

STATE OF KANSAS

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Division of Alcoholic Beverage Control

August 15, 2002

POLICY MEMORANDUM 2002 - 3

Subject: Guidelines for Displaying Liquor Licenses and Permits

- 1. Purpose:** The purpose of this memorandum is to provide clarification of the statutes and regulations as they pertain to displaying federal, state and local liquor licenses, permits or occupational taxes.
- 2. Applicability:** This policy memorandum is applicable to on- and off-premise licensees.
- 3. Discussion:** There are frequent questions to the Alcoholic Beverage Control Division on requirements concerning the posting of federal, state and local licenses and permits. The following information provides guidelines to licensees.

a. Federal Permits. There are basically two permits in this category.

1.) Special Occupational Tax. This annual tax is required from all retailers and wholesalers. The tax payment is due by July 1st annually and is \$250 for retailers and \$500 for wholesalers. Kansas state licensees and all locally licensed cereal malt beverage establishments are required to pay this tax. Kansas Administrative Regulations require the "stamp, or proof of payment for the stamp" to be displayed in public view on the licensed premises. There is no longer an actual stamp, just a completed form returned to licensees. Failure to comply with the federal requirement of paying the tax or the Kansas regulations requiring display of the form will result in an administrative violation. The actual form *or a proof of payment posted* will meet this requirement. Applicable Kansas Regulations include: K.A.R. 14-13-4(b), 14-19-33, 14-20-35, 14-21-18 and 14-22-18.

2.) Federal Wholesaler Permit. The basic federal wholesaler permit is issued at no cost by the Bureau of Alcohol, Tobacco and Firearms. This permit, along with payment of the annual Special Occupational Tax addressed above, authorizes retail liquor licensees to sell alcoholic beverages as a wholesaler under federal law. K.A.R. 14-13-9(a)(6) requires the retailer who sells liquor to on-premise licensees to post the sign on their licensed premises that states the retailer is a "wholesale liquor dealer under federal law." Therefore, to act as a wholesaler, retailers must have the sign posted that they are a wholesale liquor dealer and have paid their annual Special Occupational Tax of \$500. The posting requirements of this tax are as described in paragraph 3a(1) above.

Subject: Guidelines for Displaying Liquor Licenses and Permits

b. State Liquor Licenses.

1.) No person or entity may operate without a valid state license. Additionally, K.S.A. 41-325 and 41-2612 require licensees to frame their licenses and hang them “in plain view in a conspicuous place on the licensed premises.” A completed application and receipt for payment do not allow for a new or current business to operate. Only a valid state license is acceptable. Copies of completed applications or receipts of payment can **not** take the place of a valid license.

2.) In rare instances, the ABC may provide a temporary faxed copy of a license pending receipt of the original mailed copy. The faxed copy will be annotated with a “valid to” date and authorizing signature. This copy will suffice until the receipt of the original license and must also be properly displayed.

c. Local Occupational or License Taxes.

1.) Local Occupational or License Tax Documents Issued Under the Liquor Control Act.

a. K.S.A.41-310(j)(1) and (2) state:

1. “Any city in which the licensed premises are located may levy and collect an annual occupation or license tax on the licensee in an amount not exceeding the amount of the annual license fee required to be paid under this act to obtain the license, but no city shall impose an occupation or privilege tax on the licensee in excess of that amount; and

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

b. The display or retention on the licensed premises of completed local applications and/or receipts for payment in lieu of the actual local document is permitted only:

1. in localities that have specific ordinances or resolutions providing for such display on a temporary basis and

2. when such documents were submitted and fees paid prior to the expiration of the previous license.

2.) Local Occupational or License Tax Documents Issued Under the Club and Drinking Establishment Act.

a. K.S.A.41-2622(b) states in part:

Subject: Guidelines for Displaying Liquor Licenses and Permits

1. “In addition to the fee provided by subsection (a), any city where the licensed premises of a club or drinking establishment are located or, if such licensed premises are not located in a city, the board of county commissioners of the county where the licensed premises are located may levy and collect an annual occupation or license tax from the licensee in an amount equal to not less than \$100 nor more than \$250.”

2. “No occupational or excise tax or license fee other than that authorized by subsection shall be levied by any city or county against or collected from a licensed club or drinking establishment.”

b. This section addresses only the occupational taxes and fees pertaining to a liquor license. It does not address any city local taxes levied on other components of the business such as vending machines, juke boxes, etc. Specific posting requirements must be obtained from local authorities.

c. The display or retention on the licensed premises of completed local applications and/or receipts for payment of liquor license specific fees in lieu of the actual local document is permitted only:

1. in localities that have specific ordinances or resolutions providing for such display on a temporary basis and

2. when such documents were submitted and fees paid prior to the expiration of the previous license.

d. Other requirements to display. Although not covered by this Policy Memorandum, licenses also must display all appropriate state tax certificates, other state licenses or local licenses or permits as required by law.

4. Additional Comments:

a. Failure to comply with the applicable statutes, regulations and/or this policy memorandum, may result in administrative action for violation of the liquor laws.

b. Agents will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.

5. Clarification of Policy: All requests for clarification of this policy should be directed *in writing* to this office via mail, fax, or email.

Subject: Guidelines for Displaying Liquor Licenses and Permits

6. Effective date of this Policy: This policy is effective from the date of signature until further notice.

Original signed and on file.

R.G. Longino

cc: Assistant Attorney General
Chief of Enforcement
Licensing Supervisor
Compliance Supervisor
Administration Supervisor
Enforcement Agents