



**HANDBOOK
FOR
TEMPORARY PERMITS**

**Temporary Permits Issued Under K.S.A. 41-2645
of the Club and Drinking Establishment Act**

**Temporary Permits Issued Under K.S.A. 41-347
of the Liquor Control Act**

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Changes made to this handbook since the previous revision date are highlighted with a **gray background**. Please report errors, omissions or suggestions for improvement to this handbook to the Division of Alcoholic Beverage Control by telephone at 785-296-7015, by fax at 785-296-7185 or by email to abc_mail@kdor.state.ks.us.

Temporary Permits Issued Under K.S.A. 41-2645 of the Club and Drinking Establishment Act

Definitions

"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, but shall not include any cereal malt beverage. [Subsection (b) of K.S.A. 41-102]

"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 and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content. [Subsection (c) of K.S.A. 41-102]

"Cereal malt beverage" (CMB) means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage (FMB), as defined in K.S.A. 41-2729, and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight. [Subsection (a) of K.S.A. 41-2701] Since 3.2% alcohol by weight is equivalent to 4% alcohol by volume, then CMB does not include any FMB which contains more than 4% alcohol by volume.

"Flavored malt beverage" means a malt beverage which meets the formula definitions as set forth in Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau regulations published January 3, 2005, at 27 CFR Parts 7 and 25. [K.S.A. 41-2729]

Paragraph (a) of section 7.11 of 27 CFR Part 7 deals with the use of flavorings in malt beverages. Paragraph (b) of section 25.15 of 27 CFR Part 25 deals with the use of flavorings in beer. They are essentially identical. No more than 49% of the overall alcohol content of the malt beverage or beer may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. In the case of malt beverage or beer with an alcohol content of more than 6% by volume, no more than 1.5% of the volume of the malt beverage or beer may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Permit holder" means a person granted a temporary permit pursuant to K.S.A. 41-2645 of the Club and Drinking Establishment Act and regulations adopted pursuant thereto. [Subsection (k) of K.A.R. 14-23-1]

"Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. [Subsection (cc) of K.S.A. 41-102]

"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 such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. [Subsection (ff) of K.S.A. 41-102]

Qualifications for a temporary permit

K.S.A. 41-2645 authorizes the Director to issue temporary permits to organizations or to one or more persons to sell and serve alcoholic liquor for consumption on unlicensed premises that are open to the public. "Person" may be an individual (natural person), partnership, corporation or association. [Subsection (m) of K.A.R. 14-23-1]

Partnerships

Each partner must meet all of the qualifications for individuals listed above. [Subsection (c) of K.A.R. 14-23-3]

Corporations

Each officer, manager, director or stockholder owning a beneficial interest in the corporation must meet all of the qualifications for individuals listed above. [Subsection (a) of K.A.R. 14-23-3]

Associations (unincorporated clubs or groups)

Each officer, manager, director, owner or member with a beneficial interest in the association must meet all of the qualifications for individuals listed above. [Subsection (b) of K.A.R. 14-23-3]

Individuals (natural persons)

K.A.R. 14-23-3 lists the required (non-discretionary) qualifications for applicants for temporary permits. There are no requirements that pertain to the spouse of an applicant for a temporary permit. [Subsection (d) of K.A.R. 14-23-3]

- Must be at least 21 years of age. (d)(4)
- Cannot be an employee of the Director of ABC. (d)(5)
- Cannot have been convicted of a felony in Kansas, any other state or the United States. (d)(1)
- Cannot have been convicted of being the keeper of a house of prostitution, a proprietor of a gambling house, pandering or any crime opposing decency and morality, or forfeited bond to appear in court on any such charge. (d)(2) and (3)
- Cannot have had a license or permit issued by the Director of ABC revoked. (d)(7)

Note: This provision applies to applicants who were previously partners in a partnership which had a license or permit revoked, since each partner may be held accountable for the misdeeds of the partnership. [Interpretation made 12/22/04 by DPW after consulting with LG]

- Cannot intend to use the permit to act as an agent for another person. (d)(6)
- Cannot have been an officer, manager, director of or stockholder owning a beneficial interest in a corporation which has:
 - * had a license revoked under the club and drinking establishment act, or
 - * been convicted of a violation of the club and drinking establishment act or the cereal malt beverage act. (d)(8)

Note: The words above "owning a beneficial interest" apply only to stockholders. [Interpretation made 12/22/04 by ABC's AAG]

The Director of ABC may refuse to issue a temporary permit if:

- The applicant previously violated any provision of the Kansas Liquor Control Act, the Kansas Club and Drinking Establishment Act, the Kansas Cereal Malt Beverage Act or the Kansas Liquor Drink Tax Act. [Subsection (h) of K.S.A. 41-2645 and subsection (b)(4) of K.A.R. 14-23-4]
- The applicant had a license or permit revoked under the Kansas Club and Drinking Establishment Act. [Subsection (b)(4) of K.A.R. 14-23-4]
- The applicant, or any officer, director, partner, registered agent, trustee, manager or owner of the applicant, has previously had a temporary permit or license issued under the Kansas Club and Drinking Establishment Act which was surrendered and at the time of such surrender the holder of the permit or license had been ordered to appear and show cause why the permit or license should not be revoked or suspended. [Subsection (b)(1) of K.A.R. 14-23-4]
- The applicant has designated an area for the event that is the same as the area designated for a permit or license that was the subject of an order to appear and show cause why the permit or license should not be revoked or suspended at the time the permit or license was surrendered, and it appears that the application for the temporary permit is an attempt to avoid any possible remedial action taken by the Director against the former licensee or permit holder. [Subsection (b)(3) of K.A.R. 14-23-4]
- The application was filed with the Director less than 14 days prior to the event. [Subsection (b)(5) of K.A.R. 14-23-4]

Process for obtaining a temporary permit

Subsections (b) through (h) of K.S.A. 41-2645 describe the process for obtaining a temporary permit:

- File an application (Form ABC-253) with the Director at least 14 days before the event unless the 14 days is waived by the Director for good cause. [Subsection (c) of K.S.A. 41-2645]
- A temporary permit shall be issued for a period of time not to exceed three consecutive days, except for a permit issued for the Kansas State Fair (see below). The dates and hours that the temporary permit is valid shall be specified on the permit. [Subsection (f) of K.S.A. 41-2645]
- Only one temporary permit may be issued to a person or entity for each annual Kansas State Fair in Hutchinson. The permit shall be good for the entire period of the state fair and allows the sale of wine in the unopened, original container and the sale and serving of individual drinks of wine and/or beer at a location on the state fair grounds designated by the State Fair Board in a written agreement with the applicant for the temporary permit. A copy of the agreement must be provided with the application for the permit. [Subsection (f) of K.S.A. 41-2645]
- No more than four temporary permits shall be issued to any organization or person in a calendar year. [Subsection (e) of K.S.A. 41-2645]
- Permits shall only be issued for premises where the city, county or township zoning codes allow the use for which the permit is issued. The temporary permit shall specify the premises for which the permit has been issued. [Subsection (d) of K.S.A. 41-2645] Permits shall only be issued in counties which allow the sale of liquor by the drink. See subsections (d)(1) and (d)(2) of K.S.A. 41-2645. These are the same requirements specified for licensing drinking establishments under subsection (a) of K.S.A. 41-2642.

- The application must state the purposes for which the proceeds from the event will be used and the proceeds shall only be used for that purpose. [Subsections (c) and (g) of K.S.A. 41-2645]
- The application must be accompanied by a fee of \$25 for each day of the event that a permit is needed. The fee must be paid by either a cashier's or certified check from a Kansas bank, US postal money order, or cash. The Director remits the fees to the State Treasurer for deposit into the State General Fund.[Subsection (c) of K.S.A. 41-2645]
- The application must be accompanied by a diagram of the premises covered by the proposed permit, clearly showing the boundaries of the premises, the entrance(s) to and exit(s) from the premises, and the area where alcoholic liquor will be served. [Subsection (c) of K.A.R. 14-23-2]
- Once a temporary permit is issued, the fee shall not be refunded if the permit or event is cancelled, regardless of the reason. [K.A.R. 14-23-6] However, the fee shall be refunded to the applicant if the temporary permit is not issued. [Ruling by the Director on 12/27/07]
- A temporary permit, once issued, cannot be transferred or assigned by the permit holder to another organization or individual. [Subsection (h) of K.S.A. 41-2645]

Fundraising activities that are exempt from needing a temporary permit under K.S.A. 41-401(h)

K.S.A. 41-104 of the Kansas Liquor Control Act lists activities which are exempt from state regulation under the Liquor Control Act, Club and Drinking Establishment Act, and the Cereal Malt Beverage Act. Subsection (h) was added to this statute by 2007 Senate Bill 30 effective on May 24, 2007, and lists the following exempt activity:

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

To be exempt from state regulation, which means exempt from obtaining a temporary permit, the following conditions must be met:

- The event at which the alcoholic liquor is served must be an official fundraising event of the organization.
- The event must be sponsored by either a "charitable organization" or by a "candidate, party or political committee," as defined in the statutes referenced in subsection (h). For further explanation

of the definitions, see ABC publication "Reference Guide for Charitable or Political Fundraising Events Where Complimentary Alcoholic Beverages are Served."

- The alcoholic drinks served must be "complimentary." "Complimentary" is not defined in the liquor statutes or regulations. Therefore, the common usage definition as found in most dictionaries will be used: "given free as an act of courtesy." As used in a fundraising setting, this means that there is no charge made to patrons specifically for the alcoholic liquor or cereal malt beverage and the patrons do not pay anything of value specifically to receive the alcoholic liquor or cereal malt beverage.

Responsibility for violations at the event

Each permit holder is responsible for all violations of the Club and Drinking Establishment Act and associated regulations (K.A.R. 14-23-01 et seq.) by the following individuals during the event while on the premises covered by the temporary permit:

- employees of the permit holder
- persons serving or mixing alcoholic beverages
- any employee of any business contracting with the permit holder to provide food or services in connection with the event.

[K.A.R. 14-23-9]

Restrictions on employees

All persons who are serving alcoholic beverages must be at least 18 years old. However, any server who is under the age of 21 must be supervised by a person who is at least 21 years old. [Subsections (a) and (f) of K.S.A. 41-2610 and Subsections (a) and (c) of K.A.R. 14-23-7]

All persons who are mixing or dispensing alcoholic beverages must be at least 21 years old. [Subsection (g) of K.S.A. 41-2610 and Subsection (b) of K.A.R. 14-23-7]

No person who is dispensing, mixing and serving alcoholic liquor can:

- have a conviction of a felony or of any crime involving a morals charge in Kansas, any other state, or the United States at any time. [Subsection (b) of K.S.A. 41-2610] "Morals charge" is defined in subsection (i) of K.A.R.14-23-1 as a charge alleging:
 - prostitution
 - procuring any person
 - solicitation of a child under 18 years of age for any immoral act involving sex
 - possession or sale of narcotics, marijuana, amphetamines or barbiturates
 - rape
 - incest
 - gambling
 - Illegal cohabitation
 - adultery
 - bigamy
 - a crime against nature

- have a conviction of a violation of any intoxicating liquor law of Kansas, any other state, or the United States within the past two years. This includes DWI, DUI and "sale to minor" convictions under state law but not under a city ordinance. [Subsection (c) of K.S.A. 41-2610 and subsection (e) of K.A.R. 14-23-7]

Persons who dispense beer from carts on golf courses must be at least 21 years old because there is no 21 year old supervisor who can see what they are doing, as there would be inside a building where 18-year olds are allowed to carry alcoholic products to the tables. [Ruling made by the Director on 04/30/07]

Food servers who have a disqualifying conviction may take orders for alcoholic liquor from customers as long as another, qualified person mixes or dispenses and serves the alcoholic liquor to the customers. [Ruling made by the ABC Director on 02/01/05]

Hours and days of sales

There shall be no serving, mixing or consumption of alcoholic liquor on the premises covered by the temporary permit between the hours of 2:00 a.m. and 9:00 a.m. on any day. [Subsection (c)(4) of K.A.R. 14-23-5]

Purchasing, transporting and paying for alcoholic liquor

The permit holder shall purchase alcoholic liquor only from a Kansas licensed retail liquor store that possesses a federal wholesaler's basic permit [Subsection (a)(1) of K.S.A. 41-308 and subsections (a) and (c) of K.A.R. 14-23-8] or a licensed Kansas farm winery [Subsection (a)(2) of K.S.A. 41-308a and subsection (a) of K.A.R. 14-23-8].

The retailer or farm winery shall not deliver the alcoholic liquor to the temporary permit holder. [Subsection (b) of K.A.R. 14-23-8] The permit holder must pick up the alcoholic liquor purchased from the licensed retail liquor store or farm winery on the same day as the purchase is made. [Subsection (c) of K.A.R. 14-23-8]

For each purchase of alcoholic liquor made by the permit holder, the permit holder shall retain a copy of the sales slip for a period of one year. The sales slip shall include, at a minimum, the following information about the sale:

- Date of the sale.
- Name and address of the retailer or farm winery.
- Name and address of the permit holder as it appears on the permit.
- Brand, size and amount of all alcoholic liquor purchased.
- Cost of the alcoholic liquor and total cost of the order including the enforcement tax.

[Subsection (d) of K.A.R. 14-23-8]

Selling and serving of alcoholic beverages

Holders of temporary permits are authorized to sell and serve alcoholic liquor by the drink for consumption on unlicensed premises which may be open to the public. Alcoholic liquor includes wine and beer but not cereal malt beverages [Subsection (a) of K.S.A. 41-2645]

A "drink" means an individual serving of any beverage containing alcoholic liquor or an individual serving of cereal malt beverage (CMB). [Subsection (f) of K.S.A. 41-2640] Alcoholic liquor includes spirits, wine and beer. [Subsection (a) of K.S.A. 41-2601 referencing K.S.A. 41-102]

Multiple cans or bottles of beer may be sold to a customer at the same time. The bottles or cans may be served unopened. However it is the permit holder's responsibility to be sure that no unopened can or bottle of beer is removed from the permitted premises by any customer. [Approved by the Director 12/28/05]

Most of the restrictions on the pricing of drinks dispensed at clubs, drinking establishments, caterers and temporary permit holders by their employees or agents are set forth in subsection (a) of K.S.A. 41-2640, which prohibits:

- Offering or serving free alcoholic liquor or CMB to any person. [Subsection (a)(1)] This is interpreted as also prohibiting the permit holder or any employees or agents of the permit holder from "buying" drinks for anyone on the licensed premises.
- Selling, offering or serving any drink at a price below acquisition cost of the drink. [Subsection (a)(2)] The acquisition cost shall include the cost of both the alcoholic liquor and non-alcoholic liquor contained in the drink, but not the cost of water, ice, labor, overhead and any other items of clearly negligible value. [K.A.R. 14-23-12]
- Selling, offering or serving an unlimited number of drinks to any person for a set period of time at a fixed price, except at private functions not open to the general public or to the general membership of a club. [Subsection (a)(3)]
- Selling, offering or serving any drink at a price below that charged to all other persons for the same drink on that same day. [Subsection (a)(4)]
- Increasing the volume of alcoholic liquor contained in a drink or the size of a drink of CMB without increasing proportionately the price regularly charged for the drink on that day. [Subsection (a)(5)]

Bottles or carafes of wine are not individual servings and consequently are not "drinks" according to the statutory definition in subsection (f) of K.S.A. 41-2640. Therefore, they are not subject to this rule. [Ruling by Director on 12/28/05]

Drinks which are 100% spirits, wine, beer or CMB are easy to apply the rule to. For example, a two ounce shot of alcoholic liquor must sell for twice what a one ounce shot of the same alcoholic liquor sells for.

The rule is a little more complicated to apply to mixed drinks. However, the general rule is that a mixed drink containing one ounce of alcoholic liquor shall not sell for less than a one ounce shot of the same alcoholic liquor. A mixed drink containing two ounces of alcoholic liquor shall not sell for less than a two ounce shot of the same alcoholic liquor. And so on. [Ruling by Director on 12/28/05]

- Encouraging or permitting any game or contest which involves drinking alcoholic liquor or CMB or the awarding of drinks as prizes on the licensed premises. [Subsection (a)(6)]
- Advertising or promoting in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (6). [Subsection (a)(7)]

Other requirements

Permit holders shall be present at all times during the event or designate another person to be responsible for the conduct of the event if the permit holder is absent. If the permit holder is an organization, the organization must designate a person to act as their agent to be responsible for the conduct of the event. [Subsection (d) of K.A.R. 14-23-5]

Permit holders must admit any law enforcement officer to the premises covered by the temporary permit. [Subsection (c)(3) of K.A.R. 14-23-5]

Permit holders must display on a poster or other device at the entrance to the premises covered by the temporary permit: [Subsection (b) of K.A.R. 14-23-5]

- the temporary permit;
- the name of the agent of the organization who is in charge of the event;
- A diagram of the premises covered by the permit, clearly showing the boundaries of the premises, entrance(s) to and exit(s) from the premises, and the area in which the service of alcoholic liquor will take place;
- In the case of a special event, as defined by K.S.A. 41-719, the business names of all drinking establishments that have elected to extend their licensed premises into the event.

The boundary of any premises covered by a temporary permit must be marked by a physical barrier clearly visible to a reasonable person. [Subsection (b) of K.A.R. 14-23-10]

Authorized activities

Selling and serving alcoholic beverages. A temporary permit holder may offer for sale, sell and serve alcoholic liquor for consumption on the permitted premises which may be open to the public, if the premises is located within a "wet county." [Subsection (a) of K.S.A. 41-2645]

Free food or entertainment. A temporary permit holder may offer free food or entertainment at any time. [Subsection (b) of K.S.A. 41-2640]

Wine at the state fair. A temporary permit holder may sell wine in the unopened, original container at the state fair.

Customers providing their own alcoholic liquor. A temporary permit holder may allow a customer to bring into the permitted premises bottles of their own alcoholic liquor to be consumed by the customer and the customer's invited guests. The permit holder may also prohibit such practice. [Subsection (b) of K.A.R. 14-23-11] The permit holder may not warehouse the customer's bottles of alcoholic liquor and the customer must remove all such bottles when departing the permitted premises. [Subsection (b) of K.A.R. 14-23-11] If a permit holder allows this practice, it may charge the customer a "corkage fee" for mixing/dispensing and/or serving drinks from the customer's bottles of alcoholic liquor. The corkage fee is subject to the 10% retail liquor drink tax imposed by K.S.A. 79-41a01 et seq.

Prohibited Activities (also see section on "Selling and serving of alcoholic beverages")

Unqualified employees. A temporary permit holder shall not knowingly employ any person who does not meet the qualifications set forth in K.S.A. 41-2610 and K.A. R. 14-23-7.

Purchases of liquor stock. A temporary permit holder shall not purchase alcoholic liquor from any person other than a retail liquor store possessing a federal wholesaler's basic permit or a licensed farm winery. Also see the section on "Purchasing, transporting, and paying for alcoholic beverages". [Subsection (c) of K.A.R. 14-23-8]

Removal of alcoholic liquor from premises. A temporary permit holder shall not allow a customer to remove alcoholic liquor purchased from the permit holder from the permitted premises, except that alcoholic liquor may be removed to a drinking establishment which has extended its premises into to permitted area of a special event, as defined by K.S.A. 41-719. [Subsection (a) of K.A.R. 14-23-10 and subsection (c)(6) of K.A.R. 14-23-5]

Event lasting more than three days. A temporary permit holder shall not conduct an event lasting longer than three days, except at the state fair. [Subsection (c)(2) of K.A.R. 14-23-5]

Cereal malt beverage. A temporary permit holder shall not sell or serve any cereal malt beverage at an event. [Subsection (c)(5) of K.A.R. 14-23-5]

Event on licensed premise. A temporary permit holder shall not conduct an event upon premises already licensed under the Liquor Control Act or Club and Drinking Establishment Act. [Subsection (c)(1) of K.A.R. 14-23-5]

Refilling original containers. A temporary permit holder shall not refill any original container with alcoholic liquor or any other substance. [Subsection (c)(7) of K.A.R. 14-23-5]

Illegal consumption of alcoholic liquor. Allowing any person to consume alcoholic liquor on the event premises contrary to the provisions of the Club and Drinking Establishment Act is a criminal offense, subject to fine and imprisonment, in addition to possible administrative action by the Director. [K.S.A. 41-2604]

Illegal possession or consumption of alcoholic liquor or cereal malt beverage by a minor. Knowingly or unknowingly permitting any minor to possess or consume alcoholic liquor or cereal malt beverage

on the licensed premises is a criminal offense, subject to fine and imprisonment, in addition to possible administrative action by the Director. [K.S.A. 41-2615] Exceptions or defenses:

- An exception is made for a minor that is an employee of the licensee and is serving alcoholic liquor or cereal malt beverage under the supervision of another employee of the licensee who is at least 21 years of age. [Subsection (a) of K.S.A. 41-2615]
- It is a defense to criminal prosecution if the minor exhibited a driver's license, Kansas non-driver's ID card, or other official or apparently official document, containing a photograph that reasonably appears to be the minor and purporting to establish that such minor was 21 years of age or more, and the licensee had reasonable cause to believe that the minor was 21 years of age or older. [Subsection (c) of K.S.A. 41-2615]

Administrative actions for violations of statutes and regulations

The Director may revoke a temporary permit or impose a fine against the temporary permit holder for any of the following:

- A material fact was omitted or misstated in the permit application.
- Operation during an event materially different from that represented in the application.
- Violation of any provision of the Liquor Control Act, the Club and Drinking Establishment Act or any regulation adopted pursuant thereto.
- Refusal to allow the Director or any agent or employee of the Director or Secretary of Revenue to inspect the premises covered by the permit or any records required to be kept by the permit holder.
- Allowing any person who is under 21 years of age to possess alcoholic liquor while on the premises covered by the permit.

[K.A.R. 14-23-15]

The Director is authorized to assess fines of up to \$1,000 for each violation. [Subsection (a) of K.S.A. 41-2633a]

Liquor Drink Tax

Sales of alcoholic liquor made by temporary permit holders are subject to the 10% liquor drink tax pursuant to K.S.A. 79-41a01 et seq. The tax is paid by the consumer and computed on the full purchase price of the drink, including any mandatory gratuity charged by the drinking establishment. The temporary permit holder files a return and remits the tax due to KDOR.

Any temporary permit holder that is delinquent in the filing of returns and/or payment of its liquor drink taxes is subject to being fined by the Director. [Subsection (b) of K.S.A. 79-41a07]

The liquor drink tax is imposed as an alternative to the Kansas retail sales tax. Therefore, alcoholic drinks subject to the liquor drink tax are exempt from the Kansas retail sales tax. [Subsection (a) of K.S.A. 79-3606]

Temporary Permits Issued Under K.S.A. 41-347 of the Liquor Control Act

Qualifications for a temporary permit

Subsection (a) of K.S.A. 41-347 authorizes the Director to issue temporary permits in either of the following two situations:

- To one or more charitable organizations, as defined below, for the sale of alcoholic liquor at an auction.
- To an individual for the sale of one or more limited issue porcelain containers of alcoholic liquor.

Other restrictions in K.S.A. 41-347:

- No more than one temporary permit shall be issued to any organization or individual in a calendar year. [Subsection (d)]
- The Director may refuse to issue a temporary permit to any organization or individual which has violated any provision of the Kansas Liquor Control Act. [Subsection (g)]

No regulations have been promulgated specifically for this type of temporary permit. Consequently, ABC is temporarily applying the qualifications for temporary permits issued under K.S.A. 41-2645, which are listed in K.A.R. 14-23-3.

The term "charitable organization" is not defined in K.S.A. 41-347. Therefore, we must look at legislative intent. The only other place within the Liquor Control Act where this term is used is subsection (h) of K.S.A. 41-401, passed by the Legislature in 2007. This statute adopts the definition found in subsection (a) of K.S.A. 17-1760 of the "Kansas Charitable Organizations and Solicitations Act", as follows:

(a) "Charitable organization" means any person who engages in the activity of soliciting funds or donations for, or purported to be for, any fraternal, benevolent, social, educational, alumni, historical, humane, public health or other charitable purpose.

An organization claiming this status should be able to produce a copy of the ruling letter issued to it by Internal Revenue Service, stating that it is tax exempt under a specific IRS code subsection (see list below). The name of the organization on the letter should match the name of the organization sponsoring the fundraising event. Local organizations which are part of a national organization should have a copy of the tax exempt ruling issued by the IRS to the national organization which states that the ruling covers its local units.

The following is a list of the IRS tax code subsections associated with the various classifications of "charitable organizations" listed in subsection (a) of K.S.A. 17-1760:

fraternal	501(c)(8) or 501(c)(10)	page 50 *
social	501(c)(4)	page 47 *
educational	501(c)(3)	page 21 *
alumni	501(c)(3)	page 22 *
historical	501(c)(3)	page 30 *
humane (prevention of cruelty to children or animals)	501(c)(3)	page 26 *
public health	501(c)(3)	page 24 *
other charitable purpose	501(c)(3)	page 24 *

*page numbers refer to IRS Publication 557 (Rev. May 2003) - "Tax Exempt Status for Your Organization"

Process for obtaining a temporary permit

Subsections (b) through (e) of K.S.A. 41-347 describe the process for obtaining a temporary permit:

- File an application with the Director at least 14 days before the event unless the 14 days is waived by the Director for good cause. [Subsection (b)]
- A temporary permit shall be issued for a period of three consecutive days or less. The dates and hours that the temporary permit is valid shall be specified on the permit. [Subsection (d)]
- Permits shall only be issued for premises where the city, county or township zoning codes allow the use for which the permit is issued. The temporary permit shall specify the premises for which the permit has been issued. [Subsection (c)]
- The application must state the purposes for which the proceeds from the event will be used and the proceeds shall only be used for that purpose. [Subsections (b) and (e)]
- The application must be accompanied by a fee of \$25 for each day of the event that a permit is needed. The fee must be paid by either a cashier's or certified check from a Kansas bank, US postal money order, or cash. The Director remits the fees to the State Treasurer for deposit into the State General Fund.[Subsection (b)]
- A temporary permit is not transferable or assignable to another organization or individual. [Subsection (f)]

Rules and regulations

K.S.A. 41-347 authorizes the Secretary of Revenue to promulgate rules and regulations for temporary permits, but none have written to date.