



# **KANSAS ADMINISTRATIVE REGULATIONS**

**Agency 14 - Division of Alcoholic Beverage Control**

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## 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.)