exceed 20 liters.

(e) "Caterer" means a person licensed pursuant to Article 22 of these regulations.

(f) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

(g) "Church" means a building owned or leased by a religious organization and used exclusively as a place for religious worship and other activities ordinarily conducted by a religious organization.

(h) "Club" means the premises or person licensed pursuant to Articles 19 or 20 of these regulations.

(i) "Director" means the director of the division of alcoholic beverage control of the department of revenue.

(j) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 1991 Supp. 41-306, 41-306a, and 41-307, to sell or offer for sale alcoholic liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.

(k) "Drinking establishment" means the premises or person which has been licensed pursuant to Article 21 of these regulations.

(l) "Licensed premises" means those areas described in an application for a retailer's license which are under the control of the applicant and which are intended as the area in which alcoholic liquor is to be sold for consumption off the licensed premises or stored for later sale.

(m) "Morals charge" means a charge made in an indictment, information or a complaint alleging crimes which involve:

- (1) Prostitution;
- (2) procuring any person;
- (3) solicitation of a child under 18 years of age for any immoral act involving sex;
- (4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;
- (5) rape;
- (6) incest;
- (7) gambling;
- (8) adultery; or
- (9) bigamy.

(n) "Person" means any natural person, corporation, association, trust or partnership.

(o) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.

(p) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substances in solution. The term "spirits" includes brandy, rum, whiskey, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(q) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(Authorized by K.S.A. 1991 Supp. 41-210; implementing K.S.A. 1991 Supp. 41-102, as amended by 1992 HB 2719; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-13-2. Application for retail liquor license, contents, conditions and restrictions on issuance of license. (a) A retailer's license shall be issued by the director to each applicant who is determined by the director to have satisfied the requirements of the liquor control act and article 13 of these regulations.

(b) Each application for a retailer's license shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Each application for a retailer's license shall be accompanied by the following documents and all other documents the director deems necessary:

(1) A copy of any partnership agreement, declaration of trust or other documents setting forth the aims and purposes of the trust, if applicable;

(2) a copy of a written lease, with at least nine months remaining in its term from the date the license is issued, or proof of ownership of the premises sought to be licensed;

(3) a certified statement from the applicant that the licensed premises are located:

(A) In an area where the zoning regulations of either the city, township or county allow the operation of a retail liquor store; or

(B) in an area where no zoning regulations have been adopted;

(4) the registration fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(5) the licensee fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(6) a bond in the sum of \$2,000, with corporate sureties, conditioned on the retailer's compliance with the provisions of these regulations, the liquor control act and payment of all taxes, fines and forfeitures assessed by the director against the retailer;

(7) a copy of the notice given to the city clerk, if the licensed premises are located within an incorporated city, or the clerk of the township board of trustees in which the licensed premises are located, if the licensed premises are located outside an incorporated city; and

(8) a description of the licensed premises. The description shall state the location of the licensed premises, the approximate dimensions of the licensed premises and enough detail to identify the licensed premises.

(A) Subject to the prior approval of the director, the licensed premises may include:

(i) Those areas outside the main sales area which are within 100 meters of the main sales area and located upon property which is subject to the applicant's legal control; or

(ii) a detached storage area used exclusively for storage of alcoholic liquor by the retailer. The storage area shall be located within 100 meters of the licensed premises.

(B) The licensed premises shall not include:

(i) An inside entrance or opening which connects directly with any other place of business or with a residence; or

(ii) any premises which are located within 200 feet of any public or parochial school, college or church, unless such premises were licensed at the time the school, college or church was established.

(c) An individual, trust or partnership shall not be issued a retailer's license if any individual, grantor, beneficiary, trustee, partner or spouse of any individual, grantor, beneficiary, trustee or partner:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age. This shall not apply to any beneficiary or to the spouse of any individual, grantor, beneficiary, trustee or partner;

(5) (A) Appoints or supervises any law enforcement officer, other than as a member of the governing body of a city or county;

(B) is a law enforcement official; or

(C) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the license;

(7) at the time of application for renewal of the license issued by the director would be ineligible for the license upon a first application. This shall not apply if the spouse of any individual, grantor, beneficiary, trustee or partner is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked, except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(9) has a beneficial interest in:

(A) A license allowing the manufacture, preparation or wholesale of alcoholic liquors;

(B) any club, drinking establishment or caterer licensed by the director;

(C) another retail liquor store licensed by the director; or

(D) a license allowing the manufacture, preparation or wholesale of cereal malt beverages.

(10) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of any individual, grantor, beneficiary, trustee or partner or to an applicant who is the spouse of a deceased retail licensee if the applicant is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(11) has been a resident of the State of Kansas for less than four years immediately preceding the date of application. This shall not apply to the spouse of any individual, grantor, beneficiary, trustee or partner or in determining the eligibility of an applicant upon the 10th or a subsequent consecutive renewal of a license if the applicant has designated a Kansas resident agent as provided for in K.S.A. 41-311, and amendments thereto; or

(12) is employed in the capacity of an officer or a manager, or in connection with the mixing, serving, selling and dispensing of alcoholic liquor for a club, drinking establishment or caterer which is licensed by the director. This shall not apply to a retail licensee who is also any officer, director or board member of a class A club if the retail licensee does not sell alcoholic liquor to the class A club.

(d) An application for a license may be rejected by the director if the applicant or any individual, grantor, beneficiary, trustee or partner is currently delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas.

(e) For the purpose of determining qualification under subsections (c) and (d) of this regulation, any person who provides financing to or leases premises to a retailer upon terms which result in that person having a beneficial interest in the retailer's business shall be deemed to be a partner in the

retailer's business. A person who provides financing to a retailer shall be deemed to have a beneficial interest in the retailer's business if the terms for repayment are conditioned on the amount of the retailer's receipts or profits from the sale of alcoholic liquor. A lessor shall be deemed to have a beneficial interest in a retailer's business if the lessor receives as rent, in whole or in part, a percentage of the retailer's receipts or profits from the sale of alcoholic liquor. Financing or percentage rent provisions that exclude alcoholic liquor sales shall be subject to review and approval by the director.

(Authorized by K.S.A. 1991 Supp. 41-210; implementing K.S.A. 41-211; 41-301; 41-315; K.S.A. 1991 Supp. 41-710; K.S.A. 41-711; K.S.A. 1991 Supp. 41-310; K.S.A. 1991 Supp. 41-311, as amended by 1992 HB 2719; 41-312; K.S.A. 1991 Supp. 41-317; K.S.A. 1991 Supp. 41-703; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-13-3. Application for renewal of license, short method. (a) Any retailer making application for the renewal of an existing license may file a certified statement that the information contained in the retailer's most recent complete application has not changed except for those items specifically identified by the retailer as having changed. In addition to this certified statement, the retailer shall provide the following items with each renewal application:

(1) If the licensed premises are leased, a copy of a written lease, with at least nine months remaining in its term from the date the license is issued;

(2) a certified statement that the renewal applicant is still qualified to obtain a license under the requirements of K.A.R. 14-13-2;

(3) the registration fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(4) the license fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(5) the registration of all employees of the renewal applicant employed at the time of the renewal application; and

(6) a bond in the sum of \$2,000.

(b) Notwithstanding the provisions of subsection (a), each retailer shall file a new and complete application, as required by K.A.R. 14-13-2, at least every five years.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-211, 41-318, 41-327; effective May 1, 1988.)

14-13-4. Retailer must pay city or township license tax and purchase a federal retail stamp before making sales. (a) A retailer shall not sell or offer for sale any alcoholic liquor until the retailer has paid the annual occupation or license tax imposed by the city or township in which the licensed premises are located.

(b) A retailer shall purchase from the United States bureau of alcohol, tobacco and firearms a federal retail tax stamp or, if applicable, a federal wholesale tax stamp and shall display that stamp, or proof of payment for the stamp, in public view on the licensed premises.

(Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-310; effective May 1, 1988; amended Aug. 6, 1990.)

14-13-5. Retailers; registration of employees, responsibility for conduct of business and of employees. (a) Each retailer shall register all employees with the director within five days after the employee begins work for the retailer and upon each renewal of the retailer's license. The registration shall be submitted on the forms provided by the director.

(b) Each retailer shall be responsible for the conduct of the retailer's business and shall be directly responsible for violations of the liquor control act or these regulations by any employee engaged in and acting in the course of employment.

(c) A retailer shall not employ:

(1) any person who is an employee of a licensed distributor or any person who is the spouse of an employee of a licensed distributor;

(2) any person who has been convicted of a felony; or

(3) any person who is under the age of 21 years.

(Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-311, 41-312, 41-713; effective May 1, 1988; amended July 1, 1991.)

14-13-6. Change of location of business; application to director; permission to be endorsed on license. A retailer shall not change the location of the licensed premises until the director has endorsed the approval of the change on the license. Each application to change locations of the licensed premises shall be made to the director and shall contain:

(a) A description of the proposed licensed premises;

(b) proof of ownership of the licensed premises or a lease of the licensed premises with at least nine months remaining on its terms; and

(c) a statement of all other information which has changed following the last regularly filed application of the retailer.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing 41-315; effective May 1, 1988.)

14-13-7. Licenses, loss or destruction of; application for and issuance of duplicate. Whenever any license issued by the director is lost or destroyed before its expiration, the retailer to whom the license was issued may make written application to the director for a duplicate license. The application shall set forth all the facts and circumstances concerning the loss or destruction of the license and shall be sworn to by each person applying for the duplicate. Upon review of the application, a duplicate license may be issued by the director.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-211; effective May 1, 1988.)

14-13-8. Transfer of stock of liquor of retailer whose license has terminated; applications for permission to director by seller and purchaser; inventory and reports. (a) When a retailer's license has expired or been revoked, that retailer shall apply to the director for permission to transfer the retailer's stock of alcoholic liquors to a qualified licensee. The retailer shall furnish the director with an inventory of the alcoholic liquors to be transferred. The licensee who desires to purchase the stock of alcoholic liquor shall apply to the director for permission to make such a purchase and shall submit a written report to the director listing the quantity, brands, and types of alcoholic liquor purchased and the address to which it was actually delivered after the purchase. The alcoholic liquor shall not be sold or purchased by a retailer or other licensee until written permission is granted by the director.

(b) When a retailer's license has expired or been revoked and no appeal has been taken from the order of revocation, all alcoholic liquors in the possession of the retailer may be possessed by the director, pending a sale and transfer to another qualified licensee.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-1102; effective May 1, 1988.)

14-13-9. Transactions prohibited, agreements and deliveries by retailer for sale or resale off licensed premises, registration of vehicle. (a) Any retailer may sell and deliver alcoholic liquor to a club, drinking establishment, or caterer if all of the following conditions are met:

(1) All deliveries of alcoholic liquor are made to the licensed premises of a club or drinking establishment and to the principal place of business of a caterer.

(2) All deliveries are made by a registered employee of the retailer.

(3) All deliveries are made in a registered vehicle of the retailer.

(4) The retailer provides a sales slip or voucher for each item delivered as required by K.A.R. 14-13-10.

(5) The retailer receives payment for all deliveries before or at the time of the deliveries.

(6) The retailer has first obtained a federal wholesale basic permit and displays a sign on the licensed premises stating that the retailer is a "Wholesale Liquor Dealer Under Federal Law."

(7) All deliveries of alcoholic liquor are made on those days and during those hours that a retailer may sell alcoholic liquor as provided in K.S.A. 41-712, and amendments thereto.

(8) All deliveries originate from the licensed premises of the retailer.

(b) Each retailer who desires to transport alcoholic liquor shall register each vehicle to be used for the transportation of alcoholic liquor with the director, upon forms provided by the director, and shall maintain in each vehicle an identification card issued by the director. Each registered delivery vehicle shall display the retail licensee's business name and address in plain block lettering on the front door panels of the delivery vehicle.

(c) Any retailer may sell alcoholic liquor to a temporary permit holder if all of the following conditions are met:

(1) Sales are made only upon the licensed premises of the retailer.

(2) No deliveries are made to a temporary permit holder or an event sponsor.

(3) The retailer provides a sales slip or voucher as required by K.A.R. 14-13-10.

(d) Retailers shall not sell or deliver any alcoholic liquor to any person with knowledge of, or with reasonable cause to believe, that the person to whom the liquor is sold or delivered has acquired the alcoholic liquor for the purpose of peddling or reselling the alcoholic liquor in violation of article 13 of these regulations, the Kansas liquor control act, or the club and drinking establishment act.

(e) All alcoholic liquor of a retail licensee shall be stored upon the licensed premises of the licensee. Alcoholic liquor shall not be stored upon the licensed premises after the sale.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-210, K.S.A. 41-308, and K.S.A. 41-717; effective May 1, 1988; amended Aug. 6, 1990; amended July 1, 1991; amended Nov. 21, 2003.)

14-13-10. Records of purchases and sales; invoices or sales tickets to be furnished by distributor or retailer; retention of records; records subject to inspection; required reports to director. (a) Each retailer purchasing alcoholic liquor from a licensed distributor shall obtain a numbered invoice, purchase order, or sales ticket which contains the following information:

- (1) The date of purchase;
- (2) the name, address and license number of the retailer;
- (3) the name, address and license number of the distributor;
- (4) the name of the individual making the purchase for the retailer;
- (5) the brand, size, proof, and amount of each brand purchased;
- (6) the unit cost and total price for each brand and size; and
- (7) the subtotal of the cost of the alcoholic liquor purchased and the total cost of the order including delivery charge, if any.

(b) Each retailer engaged in sales to licensed clubs, drinking establishments, caterers or temporary permit holders shall provide a numbered invoice, purchase order or sales ticket in connection with all purchases which shall include the following information:

- (1) The date of purchase;
- (2) the name, address and license number of the retailer;
- (3) the name, address and license number of the club, drinking establishment, caterer or temporary permit holder;
- (4) the name of the individual making the purchase for the club, drinking establishment, caterer or temporary permit holder and that individual's position with the club, drinking establishment, caterer or temporary permit holder;
- (5) the brand, size, proof, and amount of each brand purchased;
- (6) the unit cost and total price for each brand and size; and
- (7) the subtotal of the cost of the alcoholic liquor sold and the total cost of the order including enforcement tax and delivery charge, if any.

(c) Each retailer who holds a federal wholesale basic permit shall, between the 1st and the 15th day of each month, upon a form to be provided by the director, submit a certified report of all sales made to any licensed club, drinking establishment, caterer or temporary permit holder during the preceding month. The report shall include the following information for each order placed by and sold to a club, drinking establishment, caterer or temporary permit holder:

- (1) The date of the order;
- (2) the name, address and license number of the club, drinking establishment, caterer or temporary permit holder; and
- (3) the total price paid for each order.

(d) The retailer shall keep a copy of each invoice, purchase order or sales ticket required by this regulation on the licensed premises for three years from the date the alcoholic liquor was sold. These records shall be available for inspection by the director or any agent or employee of the director or secretary upon request.

(e) Each retailer shall keep on its licensed premises for a period of three years receipts for all point-of-sale materials purchased by the licensee from a distributor under authority of K.A.R 14-10-1 et seq.

(Authorized by K.S.A 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-308 as amended by L. 1987, Ch. 183, Sec. 1, 41-703 as amended by L. 1987, Ch. 182, Sec. 48, 41-708, 41-718 as amended by L. 1987, Ch. 182, Sec. 53; effective May 1, 1988.)

14-13-11. Retail advertising signs. (a) A retailer shall have one sign on the licensed premises. The sign shall be located on the corner of an exterior window or on the entrance door. The sign shall contain only the business name of the retailer, the license number and the words "Retail Liquor Store" in letters no more than four inches high or three inches wide.

(b) A retailer who is authorized by the Kansas lottery commission to sell lottery devices may display in the windows of the licensed premises an authorized lottery sales sign or decal as approved by the Director. Only one sign or decal may be displayed in each window or set of windows which face north, south, east or west. In no event shall more than four signs or decals be displayed.

(c) Other than the sign authorized by subsections (a) and (b) of this regulation, a retailer shall not place or permit the placing of any object on or within the front windows of the licensed premises which obstructs vision into the interior of the licensed premises. The placing of transparent, tinted, window shades or other devices on the front windows of a licensed premises to shield against the morning or afternoon sun, if the shades or other device do not obstruct vision into the interior of the licensed premises, shall not be prohibited by this regulation.

(d) A retailer located in a shopping plaza or mall may list the retail liquor store on a shopping plaza or mall directory. Any listing on a shopping plaza or mall directory shall first be approved by the director. A request for approval of such a listing shall be submitted to the director with a diagram of the listing and a diagram of the location of the directory.

(Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-308; K.S.A. 41-715; effective May 1, 1988; amended Aug. 6, 1990.)

14-13-12. Defective liquor containers; repurchase by distributor; when allowed. (a) Liquor containers, except beer containers, that leak, contain foreign matter in the bottle, are short-filled, have broken federal seals, have badly soiled or stained labels, or which are not otherwise fit for resale to the general public shall not be knowingly sold by a retailer.

(b) Any retailer may:

(1) Buy back from a customer any item of alcoholic liquor when required by the distributor to do so;

(2) buy back any item of alcoholic liquor from a club, drinking establishment or caterer for which the club, drinking establishment or caterer has obtained the approval of the director to close out; and

(3) buy back or exchange, within 24 hours of delivery, any item of alcoholic liquor which is damaged, as described in subsection (a).

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-211, L. 1987, Ch. 182, Sec. 137; effective May 1, 1988.)

14-13-13. Prohibited conduct of retailer. Any retailer violating any subsection of this regulation shall be cited by the director and subject to the penalties as provided in K.A.R. 14-16-14 et seq.:

(a) A retailer shall not permit gambling or the possession of a gambling or gaming device of any kind or character on or in the licensed premises. However, a retailer may sell, operate, possess and offer to the public lottery devices permitted by the Kansas lottery act if the retailer is authorized by the Kansas lottery commission to do so.

(b) A retailer shall not, as a condition for the sale or delivery of alcoholic liquor to a customer or to any other licensee under the liquor control act or the club and drinking establishment act, require that the other licensee or customer purchase or contract to purchase alcoholic liquor of another form, quantity or brand in addition to or partially in lieu of that specifically ordered or desired by the licensee or customer.

(c) A retailer shall not sell or deliver alcoholic liquor of a particular form or brand to a customer or to any other licensee under the liquor control act or the club and drinking establishment act under any arrangement, agreement or understanding, direct or implied, such that the sale or delivery will be made

only if the other licensee or customer also buys or accepts delivery of a quantity of alcoholic liquor of another form or brand.

(d) A retailer shall not refuse to permit the director or any agent or employee of the director to inspect the licensed premises and any alcoholic liquor in the retailer's possession or under the retailer's control upon the licensed premises or upon any other premises where the retailer has stored any alcoholic liquor.

(e) A retailer shall not make any false or misleading representations with respect to any alcoholic liquor product, any licensed premises or in connection with a sales transaction relating to brand, type, proof, or age of an alcoholic liquor or beer. Further, a licensee shall not deceive or attempt to deceive a customer by removing or changing any label or sanitation cover from a container of alcoholic liquor or beer.

(f) A retailer shall not sell or remove any alcoholic liquor from the licensed premises on any day other than a legal day for sale of alcoholic liquor at retail, after the legal closing hour or before the legal opening hour.

(g) A retailer shall not, directly or indirectly, offer or furnish any gifts, prizes, premiums, rebates, or similar inducements with the sale of any alcoholic liquor nor shall any retailer directly or indirectly offer, furnish, or sell any alcoholic liquor at less than its cost plus enforcement tax, except that:

(1) a retailer may include in the sale of alcoholic liquor any goods included by the manufacturer in packaging with the alcoholic liquor. Goods included by the manufacturer must be packaged with one or more original packages of alcoholic liquor in such a manner as to be delivered to the consumer as a single unit. A retailer shall not sell or give away goods included by a manufacturer which are not packaged as a single unit with the original package of alcoholic liquor as shipped by the manufacturer; and

(2) a retailer may distribute consumer advertising specialties, subject to the limitations imposed by this regulation. For the purposes of this regulation, consumer advertising specialties shall be limited to the following: ash trays, bottle or can openers, cork screws, matches, printed recipes, informational pamphlets, cards and leaflets, blotters, post cards, posters, printed sports schedules, pens, pencils and other similar items as approved by the director. Each consumer advertising specialty item shall contain advertising material relating to a brand name of alcoholic liquor or to the operation of the retail liquor store distributing the consumer advertising specialty item. No charge may be made for any consumer advertising specialty item or any purchase required in order to receive any consumer advertising specialty item.

(h) A retailer shall not open or permit to be opened, on the licensed premises, any container or original package containing alcoholic liquor or cereal malt beverage. The presence of any unsealed container or original package containing alcoholic liquor or cereal malt beverage found on the licensed premises shall be presumed to have been opened on the licensed premises.

(i) A retailer shall not have or permit on the licensed premises any alcoholic liquor which does not have the Kansas identification stamp or strip affixed as required by law or rule and regulation of the director.

(j) A retailer shall not permit the drinking of alcoholic liquors or cereal malt beverage in, on, or about the licensed premises.

(k) A retailer shall not allow an intoxicated person to frequent, loiter, or be employed upon the licensed premises.

(l) A retailer shall not permit any other person to use the licensed premises for the purpose of carrying on any business activity other than the sale of alcoholic liquor.

(m) A retailer shall not accept or receive from any licensed distributor's agent, servant, employee or any other person, any cash rebate or thing of value, or enter into or be a party to any agreement or transaction whatsoever with any licensed distributor, directly or indirectly, which would result in, or have as its purpose, the purchase of any alcoholic liquors by the retailer at a price less than the listed price which has been filed by the distributor in the office of the director.

(n) A retailer shall not sell, give or deliver any intoxicating liquor to any person under the age of 21 years.

(o) A retailer shall not sell, give, or deliver any intoxicating liquor to any person if the retailer knows or has reason to know that the intoxicating liquor is being obtained for a person under 21 years of age.

(p) A retailer shall not purchase or sell any alcoholic liquor on credit. A retailer shall not enter into any transaction or scheme the purpose of which is to buy or sell alcoholic liquor on credit. The following transactions shall be considered to be buying or selling alcoholic liquor on credit:

(1) Taking or giving a post-dated check;

(2) giving an insufficient funds check;

(3) taking a check with knowledge that there are insufficient funds to pay the check upon presentment;

(4) accepting delivery from a distributor without making payment for the alcoholic liquor when delivered or prior to delivery;

(5) making delivery to a club, drinking establishment or caterer without receiving payment prior to or at the time of delivery;

(6) allowing any alcoholic liquor to be removed from the licensed premises without receiving payment for the same; and

(7) accepting a credit card in payment of alcoholic liquor.

(q) A retailer shall not fail to make the reports or keep the records required by these regulations.

(r) A retailer shall not do anything that is otherwise prohibited by any other provision of these regulations.

(s) A retailer who is authorized by the Kansas lottery commission to sell authorized lottery devices shall not commingle the proceeds from the sale of the lottery devices with the proceeds from the sale of spirits, wine or beer.

(t) A retailer shall not refill a package of alcoholic liquor and shall not sell alcoholic liquor in other than the original package.

(Authorized by K.S.A. 1991 Supp. 41-210; implementing K.S.A. 41-211, K.S.A. 1991 Supp. 41-308, as amended by 1992 HB 2840; 41-702; 41-703; 41-717; 41-718; 41-719; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-13-14. Management of retail liquor store by any person or entity other than the owner or owners. (a) "Performance of management or operational services" shall mean the exercise of independent control by any person or entity, other than the owner or owners of a retail liquor store, over any of the following activities:

(1) Hiring, firing, or supervising the store's employees;

(2) determining the amount or type of inventory to be ordered or maintained by the store, ordering inventory for the store, or coordinating deliveries of inventory to the store;

(3) determining the advertising, marketing, or promotional programs that are enlisted, offered, or utilized by the store;

(4) negotiating, entering into, or executing contracts to which the store is a party;

(5) paying for or authorizing payment for services provided to or purchases made by the store; or

(6) performing any other task essential to the operation of or the ability to operate the store.

(b) An employee of a retail liquor store who meets both of the following criteria shall not be considered to be involved in the performance of management or operational services:

(1) Engages or participates in any of the activities specified in subsection (a) but does not exercise independent control in performing the activities; and

(2) is not an independent contractor.

(c) No retail liquor store owner shall authorize or allow the performance of management or operational services by any person or entity other than the owner or owners of the store, unless the owner or owners provide the following to the director:

(1) The terms by which any person or entity other than the owner or owners will perform the management or operational services, specifying the following:

(A) That the person or entity will be paid a fixed rate of compensation, not based on or derived from a percentage of the gross receipts from liquor sales; and

(B) that the compensation will not include payment of any business expenses in a way that effectively circumvents the terms of paragraph (c)(1)(A);

(2) the name, address, date of birth, social security number, and all other information required on forms provided by the director, for any person, or in the case of an entity, for any officer, manager, or director, or any stockholder owning in the aggregate more than five percent of the common or preferred stock in the entity, who will perform the management or operational services; and

(3) a disclosure of any interest or involvement in any other retail liquor store or business involving alcoholic liquor that is held by any person or entity performing management or operational services, submitted on forms provided by the director.

(d) Each retail liquor store owner shall be expressly prohibited from performing the following activities:

(1) Authorizing or allowing any person or entity that would not qualify to obtain and hold the store's retail liquor license to perform management or operational services for or on behalf of the owner or owners of the store;

(2) commingling any inventory between or among multiple retail liquor stores; and

(3) streamlining business processes with those of another retail liquor store or any other entity, or allowing the collective performance of management or operational services for the retail liquor store and any other store, in a manner suggesting to the public that multiple stores are part of a chain or are owned or operated by a corporation, including any of the following:

(A) Using a "d/b/a" or trade name in violation of K.A.R. 14-13-15;

(B) having employees wear uniforms or accessories identical to those worn by employees of another retail liquor store or corporate entity;

(C) delivering products in sacks or bags bearing the same trade name, logo, or other identifying mark that is used by any other retail liquor store or a corporate entity; or

(D) limiting access or offering discounts only to those persons who are members of, or possess membership or access credentials for, any corporate entity.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-104, 41-210, 41-211, and K.S.A. 2001 Supp. 41-311; effective July 5, 2002.)

14-13-15. "Doing business as" names. (a) Each applicant for a retail liquor store license shall include in the license application the "doing business as" (d/b/a) name by which the applicant wishes to operate the store for which licensure is sought.

(b) An application with a d/b/a name that suggests to the public that multiple stores are part of a chain or are owned or operated by a corporation shall not be approved by the director.

(c) Each liquor store shall post its d/b/a name within the store or on the exterior of the store.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-104, 41-210, 41-211, and K.S.A. 2001 Supp. 41-311; effective July 5, 2002.)

Article 14 - MANUFACTURERS, DISTRIBUTORS, NONBEVERAGE USERS; FARM WINERIES; MICROBREWERIES

(Last amended in 2003)

14-14-1. Definitions. As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

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

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

(c) "Beer distributor" means any person licensed pursuant to K.S.A. 1991 Supp. 41-307 to sell or offer for sale beer or cereal malt beverage to any person authorized by law to sell beer or cereal malt beverage at retail.

(d) "Beneficial interest" means any ownership interest by a person or that person's spouse in a business, corporation, partnership, trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization.

Manufacturers; Distributors; Nonbeverage Users; Etc.

(e) "Bona fide group of grape growers and wine makers" means any group that is an incorporated, non-profit organization of commercial grape growers or wine makers who are organized for the purpose of promoting grape growing and wine making within the state of Kansas.

(f) "Bulk wine" means wine that is sold to a club, either by a retailer or a distributor, in barrels, casks or bulk containers which individually exceed 20 liters.

(g) "Caterer" means a person licensed pursuant to Article 22 of these regulations.

(h) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

(i) "Club" means the premises or person licensed pursuant to Articles 19 or 20 of these regulations.

(j) "Director" means the director of the division of alcoholic beverage control of the department of revenue.

(k) "Distributor" means any person licensed by the director as a "beer distributor," "spirits distributor" or "wine distributor."

(l) "Drinking establishment" means the premises or person licensed pursuant to Article 21 of these regulations.

(m) "Licensed premises" means those areas described in an application for a license which are under the control of the applicant and in which the applicant will conduct the licensed business.

(n) "Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler, person or other entity who fills or refills an original package or is engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage. A "manufacturer" shall also mean:

(1) A corporate subsidiary of any manufacturer which markets alcoholic liquor through a subsidiary; and

(2) an American distributor of alcoholic liquor manufactured, produced or bottled in a foreign country. A "manufacturer" shall not include a farm winery or a microbrewery.

(o) "Morals charge" means a charge made in an indictment, information or a complaint alleging crimes which involve:

- (1) Prostitution;
- (2) procuring any person;
- (3) solicitation of a child under 18 years of age for any immoral act involving sex;
- (4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;
- (5) rape;
- (6) incest;
- (7) gambling;
- (8) adultery; or
- (9) bigamy.

(p) "Person" means any natural person, corporation, association trust or partnership.

(q) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.

(r) "Small quantities of wines" means those quantities of wine that a grape grower or wine maker may import into the state to be used for bona fide educational and scientific tasting programs. A grape grower or wine maker may import up to 18 liters, or not more than .18 liters per participant, of each variety of wine manufactured for the Kansas state fair or any bona fide group of grape growers or wine makers.

(s) "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substances in solution. The term "spirits" includes brandy, rum, whiskey, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(t) "Spirits distributor" means any person licensed pursuant to K.S.A. 1991 Supp. 41-306 to sell or offer for sale spirits to any person authorized by law to sell spirits at retail.

(u) "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of a manufacturer, other than a salesperson.

(v) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(w) "Wine distributor" means any person licensed pursuant to K.S.A. 1991 Supp. 41-306a, to sell or offer for sale wine to any person authorized by law to sell wine at retail.

(Authorized by K.S.A. 1991 Supp. 41-210; implementing K.S.A. 1991 Supp. 41-102, 41-308a, as amended by 1992 HB 2719; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; amended Jan. 2, 1989; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-14-2. Application for manufacturer's, distributor's, nonbeverage user's, farm winery and microbrewery license; contents, conditions and restrictions on issuance of license. (a) An annual license shall be issued to each applicant determined by the director to have satisfied the requirements of the liquor control act and this article of these regulations.

(b) Each application for a license shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Any application which does not contain the required information may be returned to the applicant without the application being considered on its merits.

(c) Each applicant shall provide a description of the licensed premises. The description shall state the location of the licensed premises, the approximate dimensions of the licensed premises and shall include enough detail to identify the licensed premises. Each application for a distributor's license shall include a description of any warehouse situated on and constituting a part of the licensed premises.

(1) Subject to the prior approval of the director, the distributor's licensed premises may include:

(A) More than one structure if no more than 400 meters separate any two structures sought to be licensed by the distributor; or

(B) a temporary storage area used exclusively for storage of alcoholic liquor by the distributor which may be more than 100 meters from any other part of the licensed premises.

(2) The licensed premises shall not include:

(A) An inside entrance or opening which connects directly with any other place of business or with a residence; or

(B) any premises which is located within 200 feet of any public or parochial school, college or church, unless the premises were licensed at the time the school, college or church was established.

(d) For the purpose of determining qualification for a license under this regulation, any person who leases premises to any licensee upon terms which result in the lessor having a beneficial interest in the licensee's business, shall be deemed to be a partner in the licensee's business. A lessor shall be deemed to have a beneficial interest in a licensee's business if the lessor receives as rent, in whole or in part, a percentage of the licensee's gross receipts or profits from the sale of alcoholic liquor. Percentage rent provisions that exclude alcoholic liquor sales shall be subject to review and approval by the director.

(e) This regulation shall take effect on or after October 1, 1988.

(Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 41-211, 41-711, K.S.A. 1987 Supp. 41-311, 41-316, 41-317, 41-401, 41-402, 41-710; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-14-3. Application for renewal of license, short method. (a) Any licensee making application for the renewal of an existing license may file a certified statement that the information contained in the licensee's most recent complete application has not changed except for those items specifically identified by the licensee as having changed. In addition to this certified statement, the licensee shall provide the following items with each renewal application:

(1) A certified statement that the renewal applicant is still qualified to obtain a license under the requirements of K.A.R. 14-14-2;

(2) the registration fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(3) the license fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted; and

(4) the bond or bonds required of the licensee by the liquor control act.

(b) Notwithstanding the provisions of subsection (a), each licensee shall file a new and complete application, as required by K.A.R. 14-14-2, at least every five years.

(c) This regulation shall take effect on or after October 1, 1988.

(Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 41-211, 41-327, K.S.A. 1987 Supp. 41-316, 41-317; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-14-4. Corporate licensees, change of ownership updating application, certification that new owner qualified. (a) Each transfer of the stock of a corporation holding a manufacturer's license which results in any person holding 25 percent of the outstanding stock of the corporation shall be reported to the director. Within 20 days of the transfer of stock to that person, the corporation shall file with the director:

(1) A supplement to its current application reflecting the change; and

(2) a sworn statement that the person obtaining 25 percent or more of the outstanding shares is qualified under the liquor control act to hold a manufacturer's license.

(b) Each transfer of the stock of a corporation holding a distributor's license which results in any person obtaining a beneficial interest in the corporation shall be reported to the director. Within 20 days of the transfer of stock to that person, the corporation shall file with the director:

(1) A supplement to its current application reflecting the change in ownership; and

(2) a sworn statement that the person obtaining the beneficial interest in the corporation is:

(A) Qualified under the liquor control act to hold a distributor's license; or

(B) not qualified under the liquor control act to hold a distributor's license but meets the requirements of K.S.A. 1987 Supp. 41-311(d)(1)(A) or (B).

(c) Each corporation holding a manufacturer's, distributor's, farm winery, microbrewery or nonbeverage user's license shall keep a register of all stockholders, which shall be open for inspection by the director, the director's agents or employees at all reasonable business hours. The register shall contain the following information applicable to each stockholder.

(1) Name;

(2) current address;

(3) amount of stock owned;

(4) the amount which may be voted by power of attorney or proxy;

(5) the date of acquisition of any stock; or

(6) the execution or revocation of any power of attorney or proxy.

(d) The records of every corporation holding a manufacturer's, distributor's, farm winery, microbrewery or nonbeverage user's license shall reflect the election of all directors and the appointment of all officers of the corporation.

(e) This regulation shall take effect on or after October 1, 1988.

(Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 1987 Supp. 41-311; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-14-5. Franchises. (a) Definitions. As used in this regulation, the following terms shall have the meanings ascribed to them:

(1) "Sale or distribution" includes the act of leasing, renting or consigning.

(2) "Goods" means any personal property, real property, or any combination thereof.

(3) "Other property" means a franchise, license, distributorship or other similar right, privilege or interest.

(4) "Franchise" means a written arrangement in which a supplier grants to a distributor a license to use a trade name, trademark, service mark, or related characteristic, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement or otherwise, including a commercial relationship subject to termination pursuant to K.S.A. 1989 Supp. 41-410. The arrangement grants the distributor the right to offer, sell and distribute within this state or any designated area, the supplier's brands of alcoholic liquors, cereal malt beverages, non-alcoholic malt beverages or all of them as may be specified.

(b) Franchise discrimination is prohibited.

(1) If more than one franchise for the same brand or brands of alcoholic liquor, cereal malt beverage or non-alcoholic malt beverages is granted to different distributors in this state, the supplier shall not discriminate in regard to price or availability of alcoholic liquor, cereal malt beverage or non-alcoholic malt beverages between distributors.

(2) A supplier shall not encourage, solicit, cause or conspire with a distributor to circumvent any laws or regulations of the state of Kansas relating to intoxicating liquor. A supplier shall not directly or indirectly threaten to remove or remove a line or brand from a distributor because of the refusal or failure of the distributor to evade or disobey any laws or regulations of the state of Kansas relating to intoxicating liquor. A supplier shall not, directly or indirectly, threaten to change distributors in retaliation against a distributor who refuses to circumvent any laws or regulations of the state of Kansas relating to intoxicating liquor.

(c) All ownership interest in a distributor's business shall be disclosed to the director.

(1) No person shall have, own or enjoy any ownership interest in, share in the profits from or otherwise participate in the business of any distributor in Kansas unless a full description of the

interest is furnished to the director at the time the interest arises. The distributor shall report to the director within 20 days, any change in any interest in the distributor's business including:

(A) Any division of the profits;

(B) any division of net or gross sales for any purpose whatsoever;

(C) any change in the payment of rents;

(D) any change in the ownership of any lease or building;

(E) any change in the ownership of any corporation that has any interest in the business or the change of management of that corporation; or

(F) any loss or damage to goods which results in a claim against an insurance policy.

(2) If there is common ownership or financial interest in wholesale businesses licensed to distribute spirits or wine, either directly or indirectly, all of these businesses shall be deemed a controlled ownership group.

(3) The statement of disclosure required by this regulation shall be on a form provided by the director, shall be signed under oath and notarized and shall be an amendment to the licensee's permanent license application on file with the director.

(4) Each license issued by the director shall be valid as long as the licensee is actively engaged in business. If the licensee ceases to be actively engaged in business, the license shall be invalid and the licensee shall immediately notify the director and return the license.

(d) Each supplier and distributor shall file a summary of any franchise agreement with the director. The summary shall contain:

(1) a statement identifying each party entering into the agreement by name, address and license number;

(2) a statement describing each geographic territory agreed upon between the distributor and supplier for which the distributor is to sell to retailers one or more brands of the supplier's alcoholic liquor, cereal malt beverages or non-alcoholic malt beverages;

(3) a map outlining each geographical territory agreed to; and

(4) a statement listing all brands to be covered by the agreement.

(e) No manufacturer, vintner, importer, or other supplier shall grant a franchise for the distribution of a brand to more than one distributor for all or part of any designated territory. For purposes of identification and recognition, multiple franchises for the distribution of spirits or wine issued to one or more persons or to two or more corporations where an interlocking directorate exists or the same individuals are officers or stockholders in more than one of the corporations, shall be considered one franchise.

(f) Each spirits distributor's franchise agreement shall describe the franchise territory by naming each county unit encompassed. A territory shall not be smaller than a single county, but may encompass as few as one or as many as all 105 Kansas counties. Agreements for distribution throughout the entire state shall not name each county by name.

(g) Each wine and beer distributors' franchise agreement shall describe the franchise territory using readily identifiable geographic boundaries.

(h) The terms, conditions and requirements of this regulation are expressly made a part of the terms of each authority to do business in Kansas granted by the director to suppliers, distillers, manufacturers, importers, producers, shippers, or brokers.

(i)(1) Each supplier, importing into this state to a licensed distributor, shall apply to the director not later than 45 days in advance for a permit to import alcoholic liquor, cereal malt beverage or non-alcoholic malt beverages for which the distributor does not have a franchise to sell.

(2) Each request for a permit shall specifically identify the brand, type and quantity of the alcoholic liquor, cereal malt beverage or non-alcoholic malt beverages to be imported into the state. Alcoholic liquor, cereal malt beverage and non-alcoholic malt beverages imported in accordance with this permit shall not be resold by the distributor.

(3) A copy of the permit issued by the director shall be attached to all records and reports required by K.A.R. 14-14-8 and 14-14-10.

(Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-306a, 41-332, 41-409, 41-410, and 41-1101; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; amended Jan. 1, 1989; amended July 1, 1991.)

14-14-6. (Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 1987 Supp. 41-714; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; revoked Jan. 3, 2003.)

14-14-6a. Withdrawal of inventory from the warehouse for sampling. (a) Any distributor may withdraw alcoholic liquor and cereal malt beverage inventory from the distributor's warehouse to provide educational opportunities to any of the following types of licensees in the course of business or at industry seminars:

- (1) Retail liquor stores;
- (2) clubs;
- (3) drinking establishments;
- (4) caterers; or
- (5) hotel drinking establishments.

(b) Any distributor may withdraw alcoholic liquor and cereal malt beverage inventory in the course of business to provide licensees with information on new product lines. Any distributor may provide each licensee with one individual bottle or one individual can from a new product line. The distributor shall provide these samples either on the distributor's licensed premises or on the premises of the recipient licensee.

(c) No licensee that receives an individual bottle or can from a distributor in the course of business shall sell the item received. Licensees and distributors shall comply with all other laws pertaining to the possession and consumption of alcoholic liquor and cereal malt beverages.

(d) Alcoholic liquor and cereal malt beverage inventory withdrawn for use at industry seminars shall be for licensees and their employees to sample the distributor's product lines. Each alcoholic liquor sample and cereal malt beverage sample offered by the distributor shall be consumed only on the seminar premises and in accordance with Kansas law. Each distributor shall notify the director, using a form available from the director, at least seven days before conducting an industry seminar.

(e) Each distributor shall pay the liquor enforcement tax on the alcoholic liquor and cereal malt beverage inventory when the inventory is withdrawn from the distributor's warehouse, based on the current posted bottle price or case price.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-709; effective Jan. 3, 2003.)

14-14-7. Sales and transfers of alcoholic liquor by distributors authorized, export permits.

(a) A distributor may sell any alcoholic liquor pursuant to the issued license to the licensed premise of:

- (1) A distributor;
- (2) a retailer; or to
- (3) a military installation.

(b) A distributor may sell bulk wine and deliver to the licensed premise of a:

- (1) Club;
- (2) drinking establishment; or
- (3) caterer.

(c) A distributor may transfer any alcoholic liquor to another of the distributor's licensed premises. Transfers of alcoholic liquor between a distributor's licensed premises shall be evidenced by proper withdrawal and receiving tickets which shall be subject to inspection by the director.

(d)(1) Export permits may be issued by the director for the shipping of merchandise back to manufacturers when:

- (A) Non-posted items are shipped into Kansas in error;
 - (B) merchandise in inventory is unsaleable and the supplier wants the merchandise returned rather than destroyed;
 - (C) the distributor does not wish to retain excess merchandise received in error; or
 - (D) issuing such a permit is deemed appropriate by the director.
- (2) Requests to return merchandise shall be submitted to the director on forms prescribed by the director. Each request shall include:
- (A) The total number of containers or cases in the shipment;
 - (B) the name, address and license number of the distributor;
 - (C) the justification for issuing a permit; and
 - (D) the name, address and license number of the supplier.
- (3) If a distributor has received non-posted merchandise, a request for an export permit shall be submitted within five days of receipt of the merchandise.
- (4) At the time of an export shipment, the distributor shall forward to the director:
- (A) a copy of the invoice signed by the distributor's agent;
 - (B) a copy of the bill of lading signed by the carrier's agent; and
 - (C) an affidavit of proof of claim for credit for a refund on the gallonage tax.
- (5) An export permit shall not be issued, or alcoholic liquor consigned, to any person or corporation in another state who is not authorized by that state to receive alcoholic liquor. All shipments shall be made by carrier, common carrier or private carrier.
- (e) This regulation shall take effect on or after October 1, 1988.
(Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 41-211, 41-801, K.S.A. 1989 Supp. 41-306, 41-306a, 41-307, 41-408, 41-701, 41-709; effective, T-89-2, Jan. 7, 1988; effective October 1, 1988; amended Aug. 6, 1990.)

14-14-8. Distributor's records required, reports required, filing of affidavits. (a) Each distributor, before selling or offering to sell any alcoholic liquor to any licensed retailer, club, drinking establishment, or caterer, shall file with the director a written statement sworn to under oath by the distributor, or in case of a corporation, one of its principal officers. In the statement, the distributor shall agree:

(1) It will sell any of the brands or kinds of alcoholic liquor for which it possesses a franchise to any retailer in the geographical territory serviced under the terms of the franchise without discrimination;

(2) that all sales will be made to each retailer in the territory at the same current price; and

(3) for all spirits and wines sold in the state, to file a price list of current prices offered to all retailers, clubs, drinking establishments or caterers with the director.

(b) The price listing required by paragraph (3), above, shall be filed at least every three months and shall include:

(1) The cash price for spirits and wine that are sold by the case or the bottle;

(2) the origin of the shipments;

(3) the price per case or bottle for each size of original packages of each particular brand or kind of spirits or wine; and

(4) any other information the director may require.

(c) Each distributor accepting shipment of alcoholic liquor into the state of Kansas shall furnish the director an invoice, or other commercial document or form approved by the director, covering each consignment of liquor received by the distributor. The invoice document or form shall be mailed at the time shipment is received at the distributor's licensed premises.

(d) Each distributor shall provide the director, between the 1st and 15th day of each calendar month, a return under oath of all alcoholic liquor bought and sold during the preceding calendar month. Such report shall state:

- (1) The total amount of liquor purchased;
 - (2) the names and addresses of the suppliers or distributors from which the alcoholic liquor was purchased;
 - (3) the quantity of each brand of alcoholic liquor purchased;
 - (4) the price paid for each brand of alcoholic liquor purchased;
 - (5) the name and address of each retailer, club, drinking establishment or caterer to which alcoholic liquor was sold;
 - (6) the quantity of each brand of alcoholic liquor sold; and
 - (7) the price charged for each brand of alcoholic liquor sold.
- (e) Each distributor shall keep upon the licensed premises records of all alcoholic liquor bought and sold, all receipts, all expenditures, all invoices and all sales tickets. All records of each distributor shall be maintained for three years and shall be available for inspection by the director or any agent or employee of the director or secretary upon request.
- (f) This regulation shall take effect on or after October 1, 1988.
(Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 1987 Supp. 41-409, 41-601, 41-602, 41-1101; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-14-9. Nonbeverage user licensees records required. Each nonbeverage user shall keep records of all alcoholic liquor purchased by the nonbeverage user's business. The records shall contain the name, address and license number of the licensee from whom it purchased any alcoholic liquor and any other information the director may require. All records of each nonbeverage user shall be maintained for three years and shall be available for inspection by the director or any agent or employee of the director or secretary upon request. This regulation shall take effect on or after October 1, 1988.

(Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 41-211; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-14-10. Manufacturer's records required, reports required, filing of affidavits. (a) Each supplier shipping alcoholic liquor into the state of Kansas shall furnish the director with an invoice, or other commercial document or form approved by the director, covering each consignment of alcoholic liquor made into this state. The invoice document or form shall be mailed at the time the shipment leaves the manufacturer's warehouse. The invoice, copy of the commercial document or form shall also be mailed to the consignee at the time of shipment.

(b) Each supplier of alcoholic liquor shall keep records of all alcoholic liquor or wine sold by the licensee to a nonbeverage user. The records shall show the quantities of alcoholic liquor and wine sold to any nonbeverage user, the name, address, and license number of the nonbeverage user and any other information the director may require. All records of each supplier shall be maintained for three years and shall be available for inspection by the director or any agent or employee of the director or secretary upon request.

(c) Each supplier, before selling or offering to sell any alcoholic liquor to a distributor, shall file with the director a written statement sworn to under oath by the supplier, or in the case of a corporation, by one of its principal officers. In the statement, the supplier shall agree:

(1) To sell any of the brands or kinds of alcoholic liquor manufactured or distributed by it to each distributor with which it has a franchise without discrimination;

(2) that all sales will be made to each distributor in this state with which it has a franchise at the same current price; and

(3) for all spirits and wines sold in the state, to file with the director the price list of current prices offered to each distributor in this state with which it has a franchise agreement.

(d) The price listing required by paragraph (3), above, shall be filed at least every three months and shall include:

- (1) The cash price for all spirits and wine sold in the state that are sold by the case;
- (2) the origin of the shipments;
- (3) the price per case for each size of original packages of each particular brand or kind of spirits or wine;
- (4) a complete description of the alcoholic liquor to be offered for sale during the months concerned;
- (5) the description of spirits and wine in cases including the brand, type, container size, number of containers in each case, actual weight per case and proof of all spirits;
- (6) the alcoholic content of all wines;
- (7) any other information the director may require; and
- (8) the following information if such alcoholic liquor is sold in bulk by the barrel:
 - (A) The cash price;
 - (B) the wholly deferred or partly deferred payment price, f.o.b. the manufacturer's warehouse or point of shipment;
 - (C) the age;
 - (D) price per proof gallon;
 - (E) original gauge in bond;
 - (F) each class and type of particular brand or brands, if any, under which the alcoholic liquors in bulk will be bottled; and
 - (G) any other information the director may require.

(e) Each manufacturer shall forward by certified mail to each licensed distributor who possesses a franchise for the manufacturer's brands within the state of Kansas, a copy of the price list or amendment on the same date the price list or amendment required by subsection (d), above, is forwarded to the office of the director.

(f) This regulation shall take effect on or after October 1, 1988.

(Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 1987 Supp. 41-402, 41-409, 41-601, 41-602, 41-1101; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988.)

14-14-11. Prohibited conduct of licensees. (a) No manufacturer of alcoholic liquor or cereal malt beverage holding a manufacturer's license issued by the director, manufacturer of alcoholic liquor or cereal malt beverage outside of this state manufacturing alcoholic liquor or cereal malt beverage for sale and distribution within the state, licensed distributor within the state, or their agents, salesmen or representatives shall offer, give or furnish, directly or indirectly, any gifts, prizes, coupons, premiums, rebates, quantity discounts, entertainment, decorations, or the services of any employee, including errands and administrative services, or any other inducement or thing of value of any kind to a licensed retailer, club, drinking establishment or caterer or to an applicant for a retailer, club, drinking establishment or caterer license except as provided in Article 10;

(b) No manufacturer, including a manufacturer outside of this state, that manufactures alcoholic liquor or cereal malt beverage for sale and distribution within this state shall offer, furnish or give, directly or indirectly, any rebates to any distributor, distributor's spouse, agent, salesperson or representative.

(c) A licensee shall not, as a condition for the sale or delivery of alcoholic liquor or cereal malt beverage to any other licensee or to a customer, require that the other licensee or customer purchase or contract to purchase alcoholic liquor or cereal malt beverage of another form, quantity or brand in addition to, or partially in lieu of, that which was specifically ordered or desired by the licensee or customer. Licensees of any class shall not sell or deliver alcoholic liquor or cereal malt beverage in any form or quantity or of any brand to another licensee or to a customer, under any arrangement, agreement or understanding, direct or implied, that the sale or delivery will be made only if the other licensee or customer also buys or accepts delivery of a quantity of alcoholic liquor or cereal malt beverage of another form or brand.

(d) If any licensee refuses to permit the director or any agent or employee of the director to inspect the licensed premises and any alcoholic liquor or cereal malt beverage owned or controlled by the licensee upon the licensed premises or upon any other premises where the licensee may have liquor stored, the refusal shall be grounds for the revocation of the license.

(e) A manufacturer shall be deemed to have discriminated against licensed distributors, including those possessing a franchise to distribute alcoholic liquor or cereal malt beverage in a geographical territory, if the manufacturer directly or indirectly, or through any agent or employee:

(1) Offers to sell or sells to a distributor alcoholic liquor in any manner that results in a price different than the current price which the manufacturer has offered to all distributors;

(2) requires a licensed distributor to purchase in excess of one case lot of any brand, or kind, or container size of that alcoholic liquor that is sold by the case;

(3) refuses to sell any brand or kind of alcoholic liquor, except beer, to a licensed distributor in any quantity ordered by a distributor in lots of one or more cases when alcoholic liquor is sold to distributors by the case;

(4) refuses to sell for cash at the current price any alcoholic liquor, to a licensed distributor, if such alcoholic liquor is ordered in a lot of one case or more and the price offered to distributors is by the case;

(5) refuses to sell any brand or kind of alcoholic liquor to a licensed distributor unless the licensed distributor purchases or agrees to purchase alcoholic liquor of another kind, form, quantity or brand in addition to, or partially in lieu of, the brand or kind of alcoholic liquor specifically ordered by the licensed distributor; or

(6) fails to fill orders of distributors for alcoholic liquor, other than beer, in the chronological sequence in which orders from distributors are received. This paragraph shall not apply when the manufacturer is operating under a rationing plan approved by the director.

(f) A distributor shall be deemed to have discriminated against licensed retailers, clubs, drinking establishments or caterers if it either directly or indirectly, or by any agent or employee:

(1) Makes an offer to make any secret rebate to or enters into any transaction in any manner whatsoever with any licensed retailer, club, drinking establishment or caterer which would result in, or which has as its purpose the purchase of any alcoholic liquor or cereal malt beverage at a price different than the current price offered to all retailers, clubs, drinking establishments or caterers;

(2) requires a licensed retailer to purchase in one-case lot of any brand, or kind, or container size of alcoholic liquor, except beer;

(3) refuses to sell any brand or kind of alcoholic liquor, except beer, to a licensed retailer for cash at the current price in any quantity ordered by the licensed retailer; or

(4) refuses to sell any brand or kind of alcoholic liquor or cereal malt beverage to a licensed retailer, club, drinking establishment or caterer unless the licensed retailer, club, drinking establishment or caterer purchases or agrees to purchase alcoholic liquor or cereal malt beverage of another kind, quantity, or brand in addition to, or partially in lieu of the brand or kind of alcoholic liquor or cereal malt beverage specifically ordered.

(Authorized by K.S.A. 1991 Supp. 41-210; implementing K.S.A. 1991 Supp. 41-402, 41-702, 41-703, 41-1101; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; amended Dec. 21, 1992.)

14-14-12. (Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 1987 Supp. 41-402, 41-408, 41-701, 41-709, K.S.A. 41-211, 41-405, 41-708, 41-712; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; revoked May 27, 2005.)

14-14-13. Permit to import small quantities of wine. (a) A permit to import into this state small quantities of wines to be used for bona fide educational and scientific tasting programs may be issued by the director to the Kansas state fair or any bona fide group of grape growers or wine makers. Each

organization shall apply for the permit not less than 45 days before the tasting program is to be held. Wines imported in accordance with this permit shall not be resold.

(b) Each request for a permit shall include the following information:

(1) The date and time of the tasting program;

(2) the exact location where the tasting program will be held;

(3) the brand, type and quantity of wine to be imported; and

(4) a statement that any wine samples offered will be consumed on the premises and in accordance with the provisions of Kansas law.

(c) A copy of the permit issued by the director shall accompany the wine imported into this state at all times.

(d) This regulation shall take effect on or after January 2, 1989.

(Authorized by and implementing K.S.A. 1987 Supp. 41-308a as amended by L. 1988, Vol. 1, Ch. 165, Sec. 1; effective Jan. 2, 1989.)

14-14-14. Transportation of alcoholic liquor and cereal malt beverage by distributors.

Alcoholic liquor and cereal malt beverage purchased from and delivered by a distributor shall be delivered to the premises licensed to receive such purchase.

(Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-306, 41-306a, 41-307; effective Aug. 6, 1990.)

Article 15 - BEER AND CEREAL MALT BEVERAGE KEG REGISTRATION

(Last amended in 2003)

14-15-1. Definitions. As used in this article of regulations, the following words and phrases shall have the meanings ascribed to them in this regulation: (a) "Beer" means any beverage that contains more than 3.2 percent alcohol by weight and is obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water. This term shall include beer, ale, stout, lager beer, porter, and similar beverages containing more than 3.2 percent alcohol by weight.

(b) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute. This term shall not include any liquor that is more than 3.2 percent alcohol by weight.

(c) "Director" means the director of the division of alcoholic beverage control of the department of revenue.

(d) "Licensee" means any of the following:

(1) Any person or entity licensed to sell alcoholic liquor at retail pursuant to K.S.A. 41-308, and amendments thereto;

(2) any person or entity licensed to manufacture, store, and sell domestic beer pursuant to K.S.A. 41-308b, and amendments thereto; or

(3) any person or entity licensed to sell cereal malt beverages pursuant to K.S.A. 41-2703, and amendments thereto.

(Authorized by and implementing L. 2002, Ch. 44, § 5 and § 6; effective Feb. 7, 2003.)

14-15-2. Requirement to affix keg registration tags to certain containers of beer and cereal malt beverage; applicability and instructions. (a) Except as provided in subsection (b), each licensee selling beer or cereal malt beverages to consumers for consumption off the licensed premises shall affix a keg registration tag to each keg or container having a liquid capacity of four or more gallons, regardless of whether the keg or container is disposable or can be reused.

(b) Kegs or containers having a liquid capacity of four or more gallons that licensees sell to clubs, drinking establishments, hotel drinking establishments, and caterers shall not be required to be registered.

(c) Each licensee shall obtain keg registration tags by submitting a keg tag order form to the director. Keg registration tags shall be free of charge.

(d) Each licensee shall complete a keg registration form for each keg or container to which a keg registration tag is required to be affixed. Each keg registration form shall include the following:

(1) The date of purchase;

(2) the name of the licensee selling the keg or container;

(3) the purchaser's name;

(4) the purchaser's date of birth;

(5) the purchaser's residential street address, city, and state;

(6) the identifying number on the purchaser's driver's license, Kansas nondriver's identification card, or other official identification bearing the purchaser's photograph and signature;

(7) the purchaser's signature; and

(8) the smaller perforated portion of the keg registration tag, which bears the keg registration tag number that corresponds to the number on the keg registration tag affixed to the keg or container.

(e) A licensee may complete a single keg registration form for multiple tagged kegs or containers sold to a single purchaser. The smaller perforated portion of the keg registration tag for each keg or container shall be attached to the keg registration form.

(f) If a tagged keg or container purchased singly is returned to the licensee within six months after the date of sale with the keg registration tag affixed, the licensee shall either return the corresponding keg registration form to the purchaser or destroy the form.

(g)(1) If a tagged keg or container purchased singly is not returned to the licensee within six months after the date of sale, the licensee shall retain the corresponding keg registration form for six months after the date of sale and then shall destroy the form.

(2) If a tagged keg or container purchased singly is returned to the licensee without the keg registration tag affixed within six months after the date of sale, the licensee shall retain the corresponding keg registration form for six months after the date of sale and then shall destroy the form.

(h) Each keg registration form containing smaller perforated portions of multiple keg registration tags shall be returned to the purchaser or destroyed by the licensee if all of the kegs or containers are returned with the keg registration tags affixed within six months of the date of sale. If less than all of these kegs or containers are returned within six months after the date of sale, with or without the keg registration tags affixed, the licensee shall retain the keg registration form and then shall destroy the form after six months from the date of sale.

(i) Each licensee shall destroy the keg registration tag from each tagged keg or container that is returned.

(j) Untagged kegs or containers that are in the possession of anyone except a licensee or a club, drinking establishment, hotel drinking establishment, or caterer shall be presumed to be contraband and may be confiscated by any authorized officer or agent of the director or by any law enforcement official.

(Authorized by and implementing L. 2002, Ch. 44, § 5 and § 6; effective Feb. 7, 2003.)

Article 16 - LICENSES; SUSPENSION AND REVOCATION

(Last amended in 2007)

14-16-1 through 14-16-13. (Revoked or reserved)

14-16-14. Definitions. As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

(a) "Involuntary cancellation" means permanent, involuntary termination of any license by the director pursuant to procedures stated in K.A.R. 14-16-15. There shall be no refund for that portion of the license fees paid during any period in which the license was not in use. The licensee, upon showing good cause for renewal or reinstatement of license, may apply for a new license pursuant to the statutory and regulatory requirements for licensing.

(b) "Revocation" means permanent, involuntary termination of any license by the director pursuant to the procedures stated in K.A.R. 14-16-15. There shall be no refund for that portion of the license fees paid during any period in which the license was not in use. The licensee and the licensed premises shall be ineligible for a new license.

(c) "Suspension" means temporary, involuntary termination of any license by the director pursuant to the procedures stated in K.A.R. 14-16-15. There shall be no refund for that portion of the license fees paid during any period in which the license was not in use. The suspension may be set aside by the director when the licensee has shown good cause and is in compliance with statutory and regulatory requirements.

(d) "Voluntary cancellation" means permanent, voluntary termination of a license upon the request of the licensee. The director shall refund that portion of the license fees paid for any period in which the license was not in use. The licensee may make a new application for a license pursuant to the statutory and regulatory requirements for licensing.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-314, 41-326, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77, 41-2629 as amended by L. 1987, Ch. 182, Sec. 80; effective May 1, 1988.)

14-16-15. Director may revoke, suspend or involuntarily cancel licenses for violations of act or regulations; citation to licensees; hearing. If after citation and hearing the director finds that any licensee is violating or has violated any relevant provision of the liquor control act, the club and drinking establishment act, the provisions of K.S.A. 41-2701 et seq. or regulations adopted pursuant to the authority granted in any of those statutes, the licensee's license may be suspended, revoked or involuntarily canceled. In addition to suspension, revocation or cancellation of a license, the licensee may be fined by the director.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-328 as amended by L. 1987, Ch. 182, Sec. 32, K.S.A. 41-326, 41-702 as amended by L. 1987, Ch. 182, Sec. 47, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77, 41-2633a as amended by L. 1987, Ch. 182, Sec. 84; effective May 1, 1988.)

14-16-16. Proceedings for involuntary cancellation, suspension or revocation of licenses; notice to licensee of time and place of hearing; right of licensee to appear at hearing. (a) All proceedings and hearings for the involuntary cancellation, suspension or revocation of licenses shall be before the director or the director's designee upon a citation issued by the director. The citation shall be in writing and shall state the charges or complaints the licensee is called upon to answer.

(b) The citation shall be served upon the licensee as provided by K.A.R. 14-16-21.

(c) The citations shall state the date, time and place where the proceeding and hearing will be held. The date of the hearing shall not be less than 10 days from the date of the mailing or service of the citation.

(d) The licensee may appear in person and by counsel at the hearing and produce witnesses and evidence that the licensee deems necessary or advisable.

(Authorized by K.S.A. 41-201, 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-326, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-17. Hearing procedures; prehearing motions. (a) Upon receipt of a citation and notice of hearing pursuant to K.A.R. 14-16-16, any licensee or licensee's counsel may file with the director any prehearing motion authorized to be filed with the Kansas courts in actions pursuant to Chapter 61 of the Kansas Statutes Annotated.

(b) Motions shall be made within the following times:

(1) A motion by the licensee shall be filed within 10 days of receipt of the citation.

(2) Response to any motion of the licensee shall be filed by the agency within 10 days of receipt of a motion.

(3) The motion shall be acted on at least five days prior to the hearing on the citation.

(c) The director may grant such additional time as justice requires.

(d) Requests for continuances and other non-substantive motions may be submitted orally, unless required to be filed in writing by the director. All other motions shall be in writing to the director.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-18. Prehearing conference; availability; notice. A prehearing conference may be conducted by the director or the director's designee for the purpose of expediting the administrative proceeding. Such a prehearing conference may be conducted by telephone or other electronic means with each party having the opportunity to participate therein. Notice of the time, place and electronic means of conducting any prehearing conference shall be given by the director to all concerned parties. If a prehearing conference is not held, the director or the director's designee may issue a prehearing order based on the pleadings to regulate the conduct of the proceedings.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-19. Hearing procedures. The following procedures shall be used at all hearings before the director or the director's designee:

(a) The burden of proving all elements of any alleged offenses shall be upon the agency.

(b) The order for the hearing shall be:

(1) Reading of the citation into the record;

(2) announcement of appearances;

(3) response of licensee to allegations;

(4) presentation of evidence by the agency;

- (5) presentation of evidence by the licensee;
- (6) rebuttal evidence of the agency;
- (7) surrebuttal evidence by the licensee; and
- (8) closing arguments for both sides.

(c) The hearing officer may vary from the technical requirements of the rules of evidence when, in the hearing officer's opinion, such variation would be of assistance in determining the facts. Evidence need not be excluded solely because it is hearsay.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-20. (Authorized by K.S.A. 1991 Supp. 41-210; implementing K.S.A. 1991 Supp. 41-320; effective May 1, 1988; revoked Aug. 10, 1992.)

14-16-21. Service of orders, decisions, directives and notices of director regarding licensees and applicants for licenses; refusal to accept service. (a) All citations, orders, decisions, directives and notices of the director or secretary of revenue issued to or affecting a licensee or an applicant for a license shall be served upon the licensee or applicant by mailing, by certified mail properly addressed, to the licensee or applicant, a copy of the document signed by the director or the director's designee. If the service is to be made on a licensee, the document shall be mailed to the licensee at the address of the licensed premises. If the service is to be made on an applicant for a license, the document shall be mailed to the applicant at the address shown on the applicant for the license. No licensee shall refuse to accept or to sign for certified mail from the alcoholic beverage control division.

(b) In lieu of the mailing required by subsection (a), any citation or notice may be served upon the licensee or applicant:

- (1) by the director;
- (2) by any agent or employee of the director; or

(3) by the sheriff of the county in which the licensed premises are located in the manner provided by the code of civil procedure for the service of summons in civil actions, except for the provisions allowing service by first class mail.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-321 as amended by L. 1987, Ch. 182, Sec. 29, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-22. Operation of business while license is involuntarily canceled, suspended or revoked, forbidden; when order of involuntary cancellation, suspension or revocation is effective. Any person whose license has been involuntarily canceled, suspended or revoked shall not operate under such license during the period of involuntary cancellation, suspension or revocation, except as provided by these regulations.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-326, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-23. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-328 as amended by L. 1987, Ch. 182, Sec. 32, 41-2633a as amended by L. 1987, Ch. 182, Sec. 84; effective May 1, 1988; revoked Dec. 28, 2007.)

14-16-24. (Authorized by K.S.A. 41-203 as amended by L. 1987, Ch. 182, Sec. 5, 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-321 as amended by L. 1987, Ch. 182, Sec. 29, 41-322 as amended by L. 1987, Ch. 182, Sec. 30, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988; revoked Dec. 28, 2007.)

Article 17 - MISCELLANEOUS

(Last amended in 1989)

14-17-1. Surety bonds; form and requirements. All bonds required to be executed under the provisions of the act or the rules and regulations of the director shall be to the state director of alcoholic beverage control for and on behalf of the state of Kansas, and executed by good and sufficient corporate sureties licensed to do business within the state of Kansas. Each said bond shall be countersigned by a Kansas resident agent whose authority to sign said bond shall be evidenced by a duly and properly executed power of attorney, and said power of attorney shall be attached to each said bond at the time of filing the same with the director.

(Authorized by K.S.A. 41-211, 41-317, 41-404, 41-408, 41-409, 41-505, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-17-2. Sacramental wine, importation, sale, transportation, and delivery. No license of any kind shall be required of any person to ship wine into this state which is to be used exclusively for sacramental purposes, when such wine is shipped by common carrier and consigned to any bona fide priest, pastor, bishop, rabbi, preacher or minister of the gospel of any religious faith or denomination, and the container, barrel, case, or carton thereof is plainly and legibly labeled: "Wine to be used exclusively for sacramental purposes"; and no licenses or transportation permit, shall be required for the importation and the delivery, transportation, or distribution within this state of any such wine when it is consigned to any such bona fide priest, pastor, bishop, rabbi, preacher or minister of the gospel, and the container, barrel, case, or carton is plainly and legibly labeled as above required.

(Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-17-3. Sheriffs' sales of confiscated liquor; sheriff to make report of sales to director. Whenever any identification stamps shall be sold to a sheriff to be placed upon confiscated alcoholic liquors which he has been authorized to sell by a court having authority to issue such an order of sale, the sheriff conducting said sale shall make a return under oath to the director which return shall show: The names and addresses of the person or persons to whom such alcoholic liquor was sold, the quantity of each particular type, brand and kind of alcoholic liquor sold to each purchaser, and if any purchaser is a licensed distributor or retailer the license number of said purchaser shall be shown upon said return.

(Authorized by K.S.A. 41-211, 41-306, 41-504, 41-708, 41-1106, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-17-4. Subterfuge in effort to circumvent rules deemed violation. Any act which may be construed as a subterfuge in an effort to circumvent any of these rules and regulations shall be deemed a violation of the rule or regulation attempted to be circumvented.

(Authorized by K.S.A. 41-211, 41-722, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-17-5. Acceptance of hospitality by director and employees. (a) Each person who has a special interest in the sale of alcoholic liquor or who is licensed, inspected or regulated by the alcoholic beverage control division shall not offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$100 or more in any calendar year to the director or any agent or employee of the director.

(b) Hospitality in the form of food and beverage shall be generally excluded from the provisions of this regulation and shall not be used to circumvent guidelines described in subsection (a) above.

(c) This regulation shall take effect on or after October 1, 1988.

(Authorized by and implementing K.S.A. 1987 Supp. 41-206; effective Oct. 1, 1988.)

14-17-6. Acceptance of hospitality by the director; employees. (a) Personal gifts to the director or any agent or employee of the director of liquor, money, services or any other thing of value from any manufacturer, distributor, wholesaler or retailer of alcoholic liquor, applicant for a license or licensee regardless of the dollar value of the item, shall not be allowed, except as provided for in subsection (b).

(b) The director, or any agent or employee of the director may, in the course of official business, attend conventions, seminars, workshops and other business meetings where food and drink are provided to the director, agent or employee as a participant.

(c) Each agent or employee shall receive prior approval from the director before attending a function where food and drink are provided free of charge or at a reduced cost.

(Authorized by and implementing K.S.A. 1988 Supp. 41-206; effective July 3, 1989.)

Article 19 - CLASS A CLUBS

(Last amended in 1992)

14-19-1. (Authorized by K.S.A. 1979 Supp. 41-2634; effective Jan. 1, 1966; amended, E-77-15, March 19, 1976; amended Feb. 15, 1977; revoked, E-80-28, Dec. 12, 1979; revoked May 1, 1980.)

14-19-1a. (Authorized by K.S.A. 1980 Supp. 41-2634; effective Jan. 1, 1969; amended Jan. 1, 1970; amended, E-77-15, March 19, 1976; amended May 1, 1977; revoked, E-81-36, Dec. 10, 1980; revoked May 1, 1981.)

14-19-1b. (Authorized by K.S.A. 1980 Supp. 41-2634; effective Jan. 1, 1974; amended, E-77-15, March 19, 1976; amended Feb. 15, 1977; revoked, E-81-36, Dec. 10, 1980; revoked May 1, 1981.)

14-19-2. (Authorized by K.S.A. 1979 Supp. 41-2634; effective Jan. 1, 1966; amended, E-77-15, March 19, 1976; amended Feb. 15, 1977; revoked, E-80-28, Dec. 12, 1979; revoked May 1, 1980.)

14-19-3. (Authorized by K.S.A. 1979 Supp. 41-2634; effective Jan. 1, 1966; revoked, E-80-28, Dec. 12, 1979; revoked May 1, 1980.)

14-19-4. (Authorized by K.S.A. 1979 Supp. 41-2634; effective Jan. 1, 1966; amended, E-77-15, March 19, 1976; amended Feb. 15, 1977; revoked, E-80-28, Dec. 12, 1979; revoked May 1, 1980.)

14-19-4a. Liquor pool; storage. All alcoholic liquor attributable to the member's liquor pool shall be stored and maintained in the licensed premises of the club in a safe manner. No such alcoholic liquor shall be stored at a place other than in the area designated as being licensed except upon written approval of the director. The director shall not grant such approval except upon showing extraordinary circumstance requiring off-premises storage and not until the club demonstrates that it has exclusive control of this additional storage area. If approval is given by the director to store pool liquor at a location other than the licensed premises, such approved storage area shall not be a location where individuals may resort to for the consumption of food and/or alcoholic beverages and for entertainment.

(Authorized by K.S.A. 41-2613, K.S.A. 1977 Supp. 41-2601, 41-2634; effective May 1, 1978.)

14-19-5. (Authorized by K.S.A. 1979 Supp. 41-2634; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1970; amended Jan. 1, 1973; amended, E-77-15, March 19, 1976; amended Feb. 15, 1977; revoked, E-80-28, Dec. 12, 1979; revoked May 1, 1980.)

14-19-6 and 14-19-7. (Authorized by K.S.A. 1979 Supp. 41-2634; effective Jan. 1, 1966; revoked, E-80-28, Dec. 12, 1979; revoked May 1, 1980.)

14-19-8. (Authorized by K.S.A. 1976 Supp. 41-2634; effective Jan. 1, 1966; amended, E-77-15, March 19, 1976; amended Feb. 15, 1977; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-9. (Authorized by K.S.A. 1978 Supp. 41-2601, 41-2634; effective Jan. 1, 1966; amended, E-78-9, Feb. 17, 1977; modified, L. 1978, Ch. 452, May 1, 1978; amended, E-79-31, Nov. 21, 1978; amended May 1, 1979; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-10. (Authorized by K.S.A. 41-2634, 41-2637; effective Jan. 1, 1966; amended Jan. 1, 1969; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; revoked May 1, 1982.)

14-19-11. (Authorized by K.S.A. 1978 Supp. 41-2601, 41-2634; effective, E-78-9, Feb. 17, 1977; effective May 1, 1978; amended, E-79-31, Nov. 21, 1978; amended May 1, 1979; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-12. (Authorized by K.S.A. 1978 Supp. 41-2601, 41-2634; effective, E-78-9, Feb. 17, 1977; effective May 1, 1978; amended, E-79-31, Nov. 21, 1978; amended May 1, 1979; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-13. (Authorized by K.S.A. 1978 Supp. 41-2601, 41-2634; effective, E-78-9, Feb. 17, 1977; effective May 1, 1978; amended, E-79-31, Nov. 21, 1978; amended May 1, 1979; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-14. Definitions. As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

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

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

(c) "Beneficial interest" means any ownership interest by a person or that person's spouse in a business, corporation, partnership, business trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization.

(d) "Bulk wine" means wine that is sold to a club, either by a retailer or a distributor, in barrels, casks or bulk containers which individually exceed 20 liters.

(e) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

(f) "Director" means the director of the division of alcoholic beverage control of the department of revenue.

(g) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 1991 Supp. 41-306, 41-306a, and 41-307, to sell or offer for sale alcoholic liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.

(h) "Guest of member" means an individual who is known to and personally accompanied by a member of a club while on the licensed premises of the club. "Guest of member" shall not include members of the general public admitted to licensed club premises as guests of the club's owner, manager or employee.

(i) "Licensed premises" means those areas described in an application for a club license that are under the control of the applicant and that are intended as the area in which alcoholic liquor or cereal malt beverages are to be served pursuant to the applicant's license.

(j) "Manager" means the manager or assistant manager, or both, of any licensed club who is in charge of the daily operations of the licensed club. A manager shall be deemed to be employed in connection with the dispensing, selling, mixing or serving of alcoholic liquor.

(k) "Member" means an individual who is a corporate stockholder, partner, trust beneficiary or associate and members of the individual's family as provided in the class A club's organizing documents.

(l) "Morals charge" means a charge made in an indictment, information or a complaint alleging crimes which involve:

- (1) prostitution;
- (2) procuring any person;
- (3) solicitation of a child under 18 years of age for any immoral act involving sex;
- (4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;
- (5) rape;
- (6) incest;
- (7) gambling;
- (8) adultery; or
- (9) bigamy.

(m) "Nonprofit fraternal club" means a nonprofit corporation, partnership, business trust or association that:

(1) is a fraternal beneficiary society, order or association operating under the lodge system which provides for the payment of life, sickness, accident or other benefits to its members or their dependents; or

(2) is organized for the exclusive benefit of the members of a fraternity operating under the lodge system.

(n) "Nonprofit social club" means a nonprofit corporation, partnership, business trust or association that:

(1) is organized and operated exclusively for the pleasure, recreation and other non-profitable use of its shareholders, partners, beneficiaries or members; and

(2) shall not distribute any of its net earnings to any shareholder, partner, beneficiary or member.

(o) "Nonprofit war veterans club" means a nonprofit corporation, partnership, business trust or association that:

(1) is a post or organization of war veterans, an auxiliary unit or society of a post or organization of war veterans or a trust or foundation for a post or organization of war veterans;

(2) requires that 75% of its shareholders, partners, beneficiaries or members be war veterans and substantially all its other members are veterans, widows of veterans or widowers of veterans; and

(3) shall not distribute any of its net earnings to any shareholder, partner, beneficiary or member.

(p) "Person" means any natural person, corporation, association, trust or partnership.

(q) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.

(r) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substances in solution. The term "spirits" includes brandy, rum, whiskey, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(s) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2601, K.S.A. 1991 Supp. 41-2634; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-19-15. Applications and renewals; documents required. Each application for a class A club license shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Any application which does not contain the required information may be returned to the applicant without the application being considered on its merits.

(a) General requirements. Each application for a class A club license shall be accompanied by the following documents and all other documents the director deems necessary:

(1) A copy of a written lease, with at least nine months remaining in its term from the date the license is issued, or proof of ownership by the applicant of the premises sought to be licensed;

(2) a copy of any management or catering contract in force or a proposed management or catering contract, if applicable;

(3) a description of the club premises. The description may include those areas outside the main service area that are in close proximity to the main service area and are located upon property subject to legal occupation by the applicant, as approved by the director. The description shall state the location of the licensed premises, the approximate dimensions of the licensed premises, enough detail to identify the licensed premises and a depiction of the liquor storage area;

(4) a certified statement from the applicant that the licensed premises are located:

(A) in an area where the zoning regulations of either the city, township or county allow the operation of a club; or

(B) in an area where no zoning regulations have been adopted;

(5) the registration fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(6) the license fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(7) a disclosure statement listing each owner, officer, manager, trustee, director, stockholder owning in the aggregate more than 5% of the common or preferred stock, grantor or beneficiary, and the spouses of each of these individuals. The disclosure statement shall certify that all the individuals listed are not disqualified from obtaining a club license as provided in K.A.R. 14-19-16; and

(8) a disclosure statement listing all personnel who will be mixing or dispensing alcoholic liquor.

(b) Corporations. In addition to the documents required by subsection (a), each application on behalf of a corporation shall include:

(1) a certified copy of the articles of incorporation as a Kansas domestic not-for-profit corporation;

(2) a copy of the corporate bylaws; and

(3) an appointment of process agent together with a power of attorney authorizing that agent to conduct the business of the club and receive all service of process on behalf of the club. The process agent shall be an individual.

(c) Business trusts or associations. In addition to the documents required by subsection (a), each application on behalf of an unincorporated business trust or association shall include a copy of the constitution, articles of association, declaration of trust, or other documents setting forth the aims and purposes of the business trust or association, setting forth the membership requirements and declaring the county in which the business trust or association is to be located.

(d) Partnerships. In addition to the documents required by subsection (a), each application on behalf of a partnership shall include a copy of the partnership agreement.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2606; 41-2608; 41-2610; 41-2622; 41-2623, as amended by 1992 HB 2719; 41-2625; 41-2634; 41-2637; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-19-16. Requirements for class A club license. (a) Corporations. A corporation shall not be issued a class A club license if any officer, manager, director, stockholder owning a beneficial interest in the corporation or spouse of these individuals:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;
(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age. This shall not apply to the spouse of the individual;

(5) (A) Appoints or supervises any law enforcement officer, other than as a member of the governing body of a city or county;

(B) is a law enforcement official; or

(C) is an employee of the director.

Paragraph (5), above, shall not apply to an officer of a post home, a congressionally chartered service or fraternal organization or a benevolent association or society thereof;

(6) intends to act as the agent of another in exercising control of the license;

(7) at the time of application for renewal of the license issued by the director would be ineligible for the license upon a first application. This shall not apply if the officer's, director's, manager's or stockholder's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(9) has a beneficial interest in the manufacture, preparation or wholesale or retail sale of alcoholic liquors or a beneficial interest in any other club or drinking establishment licensed by the director. Any officer, manager, director, stockholder or spouse of these individuals may own a beneficial interest in a distributor or retailer if the club purchases no alcoholic liquor from that distributor or retailer; and

(10) has been an officer, manager or director or a stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(b) Business trusts or associations. A business trust or association shall not be issued a class A club license if any officer, director, manager, owner who owns a beneficial interest in the business trust or association or a spouse of any of these individuals:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age. This shall not apply to the spouse of the individual;

(5) (A) Appoints or supervises any law enforcement officer, other than as a member of the governing body of a city or county;

(B) is a law enforcement official; or

(C) is an employee of the director;

Paragraph (5), above, shall not apply to an officer of a post home, a congressionally chartered service or fraternal organization or a benevolent association or society thereof;

(6) intends to act as the agent of another in exercising control of the license;

(7) at the time of application for renewal of the license issued by the director would be ineligible for the license upon a first application. This shall not apply if the officer's, director's, manager's or owner's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(9) has a beneficial interest in the manufacture, preparation or wholesale or retail sale of alcoholic liquors or a beneficial interest in any other club or drinking establishment licensed by the director. Any

officer, director, manager, owner or spouse of the same may own a beneficial interest in a distributor or retailer if the club licensed by the director purchases no alcoholic liquor from the distributor or retailer; and

(10) has been an officer, manager, director or stockholder owning a beneficial interest of a corporation which:

(A) Has has a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(c) Partnerships. A partnership shall not be issued a class A club license if any manager, partner or spouse of a manager or partner:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age. This shall not apply to the spouse of the partner or manager;

(5) (A) Appoints or supervises any law enforcement officer, other than as a member of the governing body of a city or county;

(B) is a law enforcement official; or

(C) is an employee of the director;

Paragraph (5), above, shall not apply to an officer of a post home, congressionally chartered service or fraternal organization or a benevolent association or society thereof;

(6) intends to act as the agent of another in exercising control of the license;

(7) at the time of application for renewal of the license issued by the director would be ineligible for the license upon a first application. This shall not apply if the manager's or partner's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(9) has a beneficial interest in the manufacture, preparation or wholesale or retail sale of alcoholic liquors or a beneficial interest in any other club or drinking establishment licensed by the director. A manager, partner or spouse of the same may own a beneficial interest in a distributor or retailer if the club licensed by the director purchases no alcoholic liquor from that distributor or retailer;

(10) has been an officer, manager, director or stockholder owning a beneficial interest of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state;

(11) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of the manager or partner;

(12) has been a resident of the state of Kansas for less than one year immediately preceding the date of application. This shall not apply to the spouse of the manager or partner; and

(13) is not a resident of the county in which the club is to be located. This shall not apply to the spouse of the manager or partner.

(d) Every corporate applicant shall be a Kansas domestic not-for-profit corporation.

(e) For the purpose of determining qualifications under subsections (a), (b) and (c) of this regulation, any person who leases premises to a class A club upon terms which result in the lessor having a beneficial interest in the club's business, shall be deemed to be a partner in the club's business. A lessor shall be deemed to have a beneficial interest in a club's business, if the lessor receives as rent, in whole or in part, a percentage of the club's gross receipts or profits from the sale of

alcoholic liquor, other items to be mixed with alcoholic liquor, or club membership fees. Percentage rent provisions that exclude these items shall be subject to review and approval by the director.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-17. Issuance of license. (a) An annual class A club license shall be issued to each applicant determined by the director to have satisfied the requirements of the club and drinking establishment act and this article of these regulations.

(b) An application for a license may be rejected by the director if:

(1) the applicant's officers, directors, partners, registered agent, managers or owners have previously owned or operated under any type of retail liquor, club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee had been ordered to appear and show cause why the license should not be revoked or suspended;

(2) the application is for premises which were the subject of the order to appear and show cause as set forth in paragraph (1), above, and it appears that the new application for a license is an attempt to avoid any possible remedial action taken by the director against the former licensee;

(3) the applicant's officers, directors, partners, registered agent, managers or owners, are currently delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(4) the applicant's officers, directors, partners, registered agent, managers or owners have previously owned or operated any retail liquor, club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee was delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(5) the application is for premises which were the subject of the delinquent taxes as set forth in paragraph (3), above, and it appears that the new application for a license is an attempt to avoid payment of the tax.

(Authorized by K.S.A. 1989 Supp. 41-2634; 79-41a03; implementing K.S.A. 1989 Supp. 41-2623 and 79-41a03; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990.)

14-19-18. Licenses, loss or destruction of; application for and issuance of duplicate. Whenever any license issued by the director is lost or destroyed before its expiration, the club to which the license was issued may make written application to the director for a duplicate license. The application shall set forth all the facts and circumstances concerning the loss or destruction of the license and shall be sworn to by each person applying for the duplicate. Upon review of the application, a duplicate license may be issued by the director.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-19. Change of club status. A class A club license shall not be converted to either a class B club or a drinking establishment license.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-20. Refund upon voluntary cancellation. If the license of any club is canceled, except through revocation or suspension, the club shall be eligible for a refund of a portion of the annual license fee. The refund shall be equal to one-twelfth of the annual license fee for each full calendar month of the license year which remains at the time of the cancellation. The refund shall only be made upon application to the director.

(Authorized by K.S.A. 41-2607; implementing K.S.A. 41-2629 as amended by L. 1987, Ch. 182, Sec. 80; 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-21. Guests of members; reciprocal members; registration. (a) A club shall only admit members, guests of members, reciprocal members or guests of reciprocal members. Admission of any other individual to the licensed premises is prohibited.

(b) "Reciprocal member" means an individual who belongs to a club which has executed a written reciprocal agreement with the club to which access is sought, as provided by K.A.R. 14-19-23, and has filed the agreement with the director.

(c) Each club that has entered into reciprocal agreements shall keep on the licensed premises a reciprocal guest book in which each reciprocal member shall legibly sign his or her name each time the member enters the club. Each reciprocal member shall show the member's personal address and the name and city address of the club of original membership.

(d) The privileges extended to reciprocal members shall be determined by the written reciprocal agreement. Each guest or reciprocal member shall be entitled to all the privileges of the club as may be provided in the reciprocal agreement. The extension of club privileges to a guest shall end with the departure of the sponsoring club member from the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-22. Roster of stockholders, partners, beneficiaries or associates. Each club shall maintain upon the licensed premises, a current roster of stockholders, partners, beneficiaries or associates who are entitled to access and use of the licensed premises and to services offered by the licensee club.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2610 as amended by L. 1987, Ch. 182, Sec. 65, 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-23. Agreement for reciprocal membership. (a) Any two or more class A clubs may enter into an agreement which allows members of each club to have access to all other clubs which are parties to the reciprocal agreement.

(b) Each club shall submit two copies of a proposed reciprocal agreement to the director for approval. The agreement shall be properly executed and comply with the club and drinking establishment act. The club shall keep an approved copy of the agreement upon the licensed premises at all times.

(c) Upon severance of any reciprocal agreement each club shall return the approved copy of the agreement to the director with a notification that the agreement has been canceled.

(d) The provisions of this regulation shall not apply to a nationally chartered war veterans club which allows admission of its members to the various posts located within the state.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-24. Employees; registration of same; prohibitions. (a) Each club shall register with the director all employees who will mix, sell, serve or dispense alcoholic liquor. The registration shall be submitted on forms supplied by the director, within five days after the employee begins work for the club and upon each renewal of the club's license.

(b) A club shall not employ or continue to employ any person:

- (1) who is under the age of 18 years to serve alcoholic liquor or cereal malt beverage;
- (2) who is under the age of 21 to mix or dispense drinks containing alcoholic liquor or cereal malt beverage;
- (3) who is under the age of 21 years and is not supervised by the licensee or an employee who is at least 21 years of age;
- (4) who has been convicted of a felony or of any crime involving a morals charge in Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage; or
- (5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage; or
- (6) who is a manufacturer, distributor or retailer, or who is an officer, agent, or employee of a manufacturer, distributor, or retailer, in the capacity of a person registered to mix, serve, sell, or dispense alcoholic liquor. This shall not apply to a distributor or a retailer who is an officer, director or board member of a class A club if the distributor or retailer sells no alcoholic liquor to the class A club.

(Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2610; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-19-25. Purchase of alcoholic liquor and cereal malt beverages; requirements and restrictions. (a) Each club shall purchase alcoholic liquor only from a retailer. However, any club may purchase bulk wine, beer and cereal malt beverages from a distributor.

(b) Any club may receive delivery of alcoholic liquor to its licensed premises from a retailer and delivery of bulk wine, beer and cereal malt beverages from a distributor.

(c) A club shall not purchase alcoholic liquor or beer from any retailer who does not possess a federal wholesaler's basic permit and who does not have on display at the retail establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." A club shall not warehouse any liquor on any retail liquor store premises.

(d) A club shall not purchase bulk wine, beer or cereal malt beverage from any distributor who does not possess a federal wholesaler's basic permit and who does not have on display at the wholesale establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." A club shall not warehouse its liquor on any distributor's premises.

(e) Each club, when making alcoholic liquor purchases from retailers or distributors, shall obtain and keep, for a period of not less than three years from the date of purchase, a sales slip that contains the following information:

- (1) The date of purchase;
- (2) the name and address of the retailer or distributor;
- (3) the name and address of the club as it appears on the club license;
- (4) the brand, size, and amount of all alcoholic liquor purchased; and
- (5) the subtotal of the cost of the alcoholic liquor and the total cost of the order including enforcement tax and delivery charge, if any.

(f) Each club shall purchase alcoholic liquor through a registered employee of the licensed club who shall be at least 21 years of age. The club shall provide to the registered employee identification sufficient to demonstrate to the retailer or distributor who possesses the federal wholesale basic permit that the individual making the purchase is so registered.

(g) Each club shall maintain on the licensed premises all records of all alcoholic liquor purchased. These records shall be available for inspection by the director or any agent or employee of the director or secretary upon request.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-211; 41-2634 as amended by L. 1987, Ch. 182, Sec 85; 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 41-301; 41-306 as amended by L. 1987, Ch. 182, Sec. 14; 41-307 as amended by

L. 1987, Ch. 182, Sec. 17; 41-308 as amended by L. 1987, ch. 182, Sec. 18; 41-2621 as amended by L. 1987, Ch. 182, Sec. 73; 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-26. Licensee's responsibility for conduct of business and employees. Each licensee shall be responsible for the conduct of its business. Each licensee shall be held responsible for all violations of the club and drinking establishment act by the following people while on the licensed premises:

- (a) An employee of the club;
- (b) an employee of any person contracting with the club to provide services or food; and
- (c) any individual mixing, serving, selling or dispensing alcoholic liquor.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-27. Storage of liquor; removal from club premises prohibited. (a) Each club shall store its liquor only upon the licensed premises of the club unless it has received prior approval in writing from the director to do otherwise.

(b) A club shall not make any sales of alcoholic liquor for consumption off the licensed premises. All alcoholic liquor purchased on the club premises shall not be removed from the club premises.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-28. Nontaxed liquor and refilling of containers prohibited. (a) Alcoholic liquors shall only be dispensed from or stored in original containers bearing Kansas alcoholic liquor identification stamps. A licensed club shall not refill any such original container with any alcoholic liquor, or any other substance.

(b) A member, guest or reciprocal member may bring bottles onto the club premises upon the following conditions:

- (1) A club shall not warehouse any bottles upon the club premises;
- (2) each person bringing any bottles onto the club premises shall remove the bottles when departing from the club premises; and
- (3) each bottle shall bear a Kansas alcoholic liquor identification stamp if required by law.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-2621 as amended by L. 1987, Ch. 182, Sec. 73; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 53; L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-29. Cereal malt beverages; sale allowed. (a) Any club may sell cereal malt beverages upon the licensed premises if:

(1) The club notifies the director when it obtains a license for the retail sale of cereal malt beverages;

(2) the club notifies the director of each renewal of the license for the retail sale of cereal malt beverages; and

(3) the club dispenses cereal malt beverage only for consumption upon the licensed premises.

(b) Violation of any cereal malt beverage statute shall subject the club to suspension or revocation of its license or to a monetary fine under the procedures referenced of K.A.R 14-16-14 et seq.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2704 as amended by L. 1987, Ch. 182, Sec. 100; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-30. Minimum prices for drinks; how determined. (a) A licensed club shall not sell any drink to any person for less than the acquisition cost of that drink to the club.

(b) The cost of each of the following items shall be included in the acquisition cost of a drink:

(1) All alcoholic liquor contained in the drink; and

(2) any liquid of a non-alcoholic nature contained in the drink.

(c) Any of the following items shall not be required to be included in the acquisition cost:

(1) City service or tap water;

(2) ice;

(3) employee salaries or other usual overhead; and

(4) any other items of clearly negligible value used in the drink.

(d) In determining the minimum price, a club shall not include the drink tax as imposed by K.S.A. 79-41a02. This tax shall be collected in addition to the minimum price for the drink itself.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-31. Clubs charge the same price for the same drink all day; day defined. (a) A class A club shall not sell a drink to any person for less than the price charged for that same drink to all other club patrons on that day. Any particular drink that is offered for sale at any time during the day shall be offered at the same price for the entire day.

(b) The term "day" shall mean from 9:00 a.m. until 2:00 a.m. the following calendar day.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-32. Licensee must pay city or county license tax before making sales. A licensee shall not operate until the licensee has paid the annual occupation or license tax imposed by the city or county in which the licensed premises are located. A licensee shall not sell 3.2 beer without first having obtained a cereal malt beverage license.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2622 as amended by L. 1987, Ch. 182, Sec. 74; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-33. Federal retail stamp. Each club licensee shall purchase from the United States bureau of alcohol, tobacco and firearms a federal retail stamp and shall display that stamp, or proof of payment for the stamp, in public view on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182, Sec. 66; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-34. Excise tax shall be current. Each club that fails to register for an excise tax registration number with the director of taxation shall be subject to cancellation of its license or fine by the director. Each club that is delinquent in the payment of its excise taxes levied on alcoholic liquors shall be subject to cancellation of its license or fine by the director.

(Authorized by and implementing 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-35. Suspension and revocation; grounds for; procedure. The license of any class A club may be revoked, canceled or suspended by the director for any one or more of the following reasons, subject to the procedures and other provisions of K.A.R. 14-16-14 et seq.:

- (a) The licensee has omitted or misstated a material fact in its application;
- (b) the licensee has operated in a manner materially different from that represented in the application;
- (c) the licensee no longer meets the criteria for a nonprofit social, fraternal or war veterans club;
- (d) the licensee has engaged in a prohibited transaction;
- (e) the licensee has violated any provision of the liquor control act, the club and drinking establishment act, the cereal malt beverage act or any regulations adopted pursuant thereto;
- (f) there has been a violation of the laws of Kansas pertaining to the sale of alcoholic liquor or cereal malt beverage or a violation of the laws of the United States pertaining to the sale of intoxicating liquor or a violation involving a morals charge;
- (g) the licensee, its managing officers or any employee, has purchased and displayed, on the licensed premises a federal wagering occupational stamp or a federal coin operated gambling device stamp issued by the United States treasury department;
- (h) the licensee has refused to permit the director or any agent or employee of the director or the secretary to inspect the licensed premises and any alcoholic liquor in the licensee's possession or under the licensee's control upon the premises covered by the license, or upon any other premises where the liquor may be stored; or
- (i) the licensee has allowed a person who is under the age of 21 years to possess alcoholic liquor while on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182; Sec. 66; 41-2613 as amended by L. 1987, Ch. 182, Sec. 68; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-36. Public functions upon licensed premises; when allowed; approval of director. (a) A club shall not open any part of its licensed premises to the public unless it has first received the written approval of the director. All requests for written approval of the director to open the licensed premises to the public shall be accompanied by a sworn statement containing:

- (1) The days of the week and hours of those days for which the application is made;
- (2) a description of the exact area of the club to be open to the general public;
- (3) the statement that no alcoholic liquor or cereal malt beverage will be sold, dispensed or consumed by anyone in the area described during the time indicated;
- (4) the date and time that normal club activities will be resumed in the described areas; and
- (5) a description of the type of activity to be conducted and by whom.

(b) Written approval shall not be required for a class A club holding a bona fide bingo license to operate bingo games which are open to the public, pursuant to K.S.A. 79-4703 and amendments thereto. Application for and acceptance of a bingo license by a class A club shall be considered as consent by the class A club licensee to comply with the public functions requirements of this regulation.

(c) The use of the licensed premises by the general public shall not remove the area from the jurisdiction of the director. The licensee may be suspended, revoked or fined for any violations of chapter 41 of the Kansas statutes during any public function held on its licensed premises.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-19-37. Display of license. Each class A club shall display its license in a conspicuous place on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, implementing K.S.A. 41-2612 as amended by L. 1987, Ch. 182, Sec. 67; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

Article 20 - CLASS B CLUBS

(Last amended in 1992)

14-20-1 through 14-20-10. Revoked

14-20-11 to 14-20-13. Reserved.

14-20-14. Definitions. As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

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

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

(c) "Beneficial interest" means any ownership interest by a person or that person's spouse in a business, corporation, partnership, trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization.

(d) "Bulk wine" means wine which is sold to a club either by a retailer or a distributor in barrels, casks or bulk containers which individually exceed 20 liters.

(e) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

(f) "Director" means the director of the division of alcoholic beverage control of the department of revenue.

(g) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 1991 Supp. 41-306, 41-306a and 41-307, to sell or offer for sale alcoholic liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.

(h) "Guest of member" means an individual who is known to and personally accompanied by a member of a club while on the licensed premises of the club. "Guest of member" shall not include members of the general public admitted to licensed club premises as guests of the club's owner, manager or employee.

(i) "Food service establishment" has the meaning provided by K.S.A. 36-501 and amendments thereto.

(j) "Licensed premises" means those areas described in an application for a club license that are under the control of the applicant and that are intended as the area in which alcoholic liquor or cereal malt beverages are to be served pursuant to the applicant's license.

(k) "Manager" means the manager or assistant manager, or both, of any licensed club who is in charge of the daily operations of the licensed club. A manager shall be deemed to be employed in connection with the dispensing, selling, mixing or serving of alcoholic liquor.

(l) "Member" means any individual who has been accepted into membership by a licensed class B club, as provided in the club's organizing documents, and that individual's spouse.

(m) "Morals Charge" means a charge made in an indictment, information or a complaint alleging crimes which involve:

(1) prostitution;

- (2) procuring any person;
- (3) solicitation of a child under 18 years of age for any immoral act involving sex;
- (4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;
- (5) rape;
- (6) incest;
- (7) gambling;
- (8) adultery; or
- (9) bigamy.

(n) "Person" means any natural person, corporation, association, trust or partnership.

(o) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.

(p) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 1991 Supp. 41-2642 and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 1991 Supp. 41-2642 and amendments thereto, a licensed food service establishment.

(q) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substances in solution. The term "spirits" includes brandy, rum, whisky, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(r) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including similar beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2601; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-20-15. Applications and renewals; documents required. Each application for a class B club license shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Any application which does not contain the required information may be returned to the applicant without the application being considered on its merits.

(a) General requirements. Each application for a class B club license shall be accompanied by the following documents and all other documents the director deems necessary:

(1) A copy of a written lease, with at least nine months remaining in its term from the date the license is issued, or proof of ownership by the applicant of the premises sought to be licensed;

(2) a copy of any management or catering contract in force or a proposed management or catering contract, if applicable;

(3) a description of the club premises. The description may include those areas outside the main service area that are in close proximity to the main service area and are located upon property subject to legal occupation by the applicant, as approved by the director. The description shall state the location of the licensed premises, the approximate dimensions of the licensed premises, enough detail to identify the licensed premises and a depiction of the liquor storage area;

(4) a certified statement from the applicant that the licensed premises are located:

(A) In an area where the zoning regulations of either the city, township or county allow the operation of a club; or

(B) in an area where no zoning regulations have been adopted;

(5) the registration fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(6) the license fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(7) a disclosure statement listing each owner, officer, manager, trustee, director, stockholder owning a beneficial interest, grantor or beneficiary, and the spouses of any of these individuals. The disclosure statement shall certify that all the individuals listed are not disqualified from obtaining a club license as provided in K.A.R. 14-20-16; and

(8) a disclosure statement listing all personnel who will be mixing or dispensing alcoholic liquor.

(b) Corporations. In addition to the documents required by subsection (a), each application on behalf of a corporation shall include:

(1) A certified copy of the articles of incorporation as a Kansas domestic for-profit corporation;

(2) a copy of the corporate bylaws that shall require each member of the club who is not a temporary member as provided in K.A.R. 14-20-

25:

(A) to be of good moral character;

(B) to pay an annual membership fee of not less than ten dollars; and

(C) to wait 10 days from the date of making application until said member may make use of the licensed premises; and

(3) an appointment of process agent together with a power of attorney authorizing that agent to conduct the business of the club and receive all service of process on behalf of the club. The process agent shall be an individual.

(c) Partnerships. In addition to the documents required by subsection (a), each application on behalf of a partnership shall include a copy of the partnership agreement.

(d) Trusts. In addition to the documents required by subsection (a), each application on behalf of a trust shall include a copy of the declaration of trust or other documents setting forth the aims and purposes of the trust.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2606; 41-2608; 41-2610; 41-2622; 41-2623, as amended by 1992 HB 2719; 41-2625; 41-2641; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-20-16. Requirements for class B club license. (a) A class B club license shall not be issued to any corporation, partnership, trust or individual if any owner, partner, grantor, trustee, beneficiary, officer, manager, director, stockholder owning a beneficial interest in a corporation or spouse of these individuals:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age. This shall not apply to the spouse of the individual or to the beneficiary of a trust;

(5) (A) appoints or supervises any law enforcement officer, other than as a member of the governing body of a city or county;

(B) is a law enforcement official; or

(C) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the license;

(7) at the time of application for renewal of the license issued by the director would be ineligible for the license upon a first application. This provision shall not apply to the spouse of the individual;

(8) has had any license or permit issued by the director under the club and drinking establishment act revoked; or

(9) has a beneficial interest in the manufacture, preparation or wholesale or retail sale of alcoholic liquors or a beneficial interest in any other club or drinking establishment licensed by the director. This shall not apply to any owner, partner, grantor, trustee, beneficiary, officer, manager, director, stockholder or spouse who owns a beneficial interest in another club or drinking establishment if:

(A) the application is for licensed premises located in a hotel and all of the individual's beneficial interests are in clubs or drinking establishments located in hotels; or

(B) the application is for licensed premises that is a restaurant and all of the individual's beneficial interests are in clubs or drinking establishments that are restaurants.

(b) A corporation shall not be issued a class B club license if any officer, manager, director or stockholder owning a beneficial interest in the corporation has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(1) has had a license revoked under the provisions of the club and drinking establishment act; or

(2) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(c) A partnership, trust or individual shall not be issued a class B club license if any owner, manager, grantor, trustee, beneficiary or partner:

(1) has been a citizen of the United States for less than 10 years;

(2) has been a resident of the state of Kansas for less than one year immediately preceding the date of application; or

(3) is not a resident of the county in which the club is to be located.

(d) Each corporate applicant shall be a Kansas domestic for-profit corporation.

(e) For the purpose of determining qualifications under subsections (a), (b) and (c) of this regulation, any person who provides financing to or leases premises to a class B club upon terms which result in that person having a beneficial interest in the club's business shall be deemed to be a partner in the club's business. A person who provides financing to a class B club shall be deemed to have a beneficial interest in the club's business if the terms for repayment are conditioned on the amount of the club's receipts or profits from the sale of alcoholic liquor, other items to be mixed with alcoholic liquor or club membership fees. A lessor shall be deemed to have a beneficial interest in a club's business if the lessor receives as rent, in whole or in part, a percentage of the licensee's receipts or profits from the sale of alcoholic liquor, other items to be mixed with alcoholic liquor or club membership fees. Financing or percentage rent provisions that exclude these items shall be subject to review and approval by the director.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2623 as amended by 1992 HB 2719; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-20-17. Issuance of license. (a) An annual class B club license shall be issued to each applicant who is determined by the director to have satisfied the requirements of the club and drinking establishment act and this article of these regulations.

(b) An application for a license may be rejected by the director if:

(1) the applicant's officers, directors, partners, registered agent, managers or owners have previously owned or operated any retail liquor, club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee had been ordered to appear and show cause why the license should not be revoked or suspended;

(2) the application is for premises which were the subject of the order to appear and show cause as set forth in paragraph (1), above, and it appears that the new application for a license is an attempt to avoid any possible remedial action taken by the director against the former licensee;

(3) the applicant's officers, directors, partners, registered agent, managers or owners, are currently delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(4) the applicant's officers, directors, partners, registered agent, managers or owners have previously owned or operated any retail liquor, club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee was delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(5) the application is for premises which were the subject of the delinquent taxes as set forth in paragraph (3), above, and it appears that the new application for a license is an attempt to avoid payment of the tax.

(Authorized by K.S.A. 1989 Supp. 41-2634; 79-41a03; implementing K.S.A. 1989 Supp. 41-2623; K.S.A. 79-41a03; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990.)

14-20-18. Licenses, loss or destruction of; application for and issuance of duplicate.

Whenever any license issued by the director is lost or destroyed before its expiration, the club to which the license was issued may make written application to the director for a duplicate license. The application shall set forth all the facts and circumstances concerning the loss or destruction of the license and shall be sworn to by each person applying for the duplicate. Upon review of the application, a duplicate license may be issued by the director.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-19. Change of club status. (a) If a licensee desires to change its license from a class B club to a drinking establishment, the licensee shall make application, at least 45 days prior to the desired date of the change, for the type of license sought and shall voluntarily cancel the current license upon the issuance of the new type license. The licensee shall receive a refund of the license voluntarily canceled as provided by K.A.R. 14-20-20.

(b) If an audit by the director or the secretary finds a class B club with reciprocal agreements has failed to derive at least 50% of its gross receipts from the sale of food, all that class B club's reciprocal agreements shall be canceled. The class B club licensee, upon receipt of notice of cancellation of its reciprocal agreements, shall not admit reciprocal guests to the licensed premises.

(c) If an audit by the director or the secretary finds one of the class B clubs owned by a licensee which holds multiple licenses pursuant to the provisions of K.A.R. 14-20-24, fails to derive at least 50% of its gross receipts from the sale of food, then that class B club's license shall be canceled. The licensee shall have 10 days from receipt of notice of cancellation to advise the director, in writing, of its intent to sell the class B club and the date upon which the sale will be effective. If the effective sale date is within 30 days of the delivery of the licensee's notice of intent to sell, then the licensee's license shall be canceled on the effective date of the sale. If the licensee fails to give a notice of intent to sell or the effective date is longer than 30 days from the receipt of the licensee's notice of intent to sell, the licensee's license shall be canceled 40 days from the date the licensee receives the director's notice of

cancellation and the licensee shall discontinue operations under the club and drinking establishment act and surrender its license to the director.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2601 as amended by L. 1987, Ch. 182, Sec. 60; 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-20. Refund upon voluntary cancellation. If the license of any club is canceled, except through revocation or suspension, the club shall be eligible for a refund of a portion of the annual license fee. The refund shall be equal to one-twelfth of the annual license fee for each full calendar month of the license year which remains at the time of the cancellation. The refund shall be made only upon application to the director.

(Authorized by K.S.A. 41-2607; implementing K.S.A. 41-2629 as amended by L. 1987, Ch. 182, Sec. 80; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-21. Guests of members; reciprocal members; registration. (a) A club shall only admit members, guests of members, reciprocal members or guests of reciprocal members. Admission of any other individual to the licensed premises is prohibited.

(b) "Reciprocal member" means an individual who belongs to a club which has executed a written reciprocal agreement with the club to which access is sought, as provided by K.A.R. 14-20-23, and has filed the agreement with the director.

(c) Each club that has entered into reciprocal agreements shall keep on the licensed premises a reciprocal guest book, in which each reciprocal member shall legibly sign his or her name each time the member enters the club. Each reciprocal member shall sign his or her name, show their personal address and the name and city address of the club of original membership.

(d) The privileges extended to reciprocal members shall be determined by the written reciprocal agreement. Each guest or reciprocal member shall be entitled to all the privileges of the club as may be provided in the reciprocal agreement. The extension of club privileges to a guest shall end with the departure of the sponsoring club member from the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-22. Roster of members. The licensee of each club shall maintain a current roster of members who are entitled to access and use of the licensed premises and the services offered by the club.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-23. Agreement for reciprocal membership. (a) Any two or more class B clubs may enter into an agreement which allows members of each club to have access to all other clubs which are parties to the reciprocal agreement.

(b) Each club shall submit two copies of the proposed reciprocal agreement to the director for approval. The agreement shall be properly executed and comply with the club and drinking establishment act. The club shall keep an approved copy of the agreement upon the licensed premises at all times.

(c) Upon severance of any reciprocal agreement each club shall return the approved copy of the agreement to the director with a notification that the agreement has been canceled.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-24. Restaurant clubs; criteria for determination; gross receipts affidavit; estimates. (a)

For purposes of reciprocity and multiple ownership of class B clubs, a club shall be deemed to be a restaurant if the ratio of food sales on the licensed premises to total gross receipts for all sales made on the licensed premises for a period of not less than 12 months is 50% or greater. Sales of any kind made on permanent public areas that are not a part of the licensed premises shall not be included in any calculation for this purpose. Sales of food or other commodities made on the licensed premises during times that public functions are authorized may be included in all calculations.

(b) Each club licensee requesting restaurant status shall submit accurate figures for food sales, total gross sales, and whatever other pertinent information is requested on forms to be provided by the director at the time the licensee initially requests restaurant status and upon each renewal of the licensee's license.

(c) Each club requesting restaurant status that has been in operation for a period of less than 12 months may submit estimated figures for food sales and total gross receipts. However, a successor corporation taking over an existing club shall not utilize estimates if 40% or more of the successor corporation is owned by persons who were required to meet the licensing qualifications of the existing club.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2601 as amended by L. 1987, Ch. 182, Sec. 60; 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-25. Temporary memberships; granting, records, and billing. (a) (1) Each class B club

located on the premises of a "hotel," or "RV resort," or each class B club that enters into a contract with a hotel or RV resort to issue temporary memberships to that hotel's or RV resort's guests, shall keep a record of temporary memberships granted by the club to registered nonresident guests of that hotel or RV resort. The term "hotel" shall have the meaning as provided in K.S.A. 36-501. The term "RV resort" shall have the meaning as provided in L. 1990, Ch. 179, Sec. 5.

(2) Only clubs shall issue temporary memberships. The hotel or RV resort management shall not issue or handle temporary memberships. A temporary membership card shall be issued to each temporary member setting forth, on its face, the effective dates, the name of the club and the name of the member. The hotel or RV resort may handle billings if all funds are accounted to the club and if the hotel or RV resort keeps a permanent record of all charges and payments due to the club which the hotel or RV resort handles.

(3) The hotel or RV resort shall provide to each guest who desires to become a temporary club member a preprinted form or statement on its business letterhead, signed by an authorized employee or official, setting forth the name of the guest, the date or dates on which the bearer is a registered guest at the hotel or RV resort and certifying that the guest does not permanently reside in the same county as the hotel or RV resort or the private club.

(b) Each class B club located on property which is owned or operated by a municipal airport authority shall keep a record of all temporary memberships granted to air travelers. Each temporary membership shall be granted only upon the licensed club premises by club management after receipt of an application form and shall be valid only for the day on which the air traveler's ticket is valid. Each temporary membership card issued shall state on its face the name of the club, the name of the temporary member, the name of the airline and flight number on which that member will be a passenger and the effective date or dates of the membership.

(c) Each class B club located in a racetrack facility where races with parimutuel wagering are conducted under the Kansas parimutuel racing act may establish rules whereby persons may file an application for temporary membership in the club only for the day the person is attending races at the race track facility.

(d) Records of all temporary memberships issued pursuant to subsections (a), (b) and (c) shall be maintained on licensed club premises for a period of one year from date of issuance.

(Authorized by K.S.A. 1989 Supp. 41-2634 as amended by L. 1990, Ch. 179, sec. 6; implementing K.S.A. 1989 Supp. 41-2641; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-20-26. Employees; registration of same; prohibitions. (a) Each club shall register with the director all employees who will mix, sell, serve or dispense alcoholic liquor. The registration shall be submitted on forms supplied by the director, within five days after the employee begins work for the club and upon each renewal of the club's license.

(b) A club shall not employ or continue to employ any person:

(1) who is under the age of 18 years to serve alcoholic liquor or cereal malt beverage;

(2) who is under the age of 21 to mix or dispense drinks containing alcoholic liquor or cereal malt beverage;

(3) who is under the age of 21 years and not supervised by the licensee or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge in Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage;

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage; or

(6) who is a manufacturer, distributor or retailer, or who is an officer, agent, or employee of a manufacturer, distributor or retailer, in the capacity of a person registered to mix, serve, sell, or dispense alcoholic liquor.

(Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2610 and K.S.A. 1989 Supp. 41-2632; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-20-27. Purchase of alcoholic liquor and cereal malt beverages; requirements and restrictions. (a) Each club shall purchase alcoholic liquor only from a retailer. However, any club may purchase bulk wine, beer and cereal malt beverages from a distributor.

(b) Any club may receive delivery of alcoholic liquor to its licensed premises from a retailer and delivery of bulk wine, beer and cereal malt beverages from a distributor.

(c) A club shall not purchase alcoholic liquor or beer from any retailer who does not possess a federal wholesaler's basic permit and who does not have on display at the retail establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." A club shall not warehouse any liquor on any retail liquor store premises.

(d) A club shall not purchase bulk wine, beer or cereal malt beverage from any distributor who does not possess a federal wholesaler's basic permit and who does not have on display at the wholesale establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." A club shall not warehouse its liquor on any distributor's premises.

(e) Each club, when making alcoholic liquor purchases from retailers or distributors, shall obtain and keep on its licensed premises for a period of not less than three years from the date of purchase a sales slip that contains the following information:

(1) The date of purchase;

(2) the name and address of the retailer or distributor;

(3) the name and address of the club;

(4) the brand, size, proof and amount of all alcoholic liquor purchased; and

(5) the subtotal of the cost of the alcoholic liquor purchased and the total cost of the order including enforcement tax and delivery charge, if any.

(f) Each club shall purchase alcoholic liquor through a registered employee of the licensed club and who shall be at least 21 years of age. The club shall provide to the registered employee

identification sufficient to demonstrate to the retailer or distributor who possesses the federal wholesale basic permit that the individual making the purchase on behalf of the club is so registered.

(g) Each club shall maintain on the licensed premises all records of all alcoholic liquor purchased. These records shall be available for inspection by the director or any agent or employee of the director or secretary upon request.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-211; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 41-301, 41-306 as amended by L. 1987, Ch. 182, Sec. 13; 41-307 as amended by L. 1987, Ch. 182, Sec. 16; 41-308 as amended by L. 1987, Ch. 182, Sec. 18; 41-2621 as amended by L. 1987, Ch. 182, Sec. 73; 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-28. Licensee's responsibility for conduct of business and employees. Each licensee shall be responsible for the conduct of its business. Each licensee shall be held responsible for all violations of the club and drinking establishment act by the following people while on the licensed premises:

- (a) An employee of the club;
- (b) an employee of any person contracting with the club to provide services or food; and
- (c) any individual mixing, serving, selling or dispensing alcoholic liquor.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-29. Storage of liquor; removal from club premises prohibited. (a) Each club shall store its liquor only upon the licensed premises of the club unless it has received prior approval in writing from the director to do otherwise.

(b) A club shall not make any sales of alcoholic liquor for consumption off the licensed premises. All alcoholic liquor purchased on the club premises shall not be removed from the club premises.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-30. Nontaxed liquor and refilling of containers prohibited. (a) Alcoholic liquor shall only be dispensed from or stored in original containers bearing Kansas alcoholic liquor identification stamps. A licensed club shall not refill any original container with any alcoholic liquor, or any other substance.

(b) A member, guest or reciprocal member may be allowed to bring bottles onto the club premises upon the following conditions:

- (1) A club shall not warehouse any bottles upon the club premises;
- (2) each person bringing any bottles onto the club premises shall remove the bottles when departing from the club premises; and
- (3) each bottle shall bear a Kansas alcoholic liquor identification stamp if required by law.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-2621 as amended by L. 1987, Ch. 182, Sec. 73; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-31. Cereal malt beverages; sale allowed. (a) Any club may sell cereal malt beverages upon the licensed premises if:

(1) The club notifies the director when it obtains a license for the retail sale of cereal malt beverages;

(2) the club notifies the director of each renewal of the license for the retail sale of cereal malt beverages; and

(3) the club dispenses cereal malt beverage only for consumption upon the licensed premises.

(b) Violation of any cereal malt beverage statute shall subject the club to suspension or revocation of its license or to a monetary fine under the procedures of K.A.R. 14-16-14 et seq.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2704 as amended by L. 1987, Ch. 182, Sec. 100; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-32. Minimum prices for drinks; how determined. (a) A licensed private club shall not sell any drink to any person for less than the acquisition cost of that drink to the club.

(b) The cost of each of the following items shall be included in the acquisition cost of a drink:

(1) All alcoholic liquor contained in the drink; and

(2) any liquid of a non-alcoholic nature contained in the drink.

(c) Any of the following items shall not be required to be included in the acquisition cost:

(1) City service or tap water;

(2) ice;

(3) employee salaries or other usual overhead; and

(4) any other items of clearly negligible value used in the drink.

(d) In determining the minimum price, a club shall not include the drink tax as imposed by K.S.A. 79-41a02. This tax shall be collected in addition to the minimum price for the drink itself.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-33. Clubs charge the same price for the same drink all day; day defined. (a) A licensed club shall not sell a drink to any person for less than the price charged for that same drink to all other club patrons on that day. Any particular drink that is offered for sale at any time during the day shall be offered at the same price for the entire day.

(b) The term "day" shall mean from 9:00 a.m. until 2:00 a.m. the following calendar day.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-34. Licensee must pay city or county license tax before making sales. A licensee shall not operate until the licensee has paid any annual occupation or license tax imposed by the city or county in which the licensed premises are located. A licensee shall not sell 3.2 beer without first having obtained a cereal malt beverage license.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2622 as amended by L. 1987, Ch. 182, Sec. 74; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-35. Federal retail stamp. Private club licensees shall purchase from the United States bureau of alcohol, tobacco and firearms a federal retail stamp and shall display that stamp, or proof of payment for the stamp, in public view on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182, Sec. 66; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-36. Excise tax shall be current. Each club that fails to register for an excise tax registration number shall be subject to cancellation of its license or fine by the director. Each club that is delinquent in the payment of its excise taxes levied on alcoholic liquors shall be subject to cancellation of its license or fine by the director.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-37. Suspension and revocation; grounds for; procedure. The license of any class B club may be revoked, canceled or suspended by the director for any one or more of the following reasons, subject to the procedures and other provisions of K.A.R. 14-16-14 et seq.:

- (a) The licensee has omitted or misstated a material fact in its application;
- (b) the licensee has operated in a manner materially different from that represented in the application;
- (c) the licensee has engaged in a prohibited transaction;
- (d) the licensee has violated any provision of the liquor control act, the club and drinking establishment act, the cereal malt beverage act or any regulations adopted pursuant thereto;
- (e) there has been a violation of the laws of Kansas pertaining to the sale of alcoholic liquor or cereal malt beverage or a violation of the laws of the United States pertaining to the sale of intoxicating liquor or a violation involving a morals charge;
- (f) the licensee, its managing officers or any employee, has purchased and displayed, on the licensed premises a federal wagering occupational stamp or a federal coin operated gambling device stamp issued by the United States treasury department;
- (g) the licensee has refused to permit the director or any agent or employee of the director or the secretary to inspect the licensed premises and any alcoholic liquor in the licensee's possession or under the licensee's control upon the premises covered by the license, or upon any other premises where the liquor may be stored; or
- (h) the licensee has allowed a person who is under the age of 21 years to possess alcoholic liquor while on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182; Sec. 66; 41-2613 as amended by L. 1987, Ch. 182, Sec. 68; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-38. Public functions upon licensed premises; when allowed; approval of director. (a) A club shall not open any part of its licensed premises to the public unless it has first received the written approval of the director. All requests for written approval of the director to open the licensed premises to the public shall be accompanied by a sworn statement containing:

- (1) The days of the week and hours of those days for which the application is made;
- (2) a description of the exact area of the club to be open to the general public;
- (3) the statement that no alcoholic liquor or cereal malt beverage will be sold, dispensed or consumed by anyone in the area described during the time indicated;
- (4) the date and time that normal club activities will be resumed in the described areas; and
- (5) a description of the type of activity to be conducted and by whom.

(b) The use of the licensed premises by the general public shall not remove the area from the jurisdiction of the director. The licensee may be suspended, revoked or fined for any violations of chapter 41 of the Kansas statutes during any public function held on its licensed premises.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-39. Display of license. Each class B club shall display its license in a conspicuous place on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, implementing K.S.A. 41-2612 as amended by L. 1987, Ch. 182, Sec. 67; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

Article 21 - DRINKING ESTABLISHMENTS

(Last amended in 1992)

14-21-1. Definitions. As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

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

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

(c) "Beneficial interest" means any ownership interest by a person or that person's spouse in a business, corporation, partnership, trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or similar holding in any other form of business organization.

(d) "Bulk Wine" means wine that is sold to a drinking establishment, either by a retailer or a distributor, in barrels, casks or bulk containers which individually exceed 20 liters.

(e) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

(f) "Director" means the director of alcoholic beverage control of the department of revenue.

(g) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 1991 Supp. 41-306, 41-306a, and 41-307, to sell or offer for sale alcoholic liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.

(h) "Food service establishment" has the meaning provided by K.S.A. 36-501 and amendments thereto.

(i) "Licensed premises" means those areas described in an application for a drinking establishment license that are under the control of the applicant and that are intended as the area in which alcoholic liquor or cereal malt beverages are to be served pursuant to the applicant's license.

(j) "Manager" means the manager or assistant manager, or both, of any licensed drinking establishment who is in charge of the daily operations of the licensed drinking establishment. A manager shall be deemed to be employed in connection with the dispensing, selling, mixing or serving of alcoholic liquor.

(k) "Morals charge" means any charge made in an indictment, information or a complaint alleging crimes which involve:

- (1) prostitution;
- (2) procuring any person;
- (3) solicitation of a child under 18 years of age for any immoral act involving sex;
- (4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;
- (5) rape;
- (6) incest;
- (7) gambling;
- (8) adultery; or
- (9) bigamy.

(l) "Person" means any natural person, corporation, partnership, trust or association.

(m) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 1991 Supp. 41-2642 and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 1991 Supp. 41-2642 and amendments thereto, a licensed food service establishment.

(n) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.

(o) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substances in solution. The term "spirits" includes brandy, rum, whiskey, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(p) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2601; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-21-2. Applications and renewals; documents required. Each application for a drinking establishment license shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Any application which does not contain all required information may be returned to the applicant without the application being considered on its merits.

(a) General requirements. Each application for a drinking establishment license shall be accompanied by the following documents and all other documents the director deems necessary:

(1) A copy of a written lease, with at least nine months remaining in its term from the date the license is issued, or proof of ownership by the applicant of the premises sought to be licensed;

(2) a description of the drinking establishment premises, which shall clearly identify the licensed premises. The description may include those areas outside the main service area that are within close proximity to the main service area and are located within or upon property subject to legal occupation by the applicant, as approved by the director. If the applicant is also a hotel, the applicant may include guest rooms, banquet rooms or other facilities as part of its licensed premises. For the purpose of determining the fee to be paid by an applicant which is also a hotel, the director shall consider the following:

(A) If the hotel describes its licensed premises as a part of the hotel premises that is located on one level, within a single building and contiguous, the license fee shall be \$1,000.00 per year; or

(B) If the hotel describes its licensed premises as more than the area described in paragraph (1) above, the license fee shall be \$3,000.00 per year;

(3) a certified statement from the applicant that the licensed premises are located:

(A) in an area where the zoning regulations of either the city, county or township allow the operation of a drinking establishment; or

(B) in an area where no zoning regulations have been adopted;

(4) the registration fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(5) the license fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(6) a disclosure statement listing each officer, manager, director, trustee, grantor, beneficiary, owner, stockholder owning a beneficial interest in a corporation, partner, and the spouses of these individuals. The disclosure statement shall certify that all the individuals listed are not disqualified from obtaining a drinking establishment license as provided in K.A.R. 14-21-3;

(7) a disclosure statement listing all personnel who will be mixing or dispensing alcoholic liquor; and

(8) a statement of gross receipts showing the ratio of food sales to alcoholic beverage sales is not less than 30%, when applicable.

(b) Corporations. In addition to the documents required by subsection (a), each application on behalf of a corporation shall include:

(1) A certified copy of the articles of incorporation as a Kansas domestic for-profit corporation;

(2) a copy of the corporate bylaws; and

(3) an appointment of process agent together with a power of attorney authorizing said agent to conduct the business of the drinking establishment and receive all service of process on behalf of the drinking establishment. The process agent shall be an individual.

(c) Partnerships. In addition to the documents required by subsection (a), each application on behalf of a partnership shall include a copy of the partnership agreement.

(d) Trusts. In addition to the documents required by subsection (a), each application on behalf of a trust shall include a copy of the declaration of trust or other documents setting forth the aims and purposes of the trust.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2606; 41-2608; 41-2610; 41-2622; 41-2623, as amended by 1992 HB 2719; 41-2625; 41-2642; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-21-3. Requirements for drinking establishment license. (a) A drinking establishment license shall not be issued to any corporation, partnership, trust, association or individual if any owner, partner, grantor, trustee, beneficiary, officer, manager, director, stockholder owning a beneficial interest in a corporation or spouse of these individuals:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age. This shall not apply to the spouse of the individual or to the beneficiary of a trust;

(5) (A) appoints or supervises any law enforcement officer, other than as a member of the governing body of a city or county;

(B) is a law enforcement official; or

(C) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the license;

(7) at the time of application for renewal of the license issued by the director would be ineligible for the license upon a first application. This shall not apply to the spouse of the individual;

(8) has had any license or permit issued by the director under the club and drinking establishment act revoked; or

(9) has a beneficial interest in the manufacture, preparation or wholesale or retail sale of alcoholic liquors or a beneficial interest in any other club or drinking establishment licensed by the director. This

shall not apply to any owner, partner, grantor, trustee, beneficiary, officer, manager, director, stockholder or spouse who owns a beneficial interest in another club or drinking establishment if:

(A) the application is for licensed premises located in a hotel and all of the individual's beneficial interests are in clubs or drinking establishments located in hotels; or

(B) the application is for licensed premises that are a restaurant and all of the individual's beneficial interests are in clubs or drinking establishments which are restaurants.

(b) A corporation shall not be issued a drinking establishment license if any officer, manager, director or stockholder owning a beneficial interest in the corporation has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(1) Has had a license revoked under the provisions of the club and drinking establishment act; or

(2) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(c) A partnership, trust or individual shall not be issued a drinking establishment license if any owner, manager, grantor, trustee, beneficiary or partner:

(1) has been a citizen of the United States for less than 10 years.

(2) has been a resident of the state of Kansas for less than one year immediately preceding the date of application; or

(3) is not a resident of the county in which the drinking establishment is to be located.

(d) Each corporate applicant shall be a Kansas domestic for-profit corporation.

(e) For the purpose of determining qualifications under subsections (a), (b), and (c) of this regulation, any person who provides financing to or leases premises to a drinking establishment upon terms which result in that person having a beneficial interest in the drinking establishment's business, shall be deemed a partner in the drinking establishment's business. A person who provides financing to a drinking establishment shall be deemed to have a beneficial interest in the drinking establishment's business if the terms for repayment are conditioned on the amount of the drinking establishment's receipts or profits from the sale of alcoholic liquor or other items to be mixed with alcoholic liquor. A lessor shall be deemed to have a beneficial interest in a drinking establishment's business, if the lessor receives as rent, in whole or in part, a percentage of the licensee's receipts or profits from the sale of alcoholic liquor or other items to be mixed with alcoholic liquor. Financing or percentage rent provisions that exclude these items shall be subject to review and approval by the director. The restrictions of this subsection shall not be applied if the lessor is a city, county, the state of Kansas or any department or agency thereof.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 41-2623 as amended by 1992 HB 2719; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-21-4. Issuance of license. (a) An annual drinking establishment license shall be issued to each applicant determined by the director to have satisfied the requirements of the club and drinking establishment act and this article of these regulations.

(b) An application for a license may be rejected by the director if:

(1) the applicant, officers, directors, partners, registered agent, trustees, managers, or owners have previously owned or operated any type of retail liquor, club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee had been ordered to appear and show cause why the license should not be revoked or suspended;

(2) the application is for premises which were the subject of the order to appear and show cause as set forth in paragraph (1), above, and it appears that the new application for a license is an attempt to avoid any possible remedial action taken by the director against the former licensee;

(3) the applicant's officers, directors, partners, registered agent, managers or owners, are currently delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(4) the applicant, officers, directors, partners, registered agent, trustees, managers or owners have previously owned or operated any type of retail liquor, club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee was delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(5) the application is for premises which were the subject of the delinquent taxes as set forth in paragraph (3), above, and it appears that the new application for a license is an attempt to avoid payment of the tax.

(Authorized by K.S.A. 1989 Supp. 41-2634; 79-41a03; implementing K.S.A. 1989 Supp. 41-2623; 79-41a07; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990.)

14-21-5. Licenses, loss or destruction of; application for and issuance of duplicate. Whenever any license issued by the director is lost or destroyed before its expiration, the drinking establishment to which the license was issued, may make written application to the director for a duplicate license. The application shall set forth all the facts and circumstances concerning the loss or destruction of such license and shall be sworn to by each person applying for the duplicate. Upon review of the application, a duplicate license may be issued by the director.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-6. Change of drinking establishment status. (a) If a licensee desires to change the status of its license from a drinking establishment to either a class A or class B club, the licensee shall make application, at least 45 days prior to the desired date of the change, for the type of license sought and shall voluntarily cancel the current license upon the issuance of the new type license. The licensee shall receive a refund for the license voluntarily cancelled as required by K.A.R. 14-21-7.

(b) If a drinking establishment fails an audit conducted by the director or the secretary to establish that at least 30% of its gross receipts are derived from the sale of food, then that drinking establishment's license as a drinking establishment shall be canceled. The drinking establishment licensee shall have 10 days from the receipt of its notice of cancellation to make application to become a class B club. On the tenth day after receipt of notice of cancellation, the drinking establishment license will be canceled and the drinking establishment shall begin conducting business as a class B club pending the processing of the application for said class B club license. If the application for a class B club license is denied or if the applicant fails to process its application within 30 days, then the applicant shall discontinue operations under the club and drinking establishment act and surrender its license to the director. This provision shall not apply to any drinking establishment located in a county that has eliminated this requirement.

(c) If one of the drinking establishments owned by a licensee which holds multiple licenses pursuant to the provisions of K.A.R. 14-21-8, fails an audit conducted by the director or the secretary to establish that at least 30% of its gross receipts are derived from the sale of food, then that drinking establishment's license as a drinking establishment shall be canceled. The licensee shall have 10 days from receipt of notice of cancellation to advise the director, in writing, of its intent to sell the drinking establishment and the date upon which the sale will be effective. If the effective sale date is within 30 days of the delivery of the licensee's notice of intent to sell, then the license shall be canceled on the effective date of the sale. If the licensee fails to give the notice of intent to sell or the effective date is longer than 30 days from the receipt of the licensee's notice of intent to sell, the licensee's license shall be canceled 40 days from the date the licensee receives the director's notice of cancellation and the licensee shall discontinue operations under the club and drinking establishment act and surrender its license to the director. This provision shall not apply to any drinking establishment located in a county that has eliminated this requirement.

(Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2601, 41-2623; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990.)

14-21-7. Refund upon cancellation. If the license of any drinking establishment is canceled except through revocation or suspension, the drinking establishment shall be eligible for a refund of a portion of the annual license fee. The refund shall be equal to one-twelfth of the annual license fee for each full calendar month of the license year which remains at the time of the cancellation. The refund shall be made only upon application to the director.

(Authorized by K.S.A. 41-2607; implementing K.S.A. 41-2629 as amended by L. 1987, Ch. 182, Sec. 80; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-8. Restaurant drinking establishments; criteria for determination; gross receipts affidavit; estimates. (a) For purposes of multiple ownership of drinking establishments, a licensed drinking establishment shall be deemed a restaurant after a comparison by the director of food sales on the licensed premises to total gross receipts for all sales made on the licensed premises for a period not less than 12 months.

(b) Each drinking establishment licensee requesting restaurant status shall submit accurate figures for food sales, total gross sales, and any other pertinent information. The information shall be submitted on a form provided by the director at the time the licensee initially requests restaurant status, and upon each renewal of the license.

(c) Each drinking establishment requesting restaurant status that has been in operation for a period of less than 12 months may submit estimated figures for food sales and total gross receipts. However, a successor corporation taking over an existing drinking establishment shall not utilize estimates if 40% or more of the successor corporation is owned by persons who were required to meet the license qualifications of the predecessor corporation.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2601 as amended by L. 1987, Ch. 182, Sec. 60; 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-9. Employees; registration of same; prohibitions. (a) Each drinking establishment shall register with the director all employees who will mix, sell, serve or dispense alcoholic liquor on forms supplied by the director, within five days after each employee begins work for the drinking establishment and upon each renewal of the drinking establishment's license.

(b) A drinking establishment shall not employ or continue to employ any person:

(1) who is under the age of 18 years to serve alcoholic liquor or cereal malt beverage;

(2) who is under the age of 21 to mix or dispense drinks containing alcoholic liquor or cereal malt beverage;

(3) who is under the age of 21 years and not supervised by the licensee or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge in Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage;

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage; or

(6) who is a manufacturer, distributor or retailer, or who is an officer, agent, or employee of a manufacturer, distributor or retailer in the capacity of a person registered to mix, serve, sell, or dispense alcoholic liquor.

(Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2610 and K.S.A. 1989 Supp. 41-2632; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-21-10. Purchase of alcoholic liquor and cereal malt beverages; requirements and restrictions. (a) Each drinking establishment shall purchase alcoholic liquor only from a retailer.

However, any drinking establishment may buy bulk wine, beer and cereal malt beverages from a distributor.

(b) Any drinking establishment may receive delivery of alcoholic liquor to its licensed premises from a retailer and delivery of bulk wine, beer and cereal malt beverages from a distributor.

(c) A drinking establishment shall not purchase alcoholic liquor or beer from any retailer who does not possess a federal wholesaler's basic permit and who does not have on display at the retail establishment a sign that states the licensee is a "Wholesale Liquor Dealer Under Federal Law." A drinking establishment shall not warehouse any liquor on any retail liquor store premises.

(d) A drinking establishment shall not purchase bulk wine, beer or cereal malt beverage from any distributor who does not possess a federal wholesaler's basic permit and who does not have on display at the wholesale establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." A drinking establishment shall not warehouse its liquor on any distributor's premises.

(e) Each drinking establishment, when making alcoholic liquor purchases from retailers or distributors, shall obtain and keep, for a period of not less than three years from the date of purchase, a sales slip that contains the following information:

- (1) The date of purchase;
- (2) the name and address of the retailer or distributor;
- (3) the name and address of the drinking establishment;
- (4) the brand, size and amount of all alcoholic liquor purchased; and
- (5) the subtotal of the cost of the alcoholic liquor and the total cost of the order including enforcement tax and delivery charge, if any.

(f) Each drinking establishment shall purchase alcoholic liquor through a registered employee of the licensed drinking establishment who shall be at least 21 years of age. The drinking establishment shall provide to the registered employee identification sufficient to demonstrate to the retailer or distributor who possesses the federal wholesale basic permit that the individual making the purchase is so registered.

(g) Each drinking establishment shall maintain on the licensed premises all records of all alcoholic liquor purchased. These records shall be available for inspection by the director or any agent or employee of the director or secretary upon request.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-211, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 41-301, K.S.A. 41-306 as amended by L. 1987, Ch. 182, Sec. 13; 41-307 as amended by L. 1987, Ch. 182, Sec. 16, 41-308 as amended by L. 1987, Ch. 182, Sec. 18; 41-2621 as amended by L. 1987, Ch. 182, Sec. 73; 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-11. Licensee's responsibility for conduct of business and employees. Each licensee shall be responsible for the conduct of its business. Each licensee shall be responsible for all violations of the club and drinking establishment act by the following people while on the licensed premises:

- (a) An employee of the drinking establishment;
- (b) an employee of any person contracting with the drinking establishment to provide services or food; and
- (c) any individual mixing, serving, selling or dispensing alcoholic liquor.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-12. Storage of liquor; removal from drinking establishment prohibited. (a) Each drinking establishment shall store its liquor only upon the licensed premises of the drinking establishment unless it has received prior approval in writing from the director to do otherwise.

(b) Each drinking establishment shall not make any sales of alcoholic liquor for consumption off the licensed premises. All alcoholic liquor purchased on the drinking establishment premises shall not be removed from the drinking establishment premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 88; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-13. Nontaxed liquor and refilling of containers prohibited. (a) Alcoholic liquor shall only be dispensed from or stored in original containers bearing Kansas alcoholic liquor identification stamps. A drinking establishment shall not refill any original container with any alcoholic liquor or any other substance.

(b) An individual may be allowed to bring bottles onto the drinking establishment premises upon the following conditions:

(1) A drinking establishment shall not warehouse any bottles upon the drinking establishment premises;

(2) each person bringing any bottles onto the drinking establishment premises shall remove the bottles when departing from the drinking establishment premises; and

(3) each bottle shall bear a Kansas alcoholic liquor identification stamp if required by law.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-2621 as amended by L. 1987, Ch. 182, Sec. 73; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-718, L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-14. Cereal malt beverages; sale allowed. (a) Any drinking establishment may sell cereal malt beverages upon the licensed premises if:

(1) The drinking establishment notifies the director when it obtains a license for the retail sale of cereal malt beverages;

(2) the drinking establishment notifies the director of each renewal of the license for the retail sale of cereal malt beverages; and

(3) the drinking establishment dispenses cereal malt beverage only for consumption upon the licensed premises.

(b) Violation of any cereal malt beverage statute shall subject the drinking establishment licensee to suspension or revocation of its license or to a monetary fine under the procedures of K.A.R. 14-16-14 et seq.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2704 as amended by L. 1987, Ch. 182, Sec. 100; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-15. Minimum prices for drinks; how determined. (a) A licensed drinking establishment shall not sell any drink to any person for less than the acquisition cost of that drink to the drinking establishment.

(b) The cost of each of the following items shall be included in the acquisition cost of a drink:

(1) All alcoholic liquor contained in the drink; and

(2) any liquid of a non-alcoholic nature contained in the drink.

(c) Any of the following items shall not be required to be included in the acquisition cost:

(1) City service or tap water;

(2) ice;

(3) employee salaries or other usual overhead; and

(4) any other items of clearly negligible value used in the drink.

(d) In determining the minimum price, a drinking establishment shall not include the drink tax as imposed by K.S.A. 79-41a02. This tax shall be collected in addition to the minimum price for the drink itself.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-16. Drinking establishments charge the same price for the same drink all day; day defined. (a) A licensed drinking establishment shall not sell a drink to any person for less than the price charged for that same drink to all other drinking establishment patrons on that day. Any particular drink that is offered for sale at any time during the day shall be offered at the same price for the entire day.

(b) The term "day" shall mean from 9:00 a.m. until 2:00 a.m. the following calendar day.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-17. Licensee must pay city or county license tax before making sales. A licensee shall not operate until the licensee has paid any annual occupation or license tax imposed by the city or county in which the licensed premises are located. A licensee shall not sell 3.2 beer without first having obtained a cereal malt beverage license.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2622 as amended by L. 1987, Ch. 182, Sec. 74; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-18. Federal retail stamp. Each drinking establishment licensee shall purchase from the United States bureau of alcohol, tobacco and firearms a federal retail stamp and shall display that stamp, or proof of payment for the stamp, in public view on the licensed premises.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182, Sec. 66; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-19. Excise tax shall be current. Any drinking establishment that fails to register for an excise tax registration number with the director of taxation shall be subject to cancellation of its license or fine by the director. Each drinking establishment that is delinquent in the payment of its excise taxes levied on alcoholic liquors shall be subject to cancellation of its license or fine by the director.

(Authorized by and implementing K.S.A. 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-20. Suspension and revocation; grounds for; procedure. The license of any drinking establishment may be revoked, canceled or suspended by the director for any one or more of the following reasons subject to the procedures and other provisions of K.A.R. 14-16-14 et seq.:

(a) The licensee has omitted or misstated a material fact in its application;

(b) the licensee has operated in a manner materially different from that represented in the application;

(c) the licensee has engaged in a prohibited act or transaction;

(d) the licensee has violated any provision of the liquor control act, the club and drinking establishment act, the cereal malt beverage act or any regulations adopted pursuant thereto;

(e) there has been a violation of the laws of Kansas pertaining to the sale of alcoholic liquor or cereal malt beverage or a violation of the laws of the United States pertaining to the sale of intoxicating liquor or a violation involving a morals charge;

(f) the licensee, its managing officers or any employee has purchased and displayed, on the licensed premises a federal wagering occupational stamp or a federal coin operated gambling device stamp issued by the United States treasury department;

(g) the licensee has refused to allow the director or any agent or employee of the director or secretary to inspect the licensed premises and any alcoholic liquor in the licensee's possession or under the licensee's control upon the premises covered by the license or upon any other premises where the liquor may be stored; or

(h) the licensee has allowed a person who is under the age of 21 years to possess alcoholic liquor while on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182, Sec. 66, 41-2613 as amended by L. 1987, Ch. 182, Sec. 68; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

Article 22 - CATERER

(Last amended in 1992)

14-22-1. Definitions. As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

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

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

(c) "Beneficial interest" means any ownership interest by a person or that person's spouse in a business, corporation, partnership, business trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or similar holding in any other form of business organization.

(d) "Bulk wine" means wine that is sold to a caterer either by a retailer or a distributor, in barrels, casks or bulk containers which individually exceed 20 liters.

(e) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

(f) "Director" means the director of alcoholic beverage control of the department of revenue.

(g) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 1991 Supp. 41-306, 41-306a, and 41-307, to sell or offer for sale alcoholic liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.

(h) "Event" means any occasion at which a licensed caterer will offer for sale, sell and serve alcoholic liquor.

(i) "Licensed premises" means those areas described in an application for a club or drinking establishment license that are under the control of the applicant and that are intended as the area in which alcoholic liquor or cereal malt beverages are to be served pursuant to the applicant's license.

(j) "Morals charge" means any charge made in an indictment, information or complaint alleging crimes which involve:

- (1) prostitution;
- (2) procuring any person;
- (3) soliciting of a child under 18 years of age for any immoral act involving sex;
- (4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;
- (5) rape;
- (6) incest;
- (7) gambling;
- (8) adultery; or
- (9) bigamy.

(k) "Organization" means any nonprofit charitable organization that conducts charitable activities in the state.

(l) "Permitted premises" means those areas described in the notification of an event that are under the control of the caterer and are intended as the areas in which alcoholic liquor may be served to the public.

(m) "Person" means any natural person, corporation, trust or partnership.

(n) "Principal place of business" means the place from which a caterer will conduct its business, other than events, which is described in the caterer's application.

(o) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.

(p) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substances in solution. The term "spirits" includes brandy, rum, whiskey, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(q) "Sponsor" means the person or organization which contracts with a caterer to conduct an event.

(r) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2601; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-22-2. Applications and renewals; documents required. Each application for a caterer's license shall be made upon forms prepared by the director and shall contain all information as the director deems necessary. Any application which does not contain all required information may be returned to the applicant without the application being considered on its merits.

(a) General requirements. Each application for a caterer's license shall be accompanied by the following documents and all other documents the director deems necessary:

(1) a copy of a written lease, with at least nine months remaining in its term from the date the license is issued, or proof of ownership by the applicant of the principal place of business sought to be licensed;

(2) the registration fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(3) the license fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted; and

(4) a disclosure statement listing each officer, manager, director, trustee, owner, partner, grantor, beneficiary or stockholder owning a beneficial interest in a corporate applicant, and the spouses of these individuals. The disclosure statement shall certify that all the individuals listed are not disqualified from obtaining a caterer's license as provided in K.A.R. 14-22-3.

(b) Corporations. In addition to the documents required under subsection (a), each application on behalf of a corporation shall include:

(1) a certified copy of the articles of incorporation as a Kansas domestic for-profit corporation;

(2) a copy of the corporate bylaws; and

(3) an appointment of process agent together with a power of attorney authorizing said agent to conduct the business of the caterer and receive all service of process on behalf of the caterer. The process agent shall be an individual.

(c) Partnerships. In addition to the documents required by subsection (a), each application on behalf of a partnership shall include a copy of the partnership agreement.

(d) Trusts. In addition to the documents required by subsection (a), each application on behalf of a trust shall include a copy of the declaration of trust or other documents setting forth the aims and purposes of the trust.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2606, 41-2610, 41-2622, 41-2623 as amended by 1992 HB 2719; 41-2625; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-22-3. Requirements for caterer's license. (a) A caterer's license shall not be issued to any corporation, partnership, trust or individual if any owner, partner, grantor, trustee, beneficiary, officer, manager, director or stockholder owning a beneficial interest in a corporation or spouse of these individuals:

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

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age. This shall not apply to the spouse of the individual or to the beneficiary of a trust;

(5)(A) appoints or supervises any law enforcement officer, other than as a member of the governing body of a city or county;

(B) who is a law enforcement official; or

(C) who is an employee of the director;

(6) intends to act as the agent of another in exercising control of the license;

(7) at the time of application for renewal of the license issued by the director would be ineligible for the license upon a first application. This shall not apply to the spouse of the individual;

(8) has had any license or permit issued by the director under the club and drinking establishment act revoked; or

(9) has a beneficial interest in the manufacture, preparation, wholesale or retail sale of alcoholic liquors.

(b) A corporation shall not be issued a caterer's license if any officer, manager, director or stockholder owning a beneficial interest in the corporation has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(1) has had a license revoked under the provisions of the club and drinking establishment act; or

(2) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(c) A partnership, trust or individual shall not be issued a caterer's license if any owner, manager, grantor, trustee, beneficiary or partner:

(1) has been a citizen of the United States for less than 10 years; or

(2) has been a resident of the state of Kansas for less than one year immediately preceding the date of application.

(d) Each corporate applicant shall be a Kansas domestic for-profit corporation.

(e) For the purpose of determining qualifications under subsections (a), (b) and (c) of this regulation, any person who provides financing to or leases premises to a caterer upon terms which result in that person having a beneficial interest in the caterer's business, shall be deemed to be a partner in the caterer's business. A person who provides financing to a caterer shall be deemed to have a beneficial interest in the caterer's business if the terms for repayment are conditioned on the amount of the caterer's receipts or profits from the sale of alcoholic liquor or other items to be mixed with alcoholic liquor. A lessor shall be deemed to have a beneficial interest in a caterer's business, if the lessor receives as rent, in whole or in part, a percentage of the caterer's receipts or profits from the sale of alcoholic liquor or other items to be mixed with alcoholic liquor. Financing or percentage rent provisions that exclude these items shall be subject to review and approval by the director. The restrictions of this paragraph shall not be applied if the lessor is a city, county, the state of Kansas or any department or agency thereof.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2623 as amended by 1992 HB 2719; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-22-4. Issuance of license. (a) An annual caterer's license shall be issued to each applicant determined by the director to have satisfied the requirements of the club and drinking establishment act and this article of these regulations.

(b) An application for a license may be rejected by the director if:

(1) the applicant, officers, directors, partners, registered agents, trustees, managers or owners have previously owned or operated any type of retail liquor club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee had been ordered to appear and show cause why the license should not be revoked or suspended;

(2) the application is for premises which were the subject of the order to appear and show cause as set forth in paragraph (1) above, and it appears that the new application for a license is an attempt to avoid any possible remedial action taken by the director against the former licensee;

(3) the applicant's officers, directors, partners, registered agent, managers or owners, are currently delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(4) the applicant, officers, directors, partners, registered agent, trustees, managers or owners have previously owned or operated any type of retail liquor club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee was delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(5) the application is for premises which were the subject of the delinquent taxes as set forth in paragraph (3), above, and it appears that the new application for a license is an attempt to avoid payment of the tax.

(Authorized by K.S.A. 1989 Supp. 41-2634; K.S.A. 79-41a03; implementing K.S.A. 1989 Supp. 41-2605, 41-2623; K.S.A. 79-41a07; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990.)

14-22-5. Licenses, loss or destruction of; application for and issuance of duplicate. Whenever any license issued by the director is lost or destroyed before its expiration, the caterer to whom the license was issued, may make written application to the director for a duplicate license. The application shall set forth all the facts and circumstances concerning the loss or destruction of the license and shall be sworn to by each person applying for the duplicate. Upon review of the application, a duplicate license may be issued by the director. The caterer may request additional certified copies of its license for the purpose of conducting more than one function at a time at which the license is required to be displayed. Upon payment of the cost thereof, the director may issue such additional copies or duplicates of a caterer's license as it appears is necessary.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-6. Events; filings; notice; food sales required. (a) Each caterer, under this article, may offer for sale, sell and serve alcoholic liquor for consumption at an event.

(b) Each caterer shall notify the director not less than 10 days in advance of each event at which the caterer will sell alcoholic liquor by the individual drink.

(c) For each event to be catered in an incorporated city, the caterer shall file with the law enforcement agency for the city in which the event will be held, a notice that an event will be held. The notice shall contain that information required by subsection (e).

(d) For each event to be catered outside an incorporated city, the caterer shall file with the sheriff of the county in which the event will be held, a notice that an event will be held. The notice shall contain that information required by subsection (e).

(e) Each notice required by subsections (c) or (d) shall contain:

(1) a copy of the catering contract, in force or proposed, with the sponsor of an event, if applicable;

(2) a clear description of the event premises which shall be in enough detail that the event premises are identifiable;

(3) disclosure of all personnel who will be mixing or dispensing alcoholic liquor at the event; and

(4) a statement of the dates the event will be conducted and the hours of operation on each date.

(f) The licensee shall prominently display at each event, upon a poster or other device located at the entrance to the event premises:

(1) the caterer's name;

(2) the caterer's license;

(3) the name of the sponsor; and

(4) a copy of the notice required by subsections (c) or (d).

(g) A caterer shall not:

(1) conduct an event upon licensed premises unless the caterer also holds the license for the licensed premises;

(2) conduct an event for longer than seven days, unless the director first approves the longer duration;

(3) deny access to an event to any law enforcement officer;

(4) operate an event between the hours of 2:00 A.M. and 6:00 A.M.; or

(5) sell cereal malt beverage or non-alcoholic malt beverages at an event.

(h) For each event, the caterer shall keep records for three years which:

(1) demonstrate the ratio of food sales to alcoholic beverage sales is not less than 30% in a 12 month period. This shall not apply to events conducted in a county which has eliminated this requirement;

(2) demonstrate that all excise taxes have been paid; and

(3) demonstrate that all sales taxes have been paid.

(Authorized by K.S.A. 41-2634, 79-3618, 79-41a03; implementing K.S.A. 1989 Supp. 41-2613, K.S.A. 1989 Supp. 41-2614, 41-2634, K.S.A. 79-3609, and K.S.A. 79-41a07 as amended by L. 1990, Ch. 179, Sec. 7; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1990; amended July 1, 1991.)

14-22-7. Refund upon voluntary cancellation. If a caterer's license is cancelled, except through revocation or suspension, the licensee shall be eligible for a refund of a portion of the annual license fee. The refund shall be equal to one-twelfth of the annual license fee for each full calendar month of the license year that remains at the time of cancellation. The refund shall be made only upon application to the director.

(Authorized by and implementing K.S.A. 41-2607, 41-2629 as amended by L. 1987, Ch. 182, Sec. 80; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-8. Drinking establishments/caterer criteria for determination; gross receipts affidavit; estimates. Any drinking establishment may also obtain a license as a caterer under the provisions of the club and drinking establishment act and these regulations. Each person seeking both licenses shall comply with all the provisions of the club and drinking establishment act and these regulations and complete such forms required by the director. Each dual license holder shall maintain separately the records for the events it caters from those for the drinking establishment. Sales of food or beverage at a catered event shall not be included in the sales of the drinking establishment for the purposes of determining the gross receipts ratio of the drinking establishment.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; L. 1987, Ch. 182, Sec. 89 and 90; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-9. Employees; registration of same; those prohibited. (a) Each caterer shall register the caterer's employees who will mix, sell, serve, or dispense alcoholic liquor with the director, on forms supplied by the director, within five days after the employee begins work for the caterer and upon each renewal of the caterer's license.

(b) A caterer shall not employ or continue to employ any person:

(1) who is under the age of 18 years to serve alcoholic liquor;

(2) who is under the age of 21 years to mix or dispense drinks containing alcoholic liquor;

(3) who is under the age of 21 years and is not supervised by the licensee or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge in Kansas, any other state or the United States to dispense, mix or serve alcoholic liquor;

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor; or

(6) who is a manufacturer, distributor or retailer or an employee of a manufacturer, distributor or retailer in the capacity of a person registered to mix, serve, sell or dispense alcoholic liquor.

(Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2610 and K.S.A. 1989 Supp. 41-2632; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-22-10. Purchase of alcoholic liquor; requirements and restrictions. (a) Each caterer shall purchase alcoholic liquor only from a retailer. However, any caterer may purchase bulk wine and beer from a distributor.

(b) Any caterer may receive delivery of alcoholic liquor from a retailer and delivery of bulk wine or beer from a distributor to its principal place of business.

(c) A caterer shall not purchase alcoholic liquor or beer from any retailer who does not possess a federal wholesaler's basic permit and who does not have on display at the retail establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." A caterer shall not warehouse any liquor on any retail liquor store premises in accordance with K.A.R. 14-13-9(h).

(d) A caterer shall not purchase wine or beer from any distributor who does not possess a federal wholesaler's basic permit and who does not have on display at the wholesale establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." A caterer shall not warehouse any liquor on any distributor's premises.

(e) Each caterer, when making alcoholic liquor purchases from retailers or distributors, shall obtain and keep, for a period of not less than three years from the date of purchase, a sales slip that contains:

(1) The date of purchase;

(2) the name and address of the retailer or distributor;

(3) the name and address of the caterer;

(4) the brand, size and amount of all alcoholic liquor purchased; and

(5) the subtotal of the cost of the alcoholic liquor and the total cost of the order including enforcement tax and delivery charge, if any.

(f) Each caterer shall purchase alcoholic liquor through a registered employee of the licensed caterer who shall be at least 21 years of age. The caterer shall provide to the registered employee identification sufficient to demonstrate to the retailer or distributor who possesses the federal wholesale basic permit that the individual making the purchase on behalf of the caterer is so registered.

(g) Each caterer shall maintain at its principal place of business all records of all alcoholic liquor purchased. These records shall be available for inspection by the director or any agent or employee of the director or secretary upon request.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-211, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 41-301, K.S.A. 41-306 as amended by L. 1987, Ch. 182, Sec. 13, 41-307 as amended by L. 1987, Ch. 182, Sec. 16, 41-308 amended by L. 1987, Ch. 182, Sec. 18, 41-2611 as

amended by L. 1987, Ch. 182, Sec. 66, 41-2621 as amended by L. 1987, Ch. 182, Sec. 73, 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-11. Caterer's responsibility for conduct of business and employees. Each caterer shall be responsible for the conduct of each event catered. Each caterer shall be responsible for all violations of the club and drinking establishment act by the following people while on the event premises:

(a) An employee of the caterer;

(b) an employee of any person contracting with the caterer to provide services or food at an event;

or

(c) any person serving or mixing alcoholic liquor at an event.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-12. Storage of liquor. (a) At the time of application for a caterer's license, each caterer shall inform the director as to the location of the liquor storage area that the caterer plans to use at its principal place of business. A caterer shall not store its liquor in any place other than the principal place of business of the caterer unless the caterer has received prior approval from the director. For each event, the caterer shall make a record of the amount of unused alcoholic liquor and its disposition and keep the record with those records required by K.A.R. 14-22-10(g).

(b) Each caterer holding a license as a drinking establishment shall keep all alcoholic liquor intended for use at catered functions in separate storage facilities from that intended for use in the drinking establishment.

(Authorized by and implementing K.S.A. 1989 Supp. 41-2634 effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990.)

14-22-13. Removal of liquor from event premises prohibited; alcoholic liquor sales by caterer and drinking establishment licensees. A caterer shall not sell alcoholic liquor for removal from or consumption off of the event premises. The removal of alcoholic liquor sold by the caterer from the premises of an event or from the principal place of business of the caterer, other than transportation to an event, is prohibited. A caterer who also holds a license as a drinking establishment may sell alcoholic liquor upon the drinking establishment's licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 89; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-14. Nontaxed liquor and individual alcoholic liquor on event premises prohibited. A caterer shall dispense alcoholic liquor from original containers bearing Kansas alcoholic liquor identification stamps. Any individual may be allowed to bring bottles onto the event premises upon the following conditions:

(a) A caterer shall not warehouse any bottles upon the event premises;

(b) each person bringing any bottles onto the event premises shall remove the bottles when departing from the event premises;

(c) each bottle shall bear a Kansas alcoholic liquor identification stamp if required by law.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 53, L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-15. Reserved.

14-22-16. Minimum prices for drinks; how determined. (a) A licensed caterer shall not sell any drink to any person for less than the acquisition cost of that drink to the caterer.

(b) The cost of each of the following items shall be included in the acquisition cost of a drink:

- (1) All alcoholic liquor contained in the drink; and
- (2) any liquid of a non-alcoholic nature contained in the drink.

(c) Any of the following items shall not be required to be included in the acquisition cost:

- (1) City service or tap water;
- (2) ice;
- (3) employee salaries or other usual overhead; and
- (4) any other items of clearly negligible value used in the drink.

(3) In determining the minimum price, a caterer shall not include the drink tax as imposed by K.S.A. 79-41a02. This tax shall be collected in addition to the minimum price for the drink itself.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-17. Caterers charge the same price for the same drink all day; day defined. (a) A caterer shall not sell a drink to any person for less than the price charged for that same drink to all other patrons on that day. Any particular drink that is offered for sale at any time during the day shall be offered at the same price for the entire day.

(b) The term "day" shall mean from 6:00 a.m. until 2:00 a.m. the following calendar day.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2639, 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-18. Federal retail stamp. Each caterer licensee shall purchase from the United States bureau of alcohol, tobacco and firearms a federal retail stamp and shall display that stamp, or proof of payment for the stamp, in public view at the caterer's principal place of business.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182, Sec. 66; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-19. Excise tax shall be current. Any caterer that fails to register for an excise tax registration number with the director of taxation shall be subject to cancellation of its license or fine by the director. Any caterer that is delinquent in the payment of its excise taxes levied on alcoholic liquors shall be subject to cancellation of its license or fine by the director.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 41-211; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-20. Suspension and revocation; grounds for; procedure. The license of any caterer may be revoked, canceled or suspended by the director for any one or more of the following reasons, subject to the procedures and other provisions of K.A.R. 14-16-14 et seq.:

(a) The caterer has omitted or misstated a material fact in the caterer's application;

(b) the caterer has operated in a manner materially different from that represented in the application;

(c) the caterer has engaged in a prohibited act or transaction;

(d) the caterer has violated any provision of the liquor control act, the club and drinking establishment act, or any regulations adopted pursuant thereto;

(e) there has been a violation of the laws of Kansas pertaining to the sale of alcoholic liquor or cereal malt beverage or a violation of the laws of the United States pertaining to the sale of intoxicating liquor or a violation involving a morals charge upon the caterer's principal place of business or at an event;

(f) the caterer, its managing officers or any employee has purchased and displayed, on the event premises or at the principal place of business a federal wagering occupational stamp or a federal coin operated gambling device stamp issued by the United States treasury department;

(g) the caterer has refused to allow the director or any agent or employee of the director or secretary to inspect the permitted premises, any alcoholic liquor upon the permitted premises or any records required to be kept by these regulations; or

(h) the caterer has allowed a person who is under the age of 21 years to possess alcoholic liquor while on the permitted premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182, Sec. 66, effective, T-88-22, July 1, 1987; effective May 1, 1988.)

Article 23 - TEMPORARY PERMITS

(Last amended in 1991)

14-23-1. Definitions. As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

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

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

(c) "Beneficial interest" means any ownership interest of a person or that person's spouse in a business, corporation, partnership, business trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization.

(d) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

(e) "Director" means the director of the division of alcoholic beverage control of the department of revenue.

(f) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 41-306 as amended by L. 1987, Ch. 182, Sec. 14; 41-307 as amended by L. 1987, Ch. 182, Sec. 17; L. 1987, Ch. 182, Sec. 15; and 41-2713 et seq., to sell or offer for sale alcoholic liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.

(g) "Event" means the occasion for which the applicant has received a temporary permit as required in these regulations and at which the applicant may offer for sale, sell and serve alcoholic liquor to the general public.

(h) "Licensed premises" means those facilities which have been licensed pursuant to the club and drinking establishment act as a club or a drinking establishment.

(i) "Morals charge" means a charge made in an indictment, information or a complaint alleging crimes which involve:

- (1) Prostitution;
- (2) procuring any person;
- (3) solicitation of a child under 18 years of age for any immoral act involving sex;
- (4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;
- (5) rape;
- (6) incest;
- (7) gambling;
- (8) illegal cohabitation;
- (9) adultery;
- (10) bigamy; or
- (11) a crime against nature.

(j) "Organization" means any nonprofit charitable organization that conducts charitable activities in the state.

(k) "Permit Holder" means a person granted a permit as required in this Article 23 of these regulations.

(l) "Permitted Premises" means the area in which alcoholic liquor is to be served pursuant to the temporary permit as described in the application.

(m) "Person" means any natural person, corporation, partnership or association.

(n) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.

(o) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substance in solution. The term "spirits" includes brandy, rum, whiskey, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(p) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2601 as amended by L. 1987, Ch. 182, Sec. 60, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-2. Applications; documents required. (a) Each application for a temporary permit shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Any application which does not contain all required information may be returned to the applicant without the application being considered on its merits.

(b) Each application shall be accompanied by the permit fee in the form of a certified check or cashier's check drawn on a Kansas bank, United States post office money order or cash. Personal or business checks shall not be accepted.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-3. Requirements for temporary permit. (a) Corporations. A corporation shall not be issued a temporary permit if any officer, manager, director or stockholder owning a beneficial interest in the corporation:

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

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality, or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age;

(5) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the permit;

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or a stockholder owning a beneficial interest in a corporation which:

(A) has had a license revoked under the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(b) Associations. An association shall not be issued a temporary permit if any manager, officer, director, owner or members with a beneficial interest in the association:

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

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality, or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age;

(5) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the permit;

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(A) has had a license revoked under the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(c) Partnerships. A partnership shall not be issued a temporary permit if any partner:

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

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality, or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age;

(5) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the permit;

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(A) has had a license revoked under the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state;

(d) Individuals. An individual shall not be issued a temporary permit if the individual:

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

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality, or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age;

(5) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the permit;

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or a stockholder owning a beneficial interest in a corporation which:

(A) has had a license revoked under the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(Authorized by K.S.A. 1987 Supp. 41-2634, 41-2645; implementing K.S.A. 1987 Supp. 41-2623, 41-2645; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Sept. 26, 1988.)

14-23-4. Issuance of permit. (a) A temporary permit shall be issued to each applicant determined by the director to have satisfied the requirements of the club and drinking establishment act and this article of these regulations.

(b) An application for a temporary permit may be rejected by the director if:

(1) the applicant, or any officer, director, partner, registered agent, trustee, manager or owner of the applicant has previously owned or operated any type of temporary permit, club, drinking establishment or caterer's license, and at the time the previous temporary permit or license was surrendered, the temporary permit holder or licensee had been ordered to appear and show cause why the temporary permit or license should not be revoked or suspended;

(2) the applicant has been granted four permits in the current calendar year;

(3) the applicant has designated an area for an event which was the subject of the order to appear and show cause as set forth in paragraph (1), above, and it appears that the new application for a temporary permit covering the premises is an attempt to avoid any possible remedial action taken by the director against the former licensee;

(4) the applicant has had a license or permit revoked under the club and drinking establishment act or has been convicted of a violation of the club and drinking establishment act, the liquor control act, K.S.A. 41-2701 et seq. or K.S.A. 79-41a01 et seq.; or

(5) the application is not filed with the director at least 14 days prior to the event.

(Authorized by K.S.A. 1989 Supp. 41-2634; implementing 1989 Supp. K.S.A. 41-2645 as amended by L. 1990, Ch. 179, Sec. 8; effective, T-88-22, July 1, 1987; effective May 1, 1988; effective July 1, 1990; amended July 1, 1991.)

14-23-5. Events; filings; notice; prohibitions. (a) Each permit holder shall be allowed to offer for sale, sell and serve alcoholic liquor for consumption at an event in accordance with the club and drinking establishment act and these regulations.

(b) The permit holder shall prominently display at each event upon a poster or other device located at the entrance to the permitted premises:

(1) The temporary permit; and

(2) the name of the agent of the organization who is in charge of the event.

(c) A temporary permit holder shall not:

(1) Conduct an event upon licensed premises;

(2) conduct an event with a duration of longer than three days;

(3) deny access to an event to any law enforcement officer;

(4) operate an event between the hours of 2:00 A.M. and 9:00 A.M.;

(5) sell cereal malt beverages at an event;

(6) make any sales of alcoholic liquor at an event for consumption off the permitted premises; or

(7) refill any original container with alcoholic liquor or any other substance.

(d)(1) An individual permit holder shall be present at all times during an event or designate another individual who will be responsible for the conduct of the event in the permit holder's absence.

(2) an organization that is a permit holder shall designate one or more agents who shall be present at all times during an event who will be responsible for the conduct of the event.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 53, 41-2613 as amended by L. 1987, Ch. 182, Sec. 68, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-6. Refund upon voluntary cancellation. Temporary permit fees shall not be refunded by the director upon cancellation of a permit or event, regardless of the reason.

(Authorized by and implementing K.S.A. 41-2607, 41-2629 as amended by L. 1987, Ch. 182, Sec. 80, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-7. Employees; prohibitions. Each temporary permit holder shall not employ or use the service of any person:

- (a) Who is under the age of 18 years to serve alcoholic liquor;
- (b) who is under the age of 21 years to mix or dispense drinks containing alcoholic liquor;
- (c) who is under the age of 21 years and not supervised by the permit holder or an employee who is at least 21 years of age;
- (d) who has been convicted of a felony or of any crime involving a morals charge to dispense, mix or serve alcoholic liquor;
- (e) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-2610 as amended by L. 1987, Ch. 182, Sec. 65; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-8. Purchase of alcoholic liquor; requirements and restrictions. (a) Each temporary permit holder shall purchase alcoholic liquor only from a retailer.

(b) Temporary permit holders shall not receive delivery of alcoholic liquor from a retailer.

(c) Temporary permit holders shall not purchase alcoholic liquor from any retail liquor licensee who does not possess a federal wholesaler's basic permit and who does not have on display at the retail establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." Temporary permit holders shall not warehouse any liquor on any retail liquor store premises. All liquor purchased on any one day shall be picked up at the retail liquor store on that same day.

(d) Each temporary permit holder, when making alcoholic liquor purchases from a retailer, shall obtain and keep, for a period of not less than one year from the date of purchase, a sales slip that contains the following information:

- (1) The date of purchase;
- (2) the name and address of the retailer;
- (3) the name and address of the permit holder as it appears on the permit;
- (4) the brand, size and amount of all alcoholic liquor purchased; and
- (5) the subtotal of the cost of the alcoholic liquor and the total cost of the order including enforcement tax.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-211, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-301, 41-307 as amended by L. 1987, Ch. 182, Sec. 16, 41-308 amended by L. 1987, Ch. 182, Sec. 18; L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-9. Permit holder's responsibility for conduct at event. Each permit holder shall be responsible for the conduct at an event. The permit holder shall be responsible for all violations of the club and drinking establishment act by the following people while on the permitted premises:

- (a) An employee of the permit holder;
- (b) any individual serving or mixing alcoholic liquor at an event; or
- (c) any employee of any person contracting with the permit holder to provide services or food in connection with an event.

(Authorized by L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-2604, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-10. Removal of liquor from event premises prohibited. A permit holder shall not sell alcoholic liquor for removal from or consumption off of the permitted premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2604, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-11. Nontaxed liquor; individual bringing alcoholic liquor on to permitted premises. (a) At an event, alcoholic liquor shall be dispensed from original containers bearing Kansas alcoholic liquor identification stamps.

(b) Any individual may be allowed to bring bottles onto the event premises upon the following conditions:

(1) A permit holder shall not warehouse any bottles upon the event premises;

(2) each individual bringing any bottles onto the event premises shall remove the bottles when departing from the event premises; and

(3) each bottle shall bear a Kansas alcoholic liquor identification stamp if required by law.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 53; L. 1987, Ch. 182, Sec. 91, L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-12. Minimum prices for drinks; how determined. (a) A permit holder shall not sell a drink to any person for less than the acquisition cost of that drink to the permit holder.

(b) The cost of each of the following items shall be included in the acquisition cost of a drink:

(1) All alcoholic liquor contained in the drink; and

(2) any liquid of a non-alcoholic nature contained in the drink.

(c) Any of the following items shall not be required to be included in the acquisition cost:

(1) City service or tap water;

(2) ice;

(3) employee salaries or other usual overhead; and

(4) any other items of clearly negligible value used in the drink.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-13. Charge the same price for the same drink all day; day defined. (a) A permit holder shall not sell a drink to any person for less than the price charged for that same drink to all other persons on that day. Any particular drink that is offered for sale at any time during the day shall be offered at the same price for the entire day.

(b) The term "day" shall mean from 9:00 a.m. until 2:00 a.m. the following calendar day.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-14. (Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2611; effective, T-88-22, July 1, 1987; effective May 1, 1988; revoked Aug. 6, 1990.)

14-23-15. Suspension and revocation; grounds for; procedure. The director may revoke a permit or fine a permit holder for any one or more of the following reasons, subject to the procedures and other provisions of K.A.R. 14-16-14 et seq.:

(a) The permit holder has omitted or misstated a material fact in its application;

(b) the permit holder has operated in a manner materially different from that represented in the application;

(c) the permit holder has engaged in a prohibited act or transaction;

(d) the permit holder has violated any provision of the liquor control act, the club and drinking establishment act or any regulation adopted pursuant thereto;

(e) there has been a violation of the laws of Kansas pertaining to the sale of alcoholic liquor or cereal malt beverage or a violation of the laws of the United States pertaining to the sale of intoxicating liquor or a violation involving a morals charge;

(f) the permit holder, its managing officers or any employee has purchased and displayed, on the permitted premises, a federal wagering occupational stamp or a federal coin operated gambling device stamp issued by the United States treasury department;

(g) the permit holder refuses to allow the director or any agent or employee of the director or secretary to inspect the permitted premises, any alcoholic liquor upon the permitted premises or any records required to be kept by these regulations; or

(h) the permit holder has allowed a person who is under the age of 21 years to possess alcoholic liquor while on the permitted premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182, Sec. 66; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

Article 24 - WINERY SHIPPING PERMITS

(Initial regulations adopted in 2007)

14-24-1. Definitions. As used in this article, unless the context clearly requires otherwise, the following terms shall have the meanings specified in this regulation:

(a) “Director” has the meaning specified in K.S.A. 41-102, and amendments thereto.

(b) “Large winery shipping permit” means a shipping permit issued pursuant to K.S.A. 41-349, and amendments thereto, to a wine manufacturer licensed in another state that manufactures at least 100,000 gallons of wine each year.

(c) “Small winery shipping permit” means a shipping permit issued pursuant to K.S.A. 41-348, and amendments thereto, to an entity that meets the following conditions:

(1)(A) Is a farm winery licensed in Kansas; or

(B) is a wine manufacturer licensed in another state; and

(2) manufactures no more than 100,000 gallons of wine each year.

(d) “Wine distributor” means any person licensed pursuant to K.S.A. 41-306a, and amendments thereto, to sell or offer for sale wine to any person authorized by law to sell wine at retail.

(e) “Winery shipping permit” means either a large winery shipping permit or a small winery shipping permit. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-2. Shipping record to accompany each shipment of wine. Each holder of a winery shipping permit shall complete a shipping record form approved by the director for each shipment of wine. The shipping record shall be distributed as follows:

(a) The permit holder shall retain the original with the permit holder’s business records for at least three years and shall make the original shipping record and the business records available for audit by the director of taxation or director’s designee.

(b) The permit holder shall attach a copy to the annual report of sales filed with the director of taxation if the permit holder is located outside the state of Kansas.

(c) The permit holder shall attach the following copies to the outside of the shipment:

(1) Two copies for the Kansas retailer. The retailer shall submit one copy with the retailer’s liquor enforcement tax return. The retailer shall retain the other copy for at least three years and shall make the copy available for audit by the director of taxation or the director’s designee;

(2) one copy to be given to the purchaser when the purchaser picks up the shipment from the retailer; and

(3) one copy for the Kansas distributor if the shipment is made through a Kansas distributor. The distributor shall retain this copy for at least three years and shall make the copy available for audit by the director of taxation or the director’s designee. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-3. Disposition of wine shipment not removed from retailer’s premises. (a) The retailer shall notify the purchaser upon receipt of the wine shipment ordered by the purchaser. If the purchaser fails to pick up the wine shipment and pay the handling fee and liquor enforcement tax due pursuant to statute, the retailer shall notify the director. The wine shipment and the shipping record shall be picked up by the director or the director’s designee and shall become the property of the director. The retailer shall document in writing the efforts that the retailer made to contact the purchaser. The retailer shall not be entitled to a handling fee, and no liquor enforcement tax shall be calculated or reported by the retailer.

(b) Wine that has become the property of the director as specified in subsection (a) shall, at the discretion of the director, be either destroyed or sold at auction. Wine sold at auction may be purchased only by a retailer licensed under the Kansas liquor control act. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-4. Gallonage tax returns and payments by out-of-state permit holders. Each out-of-state permit holder shall annually submit the following to the director on or before January 15 of the next calendar year:

(a) A tax return reporting all shipments subject to the gallonage tax, on forms approved by the director; and

(b) payment of the gallonage tax on all shipments. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-5. Calculation and payment of the liquor enforcement tax. (a) Each Kansas retailer shall calculate and collect from the purchaser the liquor enforcement tax on each wine shipment when the shipment is delivered to the purchaser. The liquor enforcement tax shall be calculated on the total charges paid by the purchaser to both the holder of the winery shipping permit and the retailer, including the following charges:

(1) The price of the wine and all handling and shipping charges paid to the permit holder, as shown on the shipping record; and

(2) the handling charge paid to the retailer.

(b) The retailer shall identify the total amount of tax collected on each shipment and remit this amount to the Kansas department of revenue pursuant to K.S.A. 79-4103, and amendments thereto. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)

14-24-6. Report of sales by permit holders. (a) Each in-state permit holder shall report information about the permit holder's sales each month to the director of taxation on forms approved by the director. Each report shall be due on or before the 15th day of the month following the end of each month.

(b) Each out-of-state permit holder shall annually report information about the permit holder's sales to the director of taxation on forms approved by the director. Each report shall be due on or before January 15 of the next calendar year. (Authorized by and implementing K.S.A. 2006 Supp. 41-348 and 41-349; effective Dec. 28, 2007.)