



KANSAS LIQUOR CONTROL ACT

**K.S.A. Chapter 41, Articles 1 through 11
Without Annotations - For Public Distribution**

Last amended May 24, 2007

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INDEX

- Article 1 - General Provisions**
- Article 2 - Division of Alcoholic Beverage Control**
- Article 3 - Licensing and Related Provisions; City Option**
- Article 4 - Bonded Warehouses and Related Provisions**
- Article 5 - Gallonage Tax; Collection and Distribution**
- Article 6 - Manufacturer's and Wholesaler's Records and Reports**
- Article 7 - Certain Prohibited Acts and Penalties by Distributors and Manufacturers**
- Article 8 - Misdemeanors and Nuisances**
- Article 9 - General Penalty Provisions**
- Article 10 - Prosecution and Enforcement**
- Article 11 - Miscellaneous Provisions**

Article 1 – GENERAL PROVISIONS

41-101. Citation of act. This act may be cited as the "Kansas liquor control act."

History: L. 1949, ch. 242, § 1; March 9.

41-102. Definitions. As used in this act, unless the context clearly requires otherwise:

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

(b) "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.

(c) "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.

(d) "Caterer" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.

(f) "Club" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

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

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

(i) "Domestic beer" means beer which contains not more than 8% alcohol by weight and which is manufactured from agricultural products grown in this state.

(j) "Domestic fortified wine" means wine which contains more than 14%, but not more than 20% alcohol by volume and which is manufactured from agricultural products grown in this state without rectification.

(k) "Domestic table wine" means wine which contains not more than 14% alcohol by volume and which is manufactured without rectification or fortification from agricultural products grown in this state.

(l) "Drinking establishment" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

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

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

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

(2) "Manufacturer" does not include a microbrewery or a farm winery.

(p) "Microbrewery" means a brewery licensed by the director to manufacture, store and sell domestic beer.

(q) "Minor" means any person under 21 years of age.

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

(s) "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of

alcoholic liquor, to contain and to convey any alcoholic liquor. Original container does not include a sleeve.

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

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

(v) (1) "Retailer" means a person who sells at retail, or offers for sale at retail, alcoholic liquors.

(2) "Retailer" does not include a microbrewery or a farm winery.

(w) "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

(x) "Salesperson" means any natural person who:

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

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

(y) "Secretary" means the secretary of revenue.

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

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

(aa) "To sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

(bb) "Sleeve" means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

(cc) "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.

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

(ee) "Temporary permit" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(ff) "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.

History: L. 1949, ch. 242, § 2; L. 1953, ch. 238, § 1; L. 1965, ch. 314, § 1; L. 1972, ch. 342, § 56; L. 1978, ch. 185, § 1; L. 1979, ch. 152, § 1; L. 1983, ch. 161, § 1; L. 1985, ch. 168, § 1; L. 1987, ch. 182, § 1; L. 1987, ch. 182; § 2; L. 1992, ch. 201, § 1; L. 1993, ch. 234, § 1; L. 1998, ch. 191, § 1; July 1.

41-103. Declaration of public policy; separate retail sale of 3.2 beer and alcoholic liquors; retail sales in cities only, exceptions. The legislature hereby declares the public policy of this state to be that: (a) Cereal malt beverage shall be sold at retail separately from sales of alcoholic liquor at retail; (b) cereal malt beverage shall be sold and dispensed at retail in rooms or premises separate and distinct from rooms or premises where alcoholic liquor is sold; and (c) no retailer's license for the sale of alcoholic liquor shall be granted to any applicant making application therefor if the premises sought to be licensed are located outside the corporate limits of any city within this state, except as provided in K.S.A. 41-303 and amendments thereto.

History: L. 1949, ch. 242, § 3; L. 1987, ch. 182, § 3; April 30.

41-104. Acts with regard to alcoholic liquor prohibited unless allowed by statute; exceptions. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, except that nothing contained in this act shall prevent:

(a) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except the provisions of K.S.A. 41-407 and amendments thereto shall be applicable to all persons;

(b) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker and the maker's family;

(c) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

(d) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

(e) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

(f) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church; or

(g) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following: (1) The consumer must be at least 21 years of age; (2) the consumer must purchase the wine while physically present on the premises of the wine manufacturer; (3) the wine must be for the consumer's personal consumption and not for resale; and (4) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary.

(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

History: L. 1949, ch. 242, § 4; L. 1978, ch. 186, § 1; L. 1979, ch. 152, § 2; L. 1985, ch. 168, § 2; L. 1987, ch. 182, § 4; L. 2006, ch 206, § 3; L. 2007, ch. _____, § 3; May 24.

41-105. Act inapplicable in certain cases. None of the provisions of this act shall apply: (1) To the manufacture of denatured alcohol produced in accordance with acts of congress and regulations

promulgated thereunder; (2) to flavoring extracts, syrups, or medicinal, mechanical, scientific, culinary or toilet preparations, or food products unfit for beverage purposes, but the provisions of this act shall not be construed to exclude or not apply to alcoholic liquor used in the manufacture, preparation or compounding of such preparations and products; or (3) to wine intended for use and used by any church or religious organization for sacramental purposes.

History: L. 1949, ch. 242, § 5; March 9.

41-106. Violations of law; copy of citation. Any citation issued for a violation of the liquor control act or the club and drinking establishment act shall be delivered to the person allegedly committing the violation at the time of the alleged violation. A copy of such citation also shall be delivered by United States mail to the licensee within 30 days of the alleged violation. If such citation and copy are not so delivered, the citation shall be void and unenforceable.

History: L. 2000, ch. 166, § 9; July 1.

41-107. Compliance checks or sting operations; notice of compliance. Any licensee who has been the subject of an operation conducted by the division of alcoholic beverage control or any local law enforcement agency to determine compliance with the provisions of laws relating to the sale of alcoholic liquor and cereal malt beverages to persons under 21 years of age or the legal age for consumption of cereal malt beverage shall be issued a written notice of compliance with such laws within 30 days of the date of such operation.

History: L. 2000, ch. 166, § 10; July 1.

Article 2 – DIVISION OF ALCOHOLIC BEVERAGE CONTROL

41-201. Law enforcement powers of director, agents and employees; attorney, appointment and compensation. (a) The director of alcoholic beverage control and agents and employees of the director designated by the director, with the approval of the secretary of revenue, are hereby vested with the power and authority of peace and police officers, in the execution of the duties imposed upon the director of alcoholic beverage control by this act and in enforcing the provisions of this act.

(b) The director and each agent and employee designated by the director under subsection (a), with the approval of the secretary of revenue, shall have the authority to make arrests, conduct searches and seizures and carry firearms while investigating violations of this act and during the routine conduct of their duties as determined by the director or designee. In addition to the above, the director and such agents and employees shall have the authority to make arrests, conduct searches and seizures and generally to enforce all the criminal laws of the state as violations of those laws are encountered by such employees or agents during the routine performance of their duties. In addition to or in lieu of the above, the director and the director's agents and employees shall have the authority to issue notices to appear pursuant to K.S.A. 22-2408, and amendments thereto. No agent or employee of the director shall be certified to carry firearms under the provisions of this section without having first successfully completed the firearm training course or courses prescribed for law enforcement officers under subsection (a) of K.S.A. 74-5604a, and amendments thereto. The director may adopt rules and regulations prescribing other training required for such agents or employees.

(c) The attorney general shall appoint, with the approval of the secretary of revenue, an assistant attorney general who shall be the attorney for the director of alcoholic beverage control and the division of alcoholic beverage control, and who shall receive an annual salary fixed by the attorney general with the approval of the director of alcoholic beverage control and the state finance council.

History: L. 1949, ch. 242, § 6; L. 1953, ch. 239, § 1; L. 1961, ch. 409, § 1; L. 1965, ch. 458, § 2; L. 1967, ch. 443, § 2; L. 1972, ch. 342, § 57; L. 1985, ch. 169, § 1; L. 1994, ch. 353, § 14; L. 1999, ch. 153, § 1; May 20.

41-202. Office of director; branch offices. The office of the director of alcoholic beverage control shall be in Topeka, but the director may, with the approval of the secretary of revenue, establish and maintain branch offices at places other than the seat of government.

History: L. 1949, ch. 242, § 7; L. 1972, ch. 342, § 58; July 1.

41-203. Alcoholic beverage control board of review; abolished; transfer of authority, property, proceedings. (a) The state alcoholic beverage control board of review is hereby abolished.

(b) Whenever the state alcoholic beverage control board of review is referred to or designated by statute, contract or other document, the reference or designation shall be deemed to apply to the director.

(c) All books, records and other property of the state alcoholic beverage control board of review are hereby transferred to the director.

(d) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against the state alcoholic beverage control board of review shall abate by reason of the abolition of such board, and the court may allow any such suit, action or other proceeding to be maintained by or against the director.

History: L. 1949, ch. 242, § 8; L. 1972, ch. 342, § 59; L. 1974, ch. 348, § 14; L. 1982, ch. 347, § 17; L. 1987, ch. 182, § 5; July 1.

41-204. Director and employees; qualifications. (a) Any person appointed as director and all employees of the division shall be citizens of the United States and residents of the state of Kansas.

(b) No person shall be appointed director or deputy director if such person has been convicted of a felony or of any violation of any federal or state law concerning the manufacture or sale of alcoholic liquor or cereal malt beverages, has paid a fine or penalty in settlement in any prosecution against such person in any violation of such laws or has forfeited bond to appear in court to answer charges for any such violation.

(c) No person appointed director or any employee of the division may have, directly or indirectly, individually or as a member of a partnership, or as a shareholder of a corporation, any interest whatsoever in the manufacture, sale or distribution of alcoholic liquor, nor receive any compensation or profit therefrom, nor have any interest whatsoever in the purchases or sales made by the persons authorized by this act, or to purchase or to sell alcoholic liquor. Nothing in this subsection shall prevent a person subject to this subsection from purchasing and keeping in the person's possession for the use of the person or the person's family or guests any alcoholic liquor which may be purchased or kept by any person by virtue of this act.

History: L. 1949, ch. 242, § 9; L. 1967, ch. 274, § 1; L. 1987, ch. 182, § 6; L. 2001, ch. 189, § 2; May 24.

41-206. Same; conflict of interest. (a) Except as permitted pursuant to subsection (b), neither the director nor any employee in the office of the director shall solicit or accept, directly or indirectly, any gift, gratuity, emolument or employment from any manufacturer, distributor, wholesaler or retailer of alcoholic liquor or from any person who is an applicant for any license or is a licensee under the provisions of this act, or from any officer, agent or employee thereof; or solicit requests from or recommend, directly or indirectly, to any such person, or to any officer, agent or employee thereof, the appointment of any person to any place or position. Any such person, officer, agent or employee thereof, is hereby forbidden to offer to the director, or any employee in the office of the director, any gift, gratuity, emolument or employment, except as permitted pursuant to subsection (b).

(b) The secretary may adopt rules and regulations allowing the acceptance of official hospitality by the director and employees in the office of the director, subject to such limits as prescribed by the secretary.

(c) If any person who is the director or an employee in the office of the director violates any provision of this section, such person shall be removed from such person's office or employment.

(d) Violation of any provision of this section is a misdemeanor punishable by a fine of not more than \$500 or imprisonment of not less than 60 days nor more than six months, or both such fine and imprisonment.

(e) Nothing contained in this section shall be construed as preventing the prosecution and punishment of any person for bribery as defined in the criminal code of this state.

History: L. 1949, ch. 242, § 11; L. 1987, ch. 182, § 8; July 1.

41-207. Director; seal; records, certification and admission in evidence. The director may, for authentication of the records, process and proceedings of the director, adopt and keep and use a common seal of which judicial notice shall be taken in all of the courts of the state. Any process, notice or other paper which the director may be authorized by law to issue shall be deemed sufficient if signed by the director or deputy director and authenticated by the seal of the director.

All acts, orders, proceedings, rules and regulations, entries, minutes and other records of the director and all reports and documents filed with the director may be proved in any court of this state by copy thereof certified to by the director or the deputy director with the seal of the director attached. A written certificate stating that after diligent search no record or entry of a specified tenor is found to exist in the records of the office of state director of alcoholic beverage control, when signed and certified to by the director or the deputy director and authenticated by the seal of the director, shall be

admissible as evidence in any court of this state to prove that the records of the office contain no such record or entry.

History: L. 1949, ch. 242, § 12; L. 1953, ch. 238, § 2; L. 1987, ch. 182, § 9; July 1.

41-208. Power to regulate alcoholic liquor vested exclusively in the state; exception; powers of cities; ordinances, power to enact, certain declared void.

(a) Except as specifically provided in the Kansas liquor control act, the power to regulate all phases of the manufacture, distribution, sale, possession, transportation and traffic in alcoholic liquor and the manufacture of beer regardless of its alcoholic content, is vested exclusively in the state and shall be exercised as provided the Kansas liquor control act. No city or county shall enact any ordinance or resolution which is in conflict with the provisions of the Kansas liquor control act and any such ordinance or resolution shall be null and void.

(b) Nothing contained in this section shall be construed as preventing any city from enacting ordinances declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city and prescribing penalties for violation thereof, but the minimum penalty in any such ordinance shall not be less than the minimum penalty prescribed by this act for the same violation, nor shall the maximum penalty in any such ordinance exceed the maximum penalty prescribed by this act for the same violation.

(c) The provisions of this act are severable. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

History: L. 1949, ch. 242, § 13; L. 2005, ch. 201, § 2; November 15.

41-209. Director; powers and duties. The director shall have the following powers, functions and duties:

(a) To receive applications for, and to issue and revoke licenses to manufacturers, distributors, nonbeverage users and retailers in accordance with the provisions of this act;

(b) to call upon other administrative departments of the state, county and city governments, sheriffs, city police departments, city marshals, law enforcement officers and upon prosecuting officers for such information and assistance as the director deems necessary in the performance of the duties imposed upon the director by this act;

(c) to inspect or cause to be inspected, any premises where alcoholic liquors are manufactured, distributed or sold;

(d) in the conduct of any hearing authorized to be held by the director to examine, or cause to be examined, under oath, any person, and to examine or cause to be examined books and records of any licensee; to hear testimony and take proof material for the information of the director in the discharge of such duties hereunder; to administer or cause to be administered oaths; and for any such purposes to issue subpoenas to require the attendance of witnesses and the production of books which shall be effective in any part of this state; and any district court or any judge of the district court, either in term time or vacation, may by order duly entered, require the attendance of witnesses and the production of relevant books subpoenaed by the director, and the court or judge may compel obedience to the order by proceedings for contempt;

(e) to collect, receive, account for and turn over to the secretary of revenue all registration and license fees and taxes provided for in this act and all other moneys received by the director by virtue of the director's office; and

(f) such other powers, functions and duties as are or may be imposed or conferred upon the director by law.

History: L. 1949, ch. 242, § 14; L. 1976, ch. 145, § 192; L. 1985, ch. 170, § 1; July 1.

41-210. Rules and regulations; procedure for adoption; powers of director.

(a) The director shall propose such rules and regulations as necessary to carry out the intent and purposes of this act. After the hearing on a proposed rule and regulation has been held as required by law, the director shall submit the proposed rule and regulation to the secretary of revenue who, if the secretary approves it, shall adopt the rule and regulation.

(b) It is intended by this act that the director of alcoholic beverage control shall have broad discretionary powers to govern the traffic in alcoholic liquors and to enforce strictly all the provisions of this act in the interest of sanitation, purity of products, truthful representation and honest dealings in such manner as generally will promote the public health and welfare. All valid rules and regulations adopted under the provisions of this act shall be absolutely binding upon all licensees and enforceable by the director of alcoholic beverage control through the power of suspension or revocation of licenses.

History: L. 1949, ch. 242, § 15; L. 1965, ch. 506, § 23; L. 1972, ch. 342, § 119; L. 1985, ch. 170, § 2; L. 1987, ch. 182, § 10; July 1.

41-211. Same; scope. (a) The rules and regulations adopted by the secretary of revenue pursuant to K.S.A. 41-210, and amendments thereto, shall include rules and regulations:

(1) Prescribing the nature, form and capacity of all containers used for alcoholic liquors;

(2) prescribing the nature of and the representations to be shown upon the labels attached to the containers and requiring that the labels attached to all original containers or packages of alcoholic liquors sold or offered for sale in this state shall set forth in plain and legible print in the English language the quantity of such liquors, exclusive of the package or cask containing them, in either metric or English measurement;

(3) prescribing administrative procedures for the issuance of licenses and the investigation of license applications and providing for advisory recommendations from governing bodies of cities as to retailers' licenses and for hearings on applications;

(4) prescribing conditions for the issuance of duplicate licenses in lieu of those lost or destroyed;

(5) prescribing those violations of the rules and regulations for which licenses shall be suspended or revoked;

(6) establishing standards of purity, sanitation and honest advertising and representations;

(7) requiring the destruction of stamps upon containers which have been opened;

(8) in the case of manufacturers and distributors of alcoholic liquors, requiring the labels attached to all containers of such liquors which are intended for sale in this state to set forth, in plain legible print in the English language, the name and kind of alcoholic liquors contained therein, together with their alcoholic content, and if a blended product (except wine) to so state, except that, if the director deems it unnecessary to show the alcoholic content of beer on labels of containers of beer, the alcoholic content shall not be required to be shown thereon;

(9) establishing procedures and conditions under which minors may be engaged in programs or systems encouraging compliance with the provisions of laws relating to the sale of alcoholic liquor and cereal malt beverages to a person under 21 years of age or under the legal age for consumption of cereal malt beverages as authorized by K.S.A. 41-727a, 41-2652 and 41-2727, and amendments thereto. Such regulations shall include provisions which require that such person used in any such program or system to be (A) at least 18 years of age and not more than 19 1/2 years of age; (B) exhibit a youthful appearance; (C) carry only one piece of identification, which shall be a valid form of identification; (D) truthful in interactions with licensees; except if asked, such person may deny working with law enforcement officials.

It shall be an absolute defense in any civil proceeding or criminal prosecution if any such program or system does not comply with the procedures and conditions required by such rules and regulations;

(10) providing for such other details as are necessary or convenient to the administration and enforcement of this act.

(b) The secretary of revenue may adopt rules and regulations pursuant to K.S.A. 41-210, and amendments thereto establishing:

(1) Standards of manufacture of alcoholic liquors and beer, regardless of its alcoholic content, not inconsistent with federal laws, in order to insure the use of proper ingredients and methods in the manufacture and distribution thereof; and

(2) standards, not inconsistent with federal law, for the proper labeling of containers or barrels, casks or other bulk containers or bottles of alcoholic liquor and beer, regardless of its alcoholic content, manufactured or sold in this state.

History: L. 1949, ch. 242, § 16; L. 1978, ch. 187, § 1; L. 1985, ch. 170, § 3; L. 1986, ch. 185, § 4; L. 1993, ch. 234, § 2; L. 2000, ch. 166, § 8; July 1.

Article 3 – LICENSING AND RELATED PROVISIONS; CITY OPTION

41-301. Sale of liquor by package; licenses; issuance in cities and certain townships; duty of director. (a) Except as provided in subsection (b), the director shall issue to qualified applicants, who have filed the bond and paid the registration and license fees required by this act, licenses to sell at retail alcoholic liquor in the original package within the corporate limits of cities and outside the corporate limits of any city.

(b) No retailer's license shall be issued for premises within a city if the governing body of such city, on or before February 15, 2006, adopts an ordinance prohibiting the licensing of the sale at retail of alcoholic liquor in the original package within such city. Upon adoption of such ordinance, the city clerk promptly shall transmit a copy of such ordinance to the director and the director shall refuse to issue licenses to sell at retail alcoholic liquor in the original package in such city. If the governing body adopts such an ordinance, the holder of any valid existing retailer's license for premises in such city shall have the right to continue to operate under such license for a period of 90 days after the effective date of the ordinance or until the expiration of such license, whichever period of time is shorter. If such period of time expires before the expiration of the term for which the retailer's license was issued, the licensee shall be entitled to a refund of the license fee for the unexpired period which remains, in accordance with rules and regulations adopted by the secretary.

(c) No retailer's license shall be issued for premises within a city if, after November 15, 2005, a majority of the qualified voters of such city voting at an election held as provided by K.S.A. 41-302 and amendments thereto, votes against the licensing of the sale at retail of alcoholic liquor in the original package within such city unless, at a subsequent election, a majority of the qualified voters of such city voting at such election votes in favor of the licensing of the sale at retail of alcoholic liquor in the original package within such city.

History: L. 1949, ch. 242, § 17; L. 2005, ch. 201, § 3; November 15.

41-302. City option; petition; elections; licensees' rights after adverse vote. (a) The question of licensing the sale at retail of alcoholic liquor in the original package shall be submitted by the governing body of a city at any regular general city election occurring in such city whenever a petition requesting such submission has been filed with the city clerk of any such city as provided in this section.

Such petition shall be signed qualified voters of such city equal in number to not less than 30% of the total vote cast in such city at the last general election for the office of secretary of state. Each sheet of each petition shall comply with the provisions of K.S.A. 25-3601 through 25-3607, and amendments thereto. No signature on such petition shall be valid unless appended to the petition within the last 90 days prior to the date of filing the petition with the city clerk.

Such petition shall be filed not less than 40 nor more than 60 days prior to the date of the election. After any such petition has been filed no signature shall be withdrawn and no signature shall be added. The governing body of the city shall have the power to determine the sufficiency of any such petition.

Any person who signs a petition authorized by this section and who knowingly is not a qualified voter of the city where submission of the question is sought, or who aids or abets any other in so doing, or any person who bribes, gives or pays any money or thing of value to any person directly or indirectly to induce such person to sign such petition shall be guilty of a misdemeanor. Upon conviction thereof such person shall be punished by fine of not more than \$300 or by imprisonment of not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

(b) Upon the filing of a sufficient petition, the governing body shall call an election required by this section. Such election shall be called and held in the manner provided by law for question-submitted elections.

(c) The governing body of the city shall transmit to the director a copy of the results of any election held pursuant to this section. The director shall issue or refuse to issue licenses to sell at retail alcoholic liquor in the original package in such city in accordance with the results of such election.

(d) If a majority of the voters voting at any election pursuant to this section votes against licensing the sale at retail of alcoholic liquor in the original package, the holder of any valid existing retailer's license for premises in such city shall have the right to continue to operate under such license for a period of 90 days after the result of such election is canvassed or until the expiration of such license, whichever period of time is the shorter. If such period of time expires before the expiration of the term for which the retailer's license was issued, the licensee shall be entitled to a refund of the licensee fee for the unexpired portion of the license period which remains, in accordance with rules and regulations adopted by the secretary of revenue.

History: L. 1949, ch. 242, § 18; L. 1985, ch. 170, § 4; L. 1998, ch. 191, § 2; ; L. 2005, ch. 201, § 4; November 15.

41-303. Retailer's license, premises outside city. (a) The director may issue to qualified applicants licenses to sell at retail alcoholic liquor in the original package on premises not located in an incorporated city for use or consumption off the premises, if such premises are located in a township having a population of more than 5,000. No such license shall be issued to any applicant unless the applicant possesses all the qualifications required of other applicants for retailers' licenses except the qualification of residency within a city. If any license has been issued under the provisions of this section in a township having a population of more than 5,000 and thereafter such township population decreases or has decreased to 5,000 or less, such licenses shall continue to be valid and the licensees shall be eligible for renewal of such licenses at the appropriate time if they are otherwise qualified.

No such license shall be issued to any applicant under this section unless the board of county commissioners of the county in which the premises for which licensure is sought are located adopts a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this section.

(b) If a license has been issued under the provisions of this section in a township having a population of more than 5,000 and thereafter the premises so licensed are annexed to a city wherein retail liquor licenses may be issued, such license shall continue to be valid and may be renewed at the appropriate time even though the licensee does not reside in the city to which the area is annexed if the licensee otherwise is qualified and resides in the township in which the premises were located prior to annexation or in the city to which the premises have been annexed.

(c) Any retail license issued prior to the effective date of this act for premises not located in an incorporated city or in a township having a population of more than 5,000 shall continue to be valid and such premises shall continue to be eligible for licensure if the board of county commissioners of the county in which the premises are located has adopted a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a license authorized by this subsection.

History: L. 1949, ch. 242, § 19; L. 1965, ch. 315, § 1; L. 1967, ch. 275, § 1; L. 2000, ch. 166, § 1; L. 2004, ch. 94, § 2; L. 2005, ch. 201, § 5; November 15.

41-304. Classes of licenses. Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) spirits distributor's license; (c) wine distributor's license; (d) beer distributor's license; (e) retailer's license; (f) microbrewery license; (g) farm winery license; and (h) nonbeverage user's license.

History: L. 1949, ch. 242, § 20; L. 1983, ch. 161, § 2; L. 1987, ch. 182, § 11; Jan. 1, 1988.

41-305. Manufacturer's license; rights of licensee. A manufacturer's license shall allow the manufacture and storage of alcoholic liquor and cereal malt beverage and the sale of alcoholic liquor and cereal malt beverage to distributors and nonbeverage users licensed in this state and to such persons outside this state as permitted by law.

History: L. 1949, ch. 242, § 21; L. 1985, ch. 168, § 3; L. 1987, ch. 182, § 12; Jan. 1, 1988.

41-306. Spirits distributor's license; rights of licensee. A spirits distributor's license, shall allow:

(a) The wholesale purchase, importation and storage of spirits, but all such spirits so purchased or imported which are manufactured in the United States shall be purchased from the primary American source of supply or from another licensed spirits distributor, except that a licensed spirits distributor may purchase confiscated spirits at a sheriff's sale.

(b) The sale of spirits to:

(1) Spirits distributors licensed in this state;

(2) retailers licensed in this state, except that such distributor shall sell a brand of spirits only to those retailers whose licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410 and amendments thereto; and

(3) such persons located outside such territory or outside this state as permitted by law.

(c) The purchase of spirits in barrels, casks or other bulk containers and the bottling thereof before resale, but all bottles or containers filled with such spirits shall be sealed, labeled and otherwise made to comply with all laws and rules and regulations governing the preparation and bottling of spirits by manufacturers and with all federal rules, regulations and laws.

(d) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A. 41-2702 and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

History: L. 1949, ch. 242, § 22; L. 1978, ch. 185, § 2; L. 1979, ch. 153, § 2; L. 1987, ch. 182, § 13; L. 1987, ch. 182, § 14; L. 1993, ch. 20, § 2; L. 1996, ch. 154, § 1; July 1.

41-306a. Wine distributor's license; rights of licensee. A wine distributor's license shall allow:

(a) The wholesale purchase, importation and storage of wine, but all wine so purchased or imported which is manufactured in the United States shall be purchased from the primary American source of supply or from another licensed wine distributor, except that a licensed wine distributor may purchase confiscated wine at a sheriff's sale.

(b) The sale of wine to:

(1) Wine distributors licensed in this state;

(2) retailers licensed in this state, except that such distributor shall sell a brand of wine only to those retailers whose licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410 and amendments thereto; and

(3) such persons located outside such territory or outside this state as permitted by law.

(c) The sale of wine, but only in barrels, casks and other bulk containers, to:

(1) Licensed caterers; and

(2) clubs and drinking establishments licensed in this state, except that such distributor shall sell a brand of wine only to such clubs and drinking establishments the licensed premises of which are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410 and amendments thereto.

(d) The purchase of wine in barrels, casks or other bulk containers and the bottling thereof before resale, but all bottles or containers filled with such wine shall be sealed, labeled and otherwise made to comply with all laws and rules and regulations governing the preparation and bottling of wine by manufacturers and with all federal rules, regulations and laws.

(e) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A. 41-2702 and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

(f) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 1987, ch. 182, § 15; L. 1993, ch. 20, § 3; L. 1996, ch. 154, § 2; July 1.

41-307. Beer distributor's license; rights of licensee. A beer distributor's license shall allow:

(a) The wholesale purchase, importation and storage of beer.

(b) The sale of beer to:

(1) Licensed caterers;

(2) beer distributors licensed in this state;

(3) retailers, clubs and drinking establishments, licensed in this state, except that such distributor shall sell a brand of beer only to those retailers, clubs and drinking establishments of which the licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410 and amendments thereto; and

(4) such persons located outside such territory or outside this state as permitted by law.

(c) The sale of cereal malt beverage to:

(1) Beer distributors licensed in this state;

(2) clubs and drinking establishments, licensed in this state, and retailers licensed under K.S.A. 41-2702 and amendments thereto, except that such distributor shall sell a brand of cereal malt beverage only to those such clubs, drinking establishments and retailers of which the licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410 and amendments thereto; and

(3) such persons located outside such territory or outside this state as permitted by law.

(d) The purchase of cereal malt beverage in kegs or other bulk containers and the bottling or canning thereof in accordance with law.

(e) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A. 41-2702 and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

History: L. 1949, ch. 242, § 23; L. 1974, ch. 195, § 1; L. 1987, ch. 182, § 16; L. 1987, ch. 182, § 17; L. 1996, ch. 154, § 3; July 1.

41-308. Retailer's license; rights of licensee. (a) A retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor for use or consumption off of and away from the premises specified in such license. A retailer's license shall permit sale and delivery of alcoholic liquor only on the licensed premises and shall not permit sale of alcoholic liquor for resale in any form, except that a licensed retailer may:

(1) Sell alcoholic liquor to a temporary permit holder for resale by such permit holder; and

(2) sell and deliver alcoholic liquor to a caterer or to the licensed premises of a club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such club, establishment or caterer.

(b) The holder of a retailer's license shall not sell, offer for sale, give away or permit to be sold, offered for sale or given away in or from the premises specified in such license any service or thing of value whatsoever except alcoholic liquor in the original package, except that a licensed retailer may:

(1) Charge a delivery fee for delivery to a club, drinking establishment or caterer pursuant to subsection (a);

(2) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the retailer is selected as a lottery retailer;

(3) include in the sale of alcoholic liquor any goods included by the manufacturer in packaging with the alcoholic liquor, subject to the approval of the director; and

(4) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor.

(c) No licensed retailer shall furnish any entertainment in such premises or permit any pinball machine or game of skill or chance to be located in or on such premises.

(d) A retailer's license shall allow the licensee to store alcoholic liquor in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor to consumers in a chilled condition.

History: L. 1949, ch. 242, § 24; L. 1971, ch. 173, § 1; L. 1978, ch. 186, § 2; L. 1979, ch. 152, § 3; L. 1987, ch. 182, § 18; L. 1987, ch. 292, § 25; L. 1987, ch. 183, § 1; L. 1992, ch. 169, § 1; July 1.

41-308a. Farm winery license; rights of licensee. (a) A farm winery license shall allow:

(1) The manufacture of domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;

(2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, clubs, drinking establishments and caterers;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(6) if the licensee is also licensed as a caterer, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the unlicensed premises as authorized by the club and drinking establishment act;

(7) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped; and

(8) the sale and shipping of wine within this state pursuant to a permit issued pursuant to section 4, and amendments thereto.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a farm winery licensee, the director may issue not to exceed three winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:

(1) The sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee; and

(2) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments.

(c) Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.

(d) A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (f) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

(e) The director may issue to the Kansas state fair or any bona fide group of grape growers or wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.

(f) A farm winery license or winery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(g) No farm winery or winery outlet shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premise supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(h) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.

(i) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 1983, ch. 161, § 3; L. 1985, ch. 170, § 25; L. 1987, ch. 182, § 141; L. 1988, ch. 165, § 1; L. 1990, ch. 178, § 1; L. 1992, ch. 201, § 2; L. 1998, ch. 191, § 3; L. 2005, ch. 201, § 14; L. 2006, ch. 206, § 5; L. 2007, ch. _____, § 2; May 24.

[ABC Attorney's note: The reference in subsection (a)(4) above to "subsection (f)" should have been changed to "subsection (e)" by Section 5 of 2006 SB297 but was overlooked],

41-308b. Microbrewery license; rights of licensee. (a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than 15,000 barrels of domestic beer during the license year and the storage thereof;

(2) the sale to beer distributors of beer, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of beer manufactured by the licensee;

(4) the serving on the premises of samples of beer manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; and

(6) if the licensee is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer manufactured by the licensee, for the purpose of packaging or storage, or both; and

(2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of the microbrewery, of beer manufactured by the licensee; or

(3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler.

(c) Not less than 50% of the products utilized in the manufacture of domestic beer by a microbrewery shall be grown in Kansas except when a greater proportion of products grown outside this state is authorized by the director based upon findings that such products are not available in this state. The label of each container of domestic beer shall clearly set forth the proportion of the products utilized in the manufacture of the beer which was from agricultural products grown in Kansas.

(d) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(e) The director may issue to the Kansas state fair or any bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and

regulations governing the importation of beer pursuant to this subsection and the conduct of tasting programs for which such beer is imported.

(f) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(g) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(h) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

History: L. 1987, ch. 182, § 138; L. 1990, ch. 179, § 1; L. 1992, ch. 201, § 3; L. 1995, ch. 258, § 1; L. 2005, ch. 135, § 1; July 1.

41-309. Nonbeverage user's license; rights of licensee. A nonbeverage user's license shall allow the licensee to purchase alcohol or wine from a licensed manufacturer or distributor, without the imposition of any tax upon the business of such licensed manufacturer or distributor as to such alcohol or wine, to be used by such nonbeverage user licensee solely for the nonbeverage purposes set forth in subsection (5) of K.S.A. 41-501: *Provided*, That if any such licensee is engaged in the business of manufacturing, compounding or preparing pharmaceutical products or similar preparations or products containing alcohol or wine to be sold in both intrastate and interstate commerce, such license shall allow the licensee to purchase at wholesale or otherwise from manufacturers or distributors not licensed in the state and to import alcohol or wine either in barrels, drums, casks or other containers. All such licenses shall be divided and classified and shall permit the purchase during the term for which such licenses shall be issued of limited and stated quantities of alcohol or wine as follows:

- Class 1, not to exceed 100 gallons
- Class 2, not to exceed 1,000 gallons
- Class 3, not to exceed 5,000 gallons
- Class 4, not to exceed 10,000 gallons
- Class 5, in excess of 10,000 gallons

History: L. 1949, ch. 242, § 25; March 9.

41-310. Annual license fees; city or township taxes; license year. (a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

(b) The annual fee for a manufacturer's license to manufacture alcohol and spirits shall be \$2,500.

(c) The annual fee for a manufacturer's license to manufacture beer and cereal malt beverage shall be:

- (1) For 1 to 100 barrel daily capacity or any part thereof, \$200.
- (2) For 100 to 150 barrel daily capacity, \$400.
- (3) For 150 to 200 barrel daily capacity, \$700.
- (4) For 200 to 300 barrel daily capacity, \$1,000.
- (5) For 300 to 400 barrel daily capacity, \$1,300.
- (6) For 400 to 500 barrel daily capacity, \$1,400.

(7) For 500 or more barrel daily capacity, \$1,600.

As used in this subsection, "daily capacity" means the average daily barrel production for the previous 12 months of manufacturing operation. If no basis for comparison exists, the licensee shall pay in advance for the first year's operation a fee of \$1,000.

(d) The annual fee for a manufacturer's license to manufacture wine shall be \$500.

(e) The annual fee for a microbrewery license or a farm winery license shall be \$250.

The annual fee for a winery outlet license shall be \$50.

The annual fee for a microbrewery packaging and warehousing facility license shall be \$100.

(f) The annual fee for a spirits distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing spirits shall be \$1,000.

(g) The annual fee for a wine distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing wine shall be \$1,000.

(h) The annual fee for a beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the licensee and wholesaling or jobbing beer and cereal malt beverage shall be \$1,000.

(i) The annual fee for a nonbeverage user's license shall be:

(1) For class 1, \$10.

(2) For class 2, \$50.

(3) For class 3, \$100.

(4) For class 4, \$200.

(5) For class 5, \$500.

(j) In addition to the license fees prescribed by subsections (b), (c), (d), (f), (g), (h) and (i):

(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.

(k) The annual fee for a retailer's license shall be \$250.

(l) In addition to the license fee prescribed by subsection (k):

(1) Any city in which the licensed premises are located shall levy and collect an annual occupation or license tax on the licensee in an amount not less than \$100 nor more than \$300, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee; and

(2) any township in which the licensed premises are located shall levy and collect an annual occupation or license tax on the licensee in an amount not less than \$100 nor more than \$300; 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.

(m) The license year for a license shall commence on the date the license is issued by the director and shall end one year after that date.

History: L. 1949, ch. 242, § 26; L. 1983, ch. 161, § 4; L. 1985, ch. 170, § 26; L. 1987, ch. 182, § 19; L. 1987, ch. 182, § 20; L. 1988, ch. 165, § 4; L. 1992, ch. 201, § 4; L. 2005, ch. 135, § 2; July 1.

41-311. Qualifications for licensure. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse 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;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause 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;

(4) who 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;

(5) who 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;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not have a written lease thereon for at least 3/4 of the period for which the license is to be issued;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;

(13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act; or

(14) who does not provide any data or information required by K.S.A. 2003 Supp. 41-311b, and amendments thereto.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) a person who has beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act;

(4) a person who has beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;

(6) a corporation; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state;

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or

(6) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license or farm winery license shall be issued to a:

- (1) Person who is not a resident of this state;
 - (2) person who has not been a resident of this state for at least four years immediately preceding the date of application;
 - (3) person who has beneficial interest in a manufacturer or distributor licensed under this act or a person who currently has a beneficial interest in a farm winery;
 - (4) person, copartnership or association which has beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto;
 - (5) copartnership, unless all of the copartners are qualified to obtain a license;
 - (6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or
 - (7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.
- (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2003 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:
- (1) Has been convicted of a felony under the laws of this state, any other state or the United States;
 - (2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;
 - (3) 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;
 - (4) 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; or
 - (5) is less than 21 years of age.

History: L. 1949, ch. 242, § 27; L. 1953, ch. 238, § 3; L. 1963, ch. 266, § 1; L. 1970, ch. 186, § 1; L. 1973, ch. 199, § 1; L. 1975, ch. 249, § 1; L. 1982, ch. 210, § 1; L. 1983, ch. 161, § 5; L. 1985, ch. 171, § 9; L. 1985, ch. 170, § 27; L. 1987, ch. 182, § 21; L. 1987, ch. 182, § 22; L. 1992, ch. 201, § 5; L. 1995, ch. 258, § 2; L. 1996, ch. 154, § 4; L. 2001, ch. 55, § 1; L. 2001, ch. 189, § 3; L. 2002, ch. 44, § 7; L. 2007, ch. _____, § 4, May 24.

41-311a. [Repealed in 1995]

41-311b. Licensure of nonresidents. (a) If an applicant for licensure is not a resident of the state of Kansas on the date of submission of such application or has not been a resident for at least one year immediately preceding the date of submission of such application, the director shall require the individual applicant, or if the applicant is a corporation, partnership or trust, each individual officer, director, stockholder, copartner or trustee to:

(1) Submit to a national criminal history record check and provide the director with a legible set of fingerprints;

(2) disclose to the director any substantial financial interest the applicant owns in any entity that receives proceeds from the sale of alcoholic beverages; and

(3) submit a release allowing the director to have access to and review of the applicant's financial records to verify ownership and to ensure applicant is not an agent of another person. This release shall remain in effect after the license has been issued until the license is canceled or revoked.

(b) The director shall submit the fingerprints provided under subsection (a) to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the director to verify the identity of such applicant or such individuals specified in subsection (a) and whether such applicant or such individuals have been convicted of any crimes that would disqualify the applicant or such individuals from holding a license under the liquor control act. The director is authorized to use the information obtained from the national criminal history record check to determine such applicant's or individuals' eligibility to hold a license under the liquor control act.

(c) All costs incurred pursuant to this section to ensure that the applicant is qualified for licensure shall be paid by the applicant.

History: L. 2001, ch. 55, § 2; Apr. 5.

[ABC Attorney's Note: The above statute was enacted when the residency requirement for distributors was removed in 2001. It applies to all licensees when Kansas residency is not a requirement but being free of certain types of criminal convictions is a requirement.]

41-312. [Repealed in 2007]

41-313. Licensing of corporations; conditions; appointment of agent to receive service of process; consent to jurisdiction and forum of Kansas courts.

(a) No corporation, either organized under the laws of this state, any other state or a foreign country, shall be issued a manufacturer's, distributor's, microbrewery or farm winery license unless the corporation has first procured a certificate of authority from the secretary of state to do business in this state as provided by law, appointed a citizen of the United States, and resident of Kansas, as its agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority of the corporation and full authority, control and responsibility for the conduct of all business and transactions of the corporation within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director with respect to the agent's character. The agent shall at all times be maintained by the corporation.

In addition, any corporation organized under the laws of any other state or foreign country, as a condition precedent to the issuance to it of any license, shall file with the secretary of state of the state of Kansas, a duly authorized and executed power of attorney, authorizing the secretary of state to accept service of process from the director and the courts of this state and to accept service of any notice or order provided for in this act, and all such acts by the secretary of state shall be fully binding upon the corporation.

(b) Every nonresident applicant on applying for a license or permit under this act, and as a condition precedent to obtaining such license or permit, shall file with the secretary of state of this state its written consent, irrevocable, that any action or garnishment proceeding may be commenced

against such applicant in the proper court of any county in this state in which the cause of action shall arise or in which the plaintiff may reside by the service of process on the resident agent specified in subsection (a), and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant. The written consent shall state that the courts of this state have jurisdiction over the person of such applicant and are the proper and convenient forum for such action and shall waive the right to request a change of jurisdiction or venue to a court outside this state and that all actions arising under this act and commenced by the applicant shall be brought in this state's courts as the proper and convenient forum. Such consent shall be executed by the applicant and if a corporation, by the president and secretary of the corporate applicant, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers authorizing the president and secretary to execute the same.

History: L. 1949, ch. 242, § 29; L. 1983, ch. 161, § 7; L. 1987, ch. 182, § 24; L. 2001, ch. 55, § 3; Apr. 5.

41-314. Retail licensee; forfeiture or revocation of license for violation of act.

(a) When a retail licensee has been convicted by any court of a violation of any of the provisions of this act, such licensee may, in addition to the penalty for such offense, incur a forfeiture of license and all moneys that have been paid therefor.

(b) In accordance with the provisions of the Kansas administrative procedure act, the director may revoke the license of any retailer or deny issuance of a retail license in an original proceeding brought before the director upon conviction of a violation of this act.

History: L. 1949, ch. 242, § 30; L. 1985, ch. 171, § 10; L. 1985, ch. 170, § 30; L. 1988, ch. 356, § 131; July 1, 1989.

41-315. Retail license; applies only to premises described; removal; procedure. Retail licenses issued hereunder shall apply only to the premises described in the application and in the license issued thereon, and only one location shall be so described in each license. After such retail license has been granted for particular premises in any city, the director, upon proper showing, may endorse upon the license permission to abandon the premises, but in order to obtain such permission the retail licensee shall file with the director a request in writing, and a statement under oath which shall show that the premises to which removal is to be made comply in all respects with the requirements of this act. No such removal shall be made by any licensee until his said license has been endorsed to that effect in writing by the director.

History: L. 1949, ch. 242, § 31; March 9.

41-316. Issuance of manufacturers', distributors', microbrewery, farm winery or nonbeverage users' licenses. Licenses to manufacturers, distributors, microbreweries, farm wineries and nonbeverage users of alcoholic liquors shall be issued and renewed by the director to qualified applicants upon written application, receipt of bond properly executed and payment in advance of the state registration fee and the license fee.

History: L. 1949, ch. 242, § 32; L. 1983, ch. 161, § 8; L. 1987, ch. 182, § 25; Jan. 1, 1988.

41-317. License application; form; fee; bond. (a) Applications for all licenses under this act shall be upon forms prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a state registration fee of \$50 for each initial application and \$10 for each renewal application to defray the cost of preparing and furnishing standard forms incident to the administration of this act and the cost of processing the application. Each application shall also be accompanied by a deposit of a certified or cashier's check of a bank within this state, United States post office money order or cash in the full amount of the license fee required to be paid for the kind of license applied for, which license fee shall be returned to the applicant if the application is denied. All registration fees shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. All license fees received by the director, including fees received for licenses to manufacture beer, regardless of its alcoholic content, shall be paid into the state treasury by the director and shall be credited to the state general fund.

(b) Every applicant for a manufacturer's, distributor's, nonbeverage user's, microbrewery, farm winery or retailer's license shall file with the application a joint and several bond on a form prescribed by the director and executed by good and sufficient corporate sureties licensed to do business within the state of Kansas to the director, in the following amounts:

(1) For a manufacturer, \$25,000;

(2) for a spirits distributor, \$15,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(3) for a beer or wine distributor, \$5,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(4) for a retailer, \$2,000;

(5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000 for class 3, \$5,000 for class 4 and \$10,000 for class 5; and

(6) for a microbrewery or a farm winery, \$2,000.

If a distributor holds or applies for more than one distributor's license, only one bond for all such licenses shall be required, which bond shall be in an amount equal to the highest applicable bond.

(c) All bonds required by this section shall be conditioned on the licensee's compliance with the provisions of this act and payment of all taxes, fines and forfeitures which may be assessed against the licensee.

History: L. 1949, ch. 242, § 33; L. 1953, ch. 238, § 4; L. 1958, ch. 50, § 1 (Budget Session); L. 1983, ch. 161, § 9; L. 1985, ch. 170, § 28; L. 1987, ch. 182, § 26; L. 1989, ch. 146, § 2; L. 2001, ch. 5, § 126; July 1.

41-318. Procedure upon application for original retailer's license; notice and hearing; recommendations of city or township. When application for a retailer's license to sell alcoholic liquor in the original package in any city or township as authorized by K.S.A. 41-303, and amendments thereto, is filed with the director, the director shall notify the city clerk of the city or the township clerk of the township where such license is sought. Such notice shall state the date and place where a hearing will be held on such application. No such license shall be issued by the director until the expiration of at least 10 days from the time of filing such application with the director, during which period the governing body of such city or the township board of such township may make advisory recommendations relative to the granting or refusal to grant a license. The hearing on the application shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1949, ch. 242, § 34; L. 1988, ch. 356, § 132; L. 1990, ch. 179, § 2; L. 2000, ch. 166, § 2; July 1.

41-319. Time limit on grant or denial of license. (a) Except as provided by subsection (b), within 30 days after an application is filed for a retailer's, microbrewery or farm winery license and within 20 days after an application is filed for a manufacturer's, distributor's or nonbeverage user's license, the director shall enter an order either refusing or granting the license. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been refused. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

(b) In order to complete any national criminal history record check of an applicant who submitted any application after January 31, 2001, and if the applicant is not a resident of the state of Kansas on the date of submission of such application or has not been a resident for at least one year immediately preceding the date of submission of such application the director shall enter an order either refusing or granting the license within 90 days after such application is filed. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been refused. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

History: L. 1949, ch. 242, § 35; L. 1983, ch. 161, § 10; L. 1986, ch. 318, § 45; L. 1987, ch. 182, § 27; L. 2001, ch. 55, § 4; Apr. 5.

41-320. Suspension or revocation of license; hearings. (a) All proceedings for the suspension and revocation of licenses of manufacturers, distributors, retailers, microbreweries, farm wineries and nonbeverage users shall be before the director, and the proceedings shall be in accordance with the provisions of the Kansas administrative procedure act. Except as provided in subsection (b), no license shall be suspended or revoked except after a hearing by the director.

(b) When proceedings for the suspension or revocation of a distributor's license are filed and the distributor has been issued more than one license for distributing places of business in this state, any order of the director suspending or revoking the license at any one place of business shall suspend or revoke all licenses issued to the distributor. When one person is the holder of stock in two or more corporations licensed as distributors under the provisions of this act, any order of the director suspending or revoking the license of any such corporation shall operate as a suspension or revocation of the license of all corporations licensed as distributors in which the person is a stockholder.

History: L. 1949, ch. 242, § 36; L. 1953, ch. 238, § 5; L. 1983, ch. 161, § 11; L. 1985, ch. 170, § 5; L. 1987, ch. 182, § 28; L. 1988, ch. 356, § 133; July 1, 1989.

41-321. Refusal, suspension or revocation of license; appeal to secretary. Whenever the director refuses an application for any license or suspends or revokes any license, the director shall prepare an order so providing which shall be signed by the director or a person designated by the director, and the seal of the director shall be affixed thereto. The order shall state the reason or reasons for the refusal, suspension or revocation. The order shall be served in accordance with the provisions of K.S.A. 77-531 and amendments thereto.

Any applicant or licensee aggrieved by any order of the director may appeal from such order to the secretary by filing a notice of appeal with the secretary. Such notice of appeal must either be mailed to the secretary by certified mail or filed with the secretary within 15 days after service of the order appealed from or, if such appeal is taken because the director has failed to enter the order on an application for a license, within 15 days after the date an application for a license is considered to have been refused as provided in K.S.A. 41-319 and amendments thereto. The notice of appeal shall be on a form which shall be prescribed and furnished by the secretary. Whenever any such notice of appeal is filed, the secretary shall notify, in writing, the director of such appeal. The secretary at least 10 days

before the time fixed for the hearing shall notify the director and the applicant or licensee of the time when, and place where, the appeal will be heard. The hearing shall be conducted by the secretary, or by a person designated by the secretary, in accordance with the provisions of the Kansas administrative procedure act and shall be held within 30 days after the date of the filing of the notice of appeal unless the person appealing consents to a later hearing.

The secretary shall adopt, pursuant to K.S.A. 41-210 and amendments thereto, such rules and regulations as necessary to govern the procedure in such hearings. At any such hearing the applicant or licensee and the director may be present in person or by agent or counsel. The secretary or person conducting the hearing shall have the power to adjourn any hearing, but no such adjournment shall be for more than five days unless consented to by the person appealing.

History: L. 1949, ch. 242, § 37; L. 1985, ch. 170, § 6; L. 1986, ch. 318, § 46; L. 1987, ch. 182, § 29; L. 1988, ch. 356, § 134; L. 1989, ch. 146, § 1; July 1.

41-322. Same; powers of secretary; subpoenas. For the purpose of hearing or conducting any appeal authorized to be heard by the secretary, the secretary shall have power to examine, or cause to be examined, under oath, any licensee, the director, or other person, and to examine or cause to be examined books and records of any such licensee; to hear testimony and take proof material for its information in hearing such appeal; to administer or cause to be administered oaths; and for any such purposes to issue subpoenas to require the attendance of witnesses and the production of books which shall be effective in any part of this state; and any district court or any judge thereof either in term time or vacation, may by order duly entered, require the attendance of witnesses and the production of relevant books subpoenaed by the secretary and the district court or judge may compel obedience to the order by proceedings for contempt.

History: L. 1949, ch. 242, § 38; L. 1976, ch. 145, § 193; L. 1987, ch. 182, § 30; July 1.

41-323. Same; judicial review of secretary's decision. Any action of the secretary pursuant to K.S.A. 41-321 and amendments thereto is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. At the time of the filing of the petition for review, the petitioner shall give a bond for costs conditioned on the petitioner's prosecuting the appeal without delay and paying all costs assessed against the petitioner. If review of the decision of the district court is sought pursuant to K.S.A. 77-623 and amendments thereto, the director shall not be required to give a bond on such review.

History: L. 1949, ch. 242, § 39; L. 1986, ch. 318, § 47; L. 1987, ch. 182, § 31; July 1.

41-324. Same; duty of county or district attorney. Upon the request of the director, the county or district attorney of any county where a review is pending in the district court under this act shall appear and defend or assist in defending against such review on behalf of the state of Kansas and shall be entitled to receive compensation of \$25 per day for each day actually spent in court by such county or district attorney in defending or assisting in defending against such review. Such compensation shall be paid by the director from the liquor control administration fund.

History: L. 1949, ch. 242, § 40; L. 1986, ch. 318, § 48; July 1.

41-325. Display of licenses. Every licensee shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises.

History: L. 1949, ch. 242, § 41; March 9.

41-326. Licenses; term; assignability; refund of fees, when. A license shall be purely a personal privilege, valid for not to exceed one year after issuance, unless sooner suspended or revoked, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A license shall not descend by the laws of testate or intestate devolution but shall cease and expire upon the death of the licensee except that executors, administrators or representatives of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale, distribution or manufacture of alcoholic liquor under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such decedent, or after such insolvency or bankruptcy, until the expiration of such license but not longer than one year after the death, bankruptcy or insolvency of such licensee.

A refund shall be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this section. The secretary of revenue may adopt rules and regulations pursuant to K.S.A. 41-210 and amendments thereto which provide for the authorization of refunds of that portion of the license fees paid for any period in which the licensee does not use such license as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.

History: L. 1949, ch. 242, § 42; L. 1985, ch. 170, § 7; July 1.

41-327. Renewal of license. Any licensee may renew his license at the expiration thereof if he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose.

History: L. 1949, ch. 242, § 43; March 9.

41-328. Violations of act; civil penalties. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the director, upon a finding that a licensee under the Kansas liquor control act has violated any provision thereof, may impose on such licensee a civil fine not exceeding \$1,000 for each violation.

(b) No fine shall be imposed pursuant to this section except upon the written order of the director to the licensee who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee to appeal the order. Such order shall be subject to appeal and review in the manner provided by K.S.A. 41-321, 41-322 and 41-323, and amendments thereto.

(c) Any fine imposed pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(d) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 1979, ch. 151, § 1; L. 1986, ch. 318, § 49; L. 1987, ch. 182, § 32; L. 2001, ch. 5, § 127; July 1.

41-329. Sale in federal area by manufacturer or supplier; revocation of authorization to do business in state.

(a) If a manufacturer or supplier authorized to do business in this state sells any alcoholic liquor in a federal area, the director shall revoke the manufacturer's or supplier's authorization to do business in accordance with the Kansas liquor control act.

(b) As used in this section, "federal area" has the meaning provided by K.S.A. 41-501 and amendments thereto.

(c) This section shall be part of and supplemental to the Kansas liquor control act.

(d) If any provision of this section or its application to any person or circumstance is held invalid, the invalidity shall not affect any other provision of this act, the Kansas liquor control act or K.S.A. 79-41a01 *et seq.*, and amendments thereto, and, to this end, the provisions of this section are severable.

History: L. 1982, ch. 424, § 7; July 1.

41-330. Denial or revocation of license for alcohol-related convictions; notice and hearing.

After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke any license provided for by the Kansas liquor control act if:

(a) The licensee or the licensee's spouse has been convicted of a violation of intoxicating liquor laws of any state or the alcoholic beverage control laws of the United States or has forfeited of bond to appear in court to answer charges for any such violation, within the 10 years immediately preceding the date of application for issuance or renewal of the license or the date of revocation; or

(b) the licensee or the licensee's spouse has been convicted of a violation of any of the laws of any state relating to cereal malt beverages, within 10 years immediately preceding the date of application for issuance or renewal of the license or the date of revocation.

History: L. 1985, ch. 170, § 31; L. 1988, ch. 356, § 135; July 1, 1989.

41-331. Suppliers; annual permit; brand registration. (a) Every supplier desiring to sell alcoholic liquor or cereal malt beverage to distributors in this state shall be required to obtain an annual permit from the director, unless such supplier is licensed in this state as a manufacturer or distributor. Application for such permit shall be on a form prescribed by rules and regulations of the secretary of revenue and shall be accompanied by an annual permit fee of \$25. As a condition of the issuance of such permit, the supplier shall be deemed to have appointed the secretary of state as the resident agent and representative of the supplier to accept service of process from the director and the courts of this state and to accept service of any notice or order provided for in this act, and all such acts by the secretary of state shall be fully binding upon the supplier.

(b) Every supplier desiring to sell alcoholic liquor or cereal malt beverage to distributors in this state shall be required to register each brand of such alcoholic liquor or cereal malt beverage with the director prior to making shipments to distributors in this state. Registration shall be in a form prescribed by rules and regulations of the secretary and shall be accompanied by an annual fee of \$25 for each label proposed for sale in this state.

(c) The director, in accordance with the Kansas administrative procedure act, may revoke, suspend or refuse to issue a permit to any supplier found to have violated any provision of the Kansas liquor control act or K.S.A. 41-2701 *et seq.* and amendments thereto, or any rules and regulations adopted thereunder.

History: L. 1987, ch. 182, § 125; L. 1989, ch. 147, § 1; L. 1991, ch. 141, § 1; July 1.

41-332. Same; temporary permit to import certain liquor. The director may issue to a supplier a temporary permit allowing such supplier to import into this state to a distributor licensed under the Kansas liquor control act or under K.S.A. 41-2713 and amendments thereto alcoholic liquor or cereal malt beverage for which such distributor does not have a franchise to sell. The permit shall specifically identify the brand and type of alcoholic liquor or cereal malt beverage for which the permit is issued and the quantity permitted to be imported into the state. Such alcoholic liquor or cereal malt beverage shall not be resold by the distributor and shall not be subject to the tax imposed by K.S.A. 41-501 or 79-3818, and amendments thereto.

History: L. 1987, ch. 182, § 126; April 30.

41-333. Salespersons; permit required; exception. Any natural person may act as a salesperson for the sale of, or the taking or soliciting of orders for the sale of, alcoholic liquor or cereal malt beverage in the state of Kansas only after such person has first applied for and received a permit therefor from the director, except that no such permit shall be required of a licensed retailer or an employee of such retailer operating solely on the licensed retail premises.

History: L. 1987, ch. 182, § 127; L. 1990, ch. 179, § 3; July 1.

41-334. Same; application; fee; qualifications. (a) Any natural person over the age of 21 may apply to the director for a salesperson's permit. The application shall be in such form and shall include such terms as the director may prescribe, and shall include a provision that the holder will comply with the Kansas liquor control act and the cereal malt beverage laws of this state, and any rules and regulations adopted under such act or laws. The application and any permit issued pursuant thereto shall set forth the name and address of the person, firm or corporation whom the applicant represents and also the name, address and a description of the applicant. A salesperson shall not represent any person, firm or corporation whose name does not appear on [the permit as] the salespersons' employer. No person shall act as salesperson for more than one person, firm or corporation under one permit. Additional permits may be granted the same applicant for additional principals.

(b) Upon approval of any application by the director, the director shall issue a permit to the applicant for one year upon the payment of an annual fee of \$10, which fee shall accompany the application.

(c) No person shall be issued a salesperson's permit if such person does not meet the qualifications of subsections (a)(4) and (5) of K.S.A. 41-311 and amendments thereto or if such person has a beneficial interest in any licensed retailer of alcoholic liquor or cereal malt beverage or any licensed club, drinking establishment or caterer. The director may deny a permit to any person who has been convicted of a felony or of a violation of the Kansas liquor control act or cereal malt beverage laws of this state.

History: L. 1987, ch. 182, § 128; April 30.

41-335. Same; exhibition of permit. All salespersons shall exhibit their permits at any time while engaged in soliciting, taking orders for, or promoting the sale of alcoholic liquor or cereal malt beverage, upon demand of any agent or employee of the director or upon request of any licensee.

History: L. 1987, ch. 182, § 129; April 30.

41-336. Same; purchase only from permit holder; exception. No licensee shall purchase alcoholic liquor or cereal malt beverage from, or give an order to, any person who is not the holder of a permit duly issued hereunder, except that an employee of a licensed distributor may solicit sales while on the licensed premises of such distributor without such a permit.

History: L. 1987, ch. 182, § 130; April 30.

41-337. Same; termination of employment; notice; surrender of permit. If a salesperson leaves the employ of the employer specified on the salesperson's permit, the salesperson shall immediately notify the director and surrender the permit to the director within five days. Failure to surrender the permit within five days shall make the salesperson ineligible for any other permit for a period prescribed by the director. It shall also be the duty of the employer whose name is specified on the salesperson's permit to notify the director within five days of the termination of a salesperson's employment.

History: L. 1987, ch. 182, § 131; April 30.

41-338. Same; notice of address change required. If the holder of a salesperson's permit changes address from that noted on the application for the permit, the salesperson shall notify the director of such change of address within five days. Failure to so notify the director of a change of address shall make the salesperson's permit subject to revocation in accordance with the Kansas administrative procedure act.

History: L. 1987, ch. 182, § 132; April 30.

41-339. Same; suspension or revocation of permit; administrative action against employer.

(a) If the holder of salesperson's permit is convicted of a felony or violates the provisions of the Kansas liquor control act or the cereal malt beverage laws of this state, or any rules and regulations adopted thereunder, the director may suspend or revoke any and all permits issued to such salesperson. The director shall suspend or revoke a salesperson's permit if the salesperson is not qualified to receive a permit pursuant to K.S.A. 41-334.

(b) In addition to suspending or revoking a salesperson's permit, the director may suspend or revoke the authority of the salesperson's employer to sell alcoholic liquor or cereal malt beverage to licensed distributors within the state of Kansas or, if the salesperson is an employee of a licensed distributor, suspend or revoke such distributor's license.

(c) Any suspension or revocation of a license or permit pursuant to this section shall be in accordance with the Kansas administrative procedure act.

History: L. 1987, ch. 182, § 133; April 30.

41-340. Same; principal occupation of salesperson required; exception. No salesperson's permit shall be issued except to a person who, in good faith, devotes a major part of the person's time to selling, or taking or soliciting orders for the sale of, alcoholic liquor or cereal malt beverage and whose principal occupation is that of a salesperson of the person, firm or corporation on whose behalf the application is filed. Nothing in this section shall prohibit the issuance of a permit to a person who is regularly employed on a full-time basis by a manufacturer or licensed distributor of alcoholic liquor or cereal malt beverage and who, incident to the person's regular employment for such manufacturer or distributor, may sell, take or solicit orders for the sale of alcoholic liquor or cereal malt beverage.

History: L. 1987, ch. 182, § 134; April 30.

41-341. Same; prohibited acts. No salesperson shall directly or indirectly: (a) Sell, supply, furnish, give, pay for, loan or lease any furnishing, fixture or equipment on the premises of a place of business of a licensee authorized under this law to sell alcoholic liquor or cereal malt beverage at retail; (b) pay for any such license, or advance, furnish, lend or give money for payment of such license; (c) purchase or become the owner of any note, mortgage or other evidence of indebtedness of such licensee or any form of security therefor; (d) be interested in the ownership, conduct or operation of the business of any licensee authorized to sell alcoholic liquor at retail; or (e) be interested, directly or indirectly, or as owner, part owner, lessee or lessor thereof, in any premises upon which alcoholic liquor or cereal malt beverage is sold at retail, and any person having any such interest as described above shall not be eligible to receive or to hold a salesperson's permit.

History: L. 1987, ch. 182, § 135; April 30.

41-342. Nonalcoholic malt beverages; title of act. K.S.A. 41-342 through 41-345 shall be known and may be cited as the nonalcoholic malt beverages act.

History: L. 1990, ch. 178, § 2; May 17.

41-343. Same; definitions. As used in K.S.A. 41-342 through 41-345, "nonalcoholic malt beverage" means a beverage containing less than .5% alcohol by volume obtained by alcohol fermentation of an infusion or coction 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.

History: L. 1990, ch. 178, § 3; May 17.

41-344. Same; sales by certain licensees. Nonalcoholic malt beverages may be sold by retailers licensed pursuant to the liquor control act, by clubs and drinking establishments licensed pursuant to the club and drinking establishment act by retailers licensed pursuant to article 27 of chapter 41 of the Kansas Statutes Annotated, as an additional privilege of the license issued in accordance therewith.

History: L. 1990, ch. 178, § 4; May 17.

41-345. Same; distribution; sales and taxation. (a) Nonalcoholic malt beverages shall be distributed by distributors, as defined by K.S.A. 41-102 and amendments thereto, pursuant to all terms and conditions of the liquor control act. The provisions of K.S.A. 79-3817 et seq. and amendments thereto shall apply to sales and distribution of nonalcoholic malt beverages by such distributors.

(b) The provisions of the liquor control act, and any rules and regulations adopted thereunder for the administration of enforcement thereof, shall apply to the sale and taxation of nonalcoholic malt beverages by retailers licensed thereunder. The provisions of K.S.A. 79-4101 et seq. and amendments thereto shall apply to the sale of nonalcoholic malt beverages at retail by such retailers.

(c) The provisions of the club and drinking establishment act, and any rules and regulations adopted thereunder for the administration of enforcement thereof, shall apply to the sale and taxation of nonalcoholic malt beverages by clubs and drinking establishments licensed thereunder. The provisions of K.S.A. 79-41a01 et seq. and amendments thereto shall apply to the sale of nonalcoholic malt beverages by a club or drinking establishment.

(d) The provisions of K.S.A. 41-2701 et seq. and amendments thereto, and any rules and regulations adopted thereunder for the administration of enforcement thereof, shall apply to the sale and taxation of nonalcoholic malt beverages by retailers licensed thereunder.

History: L. 1990, ch. 178, § 5; May 17.

41-346. Administrative action for offenses involving minors; defense. In any administrative proceeding pursuant to the Kansas liquor control act to suspend or revoke a license, or to impose a civil fine, for a violation of K.S.A. 21-3610, 21-3610a or 41-2615, and amendments thereto, it shall be a defense if evidence is presented which indicates that: (a) The defendant permitted the minor to possess or consume the alcoholic liquor or cereal malt beverage with reasonable cause to believe that the minor was 21 or more years of age; and (b) to possess or consume the alcoholic liquor or cereal malt beverage, the minor exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was 21 or more years of age.

History: L. 1994, ch. 300, § 3; July 1.

41-347. Temporary permit, charitable auction or limited issue decanter sale.

(a) The director may issue, in accordance with rules and regulations of the secretary: (1) To one or more charitable organizations a temporary permit authorizing the sale of alcoholic liquor at an auction; or (2) to an individual a temporary permit authorizing the sale of one or more limited issue porcelain containers containing alcoholic liquor. The permit shall be issued in the names of the charitable organizations or individual to which it is issued.

(b) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought unless the director waives such requirement for good cause. Each application for a permit authorizing an auction shall state the purposes for which the proceeds of the event will be used. The application shall be upon a form prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a permit fee of \$25 for each day for which the permit is issued. Such fee shall be paid in full by a certified or cashier's check of a bank within this state, United States post office money order or cash. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(c) Temporary permits shall specify the premises for which they are issued and shall be issued only for premises which comply with all applicable zoning regulations.

(d) A temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit. Not more than one temporary permit may be issued to any one applicant in a calendar year.

(e) All proceeds from an auction for which a temporary permit is issued shall be used only for the purposes stated in the application for such permit.

(f) A temporary permit shall not be transferable or assignable.

(g) The director may refuse to issue a temporary permit to any charitable organization or individual which has violated any provision of the Kansas liquor control act.

(h) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 1995, ch. 258, § 4; L. 2001, ch. 5, § 128; L. 2005, ch. 201, § 6; November 15.

41-348. Permit to ship wine, small wineries. (a) Notwithstanding any other provision of law to the contrary, a person holding a valid farm winery license in this state or a person which holds a valid license authorizing the manufacture of wine in another state and which manufactures wine in a quantity not exceeding 100,000 gallons per year may sell and ship wine to a consumer in this state if the person holds a valid shipping permit issued by the director. Such permit may be obtained by filing with the director an application on a form prescribed by rules and regulations of the secretary of revenue and paying a permit fee of \$50 for an original permit and \$10 for a renewal permit and, if applicable, a true copy of the applicant's current beverage license authorizing the manufacture of wine in another state.

(b) Sale and shipment of wine pursuant to a shipping permit shall be subject to the following restrictions:

(1) The consumer to whom the permit holder sells and ships wine shall be at least 21 years of age and the wine must be for such consumer's personal use and not for resale;

(2) the purchaser shall pay the purchase price and all shipping costs directly to the permit holder;

(3) the wine shall be shipped in the original unopened container to a licensed retailer designated by the purchaser;

(4) the permit holder shall report annually to the director of taxation the total wine sold and shipped pursuant to this section during the preceding calendar year; (5) if the wine is shipped from outside the state, the permit holder shall remit annually to the director all gallonage taxes due pursuant to K.S.A. 41-501 et seq., and amendments thereto, on sales to consumers in this state pursuant to this

section during the preceding calendar year, the amount of such taxes to be calculated as if the wine were manufactured in this state; and

(6) if the permit holder is an out-of-state shipper, the permit holder shall allow the director of taxation to perform an audit of the out-of-state shipper's records upon request.

(c) If the holder of the permit is an out-of-state shipper, the permittee shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A. 41-501 et seq., and amendments thereto, and any related laws and rules and regulations and to accept service of any notice or order provided for in the liquor control act. Acceptance of such service of process by the secretary of state shall be fully binding upon the permit holder.

(d) After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke a shipping permit upon a finding that the permit holder has failed to comply with any provision of this section or K.S.A. 41-501 et seq., and amendments thereto, or any rules and regulations adopted pursuant to such statutes.

(e) Wine sold and shipped by a person holding a shipping permit shall be delivered to the licensed premises of the licensed retailer designated by the purchaser during hours the retailer is authorized by law to sell alcoholic liquor. The retailer shall collect taxes with regard to such wine pursuant to K.S.A. 79-4101 et seq., and amendments thereto, in accordance with rules and regulations of the secretary, as if the sale were made in this state. The retailer may charge the purchaser a handling fee of not more than \$5 for each delivery of wine received by the retailer on behalf of the purchaser. The retailer shall ensure that the purchaser of the wine is 21 or more years of age. The purchaser shall be required to pay any amount due for taxes and the handling fee before the retailer releases the wine to the purchaser. The purchaser shall remove the wine from the retailer's licensed premises within 30 days after the retailer receives the wine or such other period of time as agreed upon by the retailer and the purchaser. The secretary shall provide by rules and regulations for the method of disposition of such wine if the purchaser fails to remove it from the retailer's licensed premises within such time.

(f) Sale and shipment of wine in the manner provided by this section by a person who does not possess a valid shipping permit issued pursuant to this section is prohibited. Any person who knowingly makes, participates in, transports, imports or receives any wine in violation of this subsection is guilty of a class B misdemeanor.

(g) The secretary of revenue shall adopt rules and regulations to implement, administer and enforce the provisions of this section, including, but not limited to, rules and regulations regarding the transportation, acceptance, storage and delivery of wine pursuant to this section.

(h) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 2006, ch. 206; § 4; July 1.

41-349. Permit to ship wine, large wineries. (a) Notwithstanding any other provision of law to the contrary, a person holding a valid license authorizing the manufacture of wine in another state and which manufactures wine in a quantity of 100,000 gallons or more per year may sell wine to a consumer in this state in accordance with this section if the person holds a valid large winery shipping permit issued by the director. Such permit may be obtained by filing with the director an application on a form prescribed by rules and regulations of the secretary of revenue and paying a permit fee of \$50 for an original permit and \$10 for a renewal permit together with a true copy of the applicant's current beverage license authorizing the manufacture

of wine in another state.

(b) Sale and shipment of wine pursuant to a large winery shipping permit shall be subject to the following:

(1) The consumer to whom the permit holder sells wine shall be at least 21 years of age and the wine must be for such consumer's personal use and not for resale;

(2) the wine shall be shipped in the original unopened container to a licensed distributor, who shall deliver the wine to the licensed premises of the retailer designated by the consumer;

(3) the consumer shall pay the purchase price and all shipping costs directly to the permit holder and shall designate the retailer to whose licensed premises the wine is to be delivered by the distributor;

(4) the permit holder shall report annually to the director of taxation the total wine sold and shipped into the state pursuant to this section during the preceding calendar year;

(5) the permit holder shall remit annually to the director all gallonage taxes due pursuant to K.S.A. 41-501 et seq., and amendments thereto, on sales to consumers in this state pursuant to this section during the preceding calendar year, the amount of such taxes to be calculated as if the wine were manufactured in this state; and

(6) the permit holder shall allow the director of taxation to perform an audit of the out-of-state shipper's records upon request.

(c) The holder of a large winery shipping permit shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A. 41-501 et seq., and amendments thereto, and any related laws and rules and regulations and to accept service of any notice or order provided for in the liquor control act. Acceptance of such service of process by the secretary of state shall be fully binding upon the permit holder.

(d) After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke a large winery shipping permit upon a finding that the permit holder has failed to comply with any provision of this section or K.S.A. 41-501 et seq., and amendments thereto, or any rules and regulations adopted pursuant to such statutes.

(e) Wine sold and shipped by a person holding a large winery shipping permit shall be delivered to a licensed distributor for delivery to the licensed premises of the licensed retailer designated by the consumer. The retailer shall collect taxes with regard to such wine pursuant to K.S.A. 79-4101 et seq., and amendments thereto, in accordance with rules and regulations of the secretary, as if the sale were made in this state. The retailer may charge the consumer a handling fee of not more than \$5 for each delivery of wine received by the retailer on behalf of the consumer. The retailer shall ensure that the consumer is 21 or more years of age. The consumer shall be required to pay any amount due for taxes and the retailer's handling fee before the retailer releases the wine to the consumer. The consumer shall remove the wine from the retailer's licensed premises within 30 days after the retailer receives the wine or such other period of time as agreed upon by the retailer and the consumer. The secretary shall provide by rules and regulations for the method of disposition of such wine if the consumer fails to remove it from the retailer's licensed premises within such time.

(f) No person shall sell and ship wine as provided in this section unless such person possesses a valid large winery shipping permit issued pursuant to this section. Any person who knowingly makes, participates in, transports, imports or receives any wine in violation of this subsection is guilty of a class B misdemeanor.

(g) The secretary of revenue shall adopt rules and regulations to implement, administer and enforce the provisions of this section, including, but not limited to, rules and regulations relating to transportation, acceptance, storage and delivery of wine shipped pursuant to this section.

(h) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 2006, ch. 206; § 6; July 1.

Article 4 – BONDED WAREHOUSES AND RELATED PROVISIONS

41-401. Bonded warehouse required, spirits or wine manufacturer or distributor. Every licensed manufacturer of spirits or wine and every spirits or wine distributor shall provide at such manufacturer's or distributor's own expense a warehouse to be situated on and to constitute a part of such manufacturer's or distributor's distillery, winery or premises used for the purpose of distributing, furnishing or selling spirits or wine for purposes of resale, to be kept separate and distinct from such distillery, winery or premises, and to be used only for the storage of spirits or wine manufactured or distributed by such manufacturer or distributor for purposes of resale until the tax levied thereon, as hereinafter provided, has been paid. No dwelling house shall be used for such purpose. Such warehouse, when approved by the director, shall be a bonded warehouse of the state of Kansas and shall be under the control of the director. The director may assign one or more of agents to be known as a storekeeper or inspector to enforce the provisions of this act with respect to such warehouse or warehouses.

History: L. 1949, ch. 242, § 44; L. 1987, ch. 182, § 33; Jan. 1, 1988.

41-402. Spirits and wine kept in warehouse, exceptions; records; joint custody of director. The entire stock of spirits or wine of manufacturers or distributors, except in the case of a distillery or wine cellar where such spirits or wine is in the process of distillation or manufacture, shall be kept in such manufacturer's or distributor's warehouse approved under K.S.A. 41-401 and amendments thereto. The director shall prescribe the records which the storekeeper or inspector shall keep, when assigned, as regards to such spirits or wine while in the process of manufacture or distillation and after such spirits or wine has been delivered to bonded warehouses. Every such warehouse shall be in the joint custody of the director through the director's storekeeper or inspector, when assigned, and the proprietor thereof, and shall be kept securely locked and at no time be unlocked or open, or remain open unless in the presence of such storekeeper, inspector or other person who may be designated to act for the director, as provided by rules and regulations or order of the director; and no such spirits or wine shall be received or delivered in or delivered from such warehouse, except on order or permit of the director or the director's duly authorized storekeeper, inspector or other agent.

History: L. 1949, ch. 242, § 45; L. 1987, ch. 182, § 34; Jan. 1, 1988.

41-403. Withdrawal from warehouse. Alcoholic liquor, on payment of the tax thereon, pursuant to rules and regulations of the secretary, may be withdrawn, on such triplicate forms as the director prescribes, from the warehouse, pursuant to application to the director or to the storekeeper or inspector in charge of such warehouse. One triplicate original of each entry of withdrawal shall be transmitted to the director. In case of receipt of such liquor by manufacturers or distributors, entry of such receipt to such warehouses shall be made in triplicate, and one triplicate original of such entry of receipt shall be transmitted forthwith by the proprietor of the warehouse to the director.

History: L. 1949, ch. 242, § 46; L. 1987, ch. 182, § 35; L. 1993, ch. 20, § 4; July 1.

41-404. [Repealed 1988]

41-405. Enforcement of warehouse provisions. The director is hereby authorized to measure, gauge or check such alcoholic liquor in bond in any bonded warehouse, and if the amount of liquor on hand does not correspond with the reports of the manufacturer or distributor filed with the director, the proprietor of such warehouse shall have the proprietor's license revoked, and in addition thereto shall be deemed guilty of a felony, and upon conviction thereof shall be fined in any sum not exceeding \$5,000 or be imprisoned in the custody of the secretary of corrections not exceeding 10 years. Any storekeeper, inspector or other person in the employ of the director having charge of such bonded liquor warehouse who removes or allows to be removed any cask or other package of such liquor,

except on order or permit from the director, or which has not been marked or consigned as provided by law, or who removes or allows to be removed any part of the contents of any cask or package of liquor deposited therein, shall be immediately dismissed from office or employment, and in addition thereto shall be deemed guilty of a felony, and upon conviction thereof shall be fined for each offense not exceeding \$1,000, and shall be imprisoned in the custody of the secretary of corrections not more than three years.

History: L. 1949, ch. 242, § 48; L. 1990, ch. 309, § 29; L. 1993, ch. 20, § 5; July 1.

41-406. Summary detention of liquor; power of director. It shall be lawful for the director, or for any agent of the director, to detain any package containing or supposed to contain such alcoholic liquor when he has reason to believe that the tax imposed by law upon the same has not been paid in full, or that the same is being or has been removed from any bonded warehouse, or has been received and transported into the state of Kansas in violation of the law; and every such cask or package may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than forty-eight hours without process of law.

History: L. 1949, ch. 242, § 49; March 9.

41-407. Evasion of liquor tax prohibited; penalties. (a) It shall be unlawful for any person to:

(1) Evade, or attempt to evade, the payment of tax or duty on any alcoholic liquor, in any manner whatever. Upon conviction of violation of this subsection, in addition to the penalty prescribed for the violation of this act, the violator shall forfeit and pay, as a part of costs in the action, double the amount of the tax or duty so evaded or attempted to be evaded.

(2) Have in such person's possession any cask or package of alcoholic liquor, without having thereon each mark required therefor by law, and any such cask or package not having thereon each such mark shall be forfeited to the state of Kansas.

(b) Nothing contained in this section shall make unlawful the possession and transportation of wine imported solely for use by a church or religious organization for sacramental purposes and uses.

(c) Violation of any provision of this section is a misdemeanor punishable by a fine not exceeding \$500 or imprisonment not exceeding six months, or both, and in proper cases the trial court may order and direct the confiscation of the liquor involved in the violation as part of the judgment of conviction.

History: L. 1949, ch. 242, § 50; L. 1957, ch. 291, § 1; L. 1979, ch. 153, § 1; L. 1985, ch. 170, § 8; L. 1993, ch. 20, § 6; July 1.

41-408. Common carriers authorized to carry liquor. Any common carrier of merchandise owning or operating any railroad, express company, bus, truck or other transportation lines or routes for the transportation of merchandise in the state of Kansas also may transport alcoholic liquor to a warehouse within the state of Kansas. The consignee shall be a manufacturer or distributor maintaining a warehouse for such liquor within the state of Kansas. Any such liquor arriving at a point of entry in the state of Kansas may enter, in accordance with any rules and regulations which may be adopted pursuant to K.S.A. 41-210, and amendments thereto, for transportation to any warehouse in the state of Kansas.

History: L. 1949, ch. 242, § 51; L. 1985, ch. 170, § 9; L. 1987, ch. 182, § 36; L. 2002, ch. 47, § 1; July 1.

41-409. Beer or cereal malt beverage manufacturer, distributor or importer; filing of notice; warehouse; brewing specifications. (a) Before commencing or continuing business, every manufacturer of beer or cereal malt beverage, every beer distributor and every importer of beer shall file with the director a notice in writing, which states: (1) The name of the person, company, corporation or firm, (2) the name of the members of any such company or firm, (3) the places of residence of such persons, and (4) a legal description of the premises on which the office of the manufacturer or distributor is situated and of the title thereto and the name of the owner thereof.

(b) The director may require under rules and regulations adopted as provided in this act that beer and cereal malt beverage be kept, received and withdrawn from bonded warehouses, as other alcoholic liquors are kept, received and withdrawn as provided under the Kansas liquor control act, whenever the director deems that the public interest demands.

(c) No beer or cereal malt beverage manufactured or distributed within this state shall be sold under the provisions of this act until the manufacturers or distributors of such beer or cereal malt beverage furnish satisfactory evidence to the director that such beer or cereal malt beverage is brewed from alcoholic fermentation of an infusion of pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and are free from all harmful substances, preservatives and adulterants.

History: L. 1949, ch. 242, § 52; L. 1974, ch. 195, § 2; L. 1982, ch. 210, § 2; L. 1987, ch. 182, § 37; L. 1987, ch. 182, § 38; L. 1989, ch. 146, § 3; July 1.

41-410. Exclusive territorial franchises, liquor and cereal malt beverage; filing of notice; termination or modification of franchise. (a) No distributor shall sell any alcoholic liquor or cereal malt beverage in this state unless such distributor has filed with the director a written notice stating each geographic territory, agreed upon in writing between the distributor and a supplier of the distributor, within which the distributor sells one or more brands of such supplier to retailers licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto or to clubs or drinking establishments licensed under the club and drinking establishment act. Such notice shall be accompanied by a map outlining each geographic territory stated in the notice. No manufacturer, 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.

(b) Each supplier of alcoholic liquor or cereal malt beverage doing business within this state shall file with the director a written notice describing each geographic territory, agreed upon in writing between the supplier and a distributor, within which the distributor sells one or more brands of the supplier to retailers licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto or to clubs or drinking establishments licensed under the club and drinking establishment act.

(c) No supplier or distributor shall terminate or modify a franchise for the distribution of a brand of alcoholic liquor or cereal malt beverage or alter the geographic territory designated in a franchise agreement unless such supplier or distributor files written notice thereof with the director not less than 30 days prior to the termination, modification or alteration. In the case of an alteration in a franchise territory, such notice shall be accompanied by a map outlining the altered territory. Upon receipt of such notice, the director shall notify immediately, by certified mail, all affected parties of the impending termination, modification or alteration.

(d) Any notice filed by a supplier pursuant to subsection (c) shall be accompanied by an affidavit stating that the termination, modification or alteration is not caused by the failure of the distributor to **violate** any provision of the Kansas liquor control act or any rules and regulations adopted pursuant thereto.

(e) Any supplier or distributor aggrieved by a termination, modification or alteration made under subsection (c) may file an appropriate action in any district court of this state having venue, alleging

that the termination, modification or alteration violates the franchise agreement between the supplier and distributor involved.

(f) No franchise agreement for the distribution of a brand of alcoholic liquor or cereal malt beverage shall be terminated or modified, nor shall the territory designated in such an agreement be altered, except for reasonable cause.

(g) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 1979, ch. 153, § 3; L. 1987, ch. 182, § 39; L. 1987, ch. 182, § 40; Jan. 1, 1988.

[ABC Attorney's Note: The word "violate" in subsection (d) above appears to be an error. It should be "comply with."]

41-411. [Repealed 1990]

41-412. Severability. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and, to this end, the provisions of this act are severable.

History: L. 1979, ch. 153, § 12; May 10.

Article 5 – GALLONAGE TAX; COLLECTION AND DISPOSITION

41-501. Tax rate; exemptions; limitation on tax by city; collection and disposition of tax; permit to import for certain purposes. (a) As used in this section and K.S.A. 41-501a, and amendments thereto:

(1) "Gallon" means wine gallon.

(2) "Federal area" means any lands or premises which are located within the exterior boundaries of this state and which are held or acquired by or for the use of the United States or any department, establishment or agency of the United States.

(3) "Malt product" means malt syrup, malt extract, liquid malt or wort.

(b) (1) For the purpose of raising revenue a tax is imposed upon the manufacturing, using, selling, storing or purchasing alcoholic liquor, cereal malt beverage or malt products in this state or a federal area at a rate of \$.18 per gallon on beer and cereal malt beverage; \$.20 per gallon on all wort or liquid malt; \$.10 per pound on all malt syrup or malt extract; \$.30 per gallon on wine containing 14% or less alcohol by volume; \$.75 per gallon on wine containing more than 14% alcohol by volume; and \$2.50 per gallon on alcohol and spirits.

(2) The tax imposed by this section shall be paid only once and shall be paid by the person in this state or federal area who first manufactures, uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt beverage. The tax shall be collected and paid to the director as provided in this act. If the alcoholic liquor or cereal malt beverage is manufactured and sold in this state or a federal area, the tax shall be paid by the manufacturer, microbrewery or farm winery producing it. If the alcoholic liquor or cereal malt beverage is imported into this state by a distributor for the purpose of sale at wholesale in this state or a federal area, the tax shall be paid by the distributor, and in no event shall such tax be paid by the manufacturer unless the alcoholic liquor or cereal malt beverage is manufactured in this state. If not to exceed one gallon, or metric equivalent, per person of alcoholic liquor has been purchased by a private citizen outside the borders of the United States and is brought into this state by the private citizen in such person's personal possession for such person's own personal use and not for sale or resale, such import is lawful and no tax payment shall be due thereon.

(c) Manufacturers, microbreweries, farm wineries or distributors at wholesale of alcoholic liquor or cereal malt beverage shall be exempt from the payment of the gallonage tax imposed on alcoholic liquor and cereal malt beverage, upon satisfactory proof, including bills of lading furnished to the director by affidavit or otherwise as the director requires, that the liquor or cereal malt beverage was manufactured in this state but was shipped out of the state for sale and consumption outside the state.

(d) Wines manufactured or imported solely and exclusively for sacramental purposes and uses shall not be subject to the tax provided for by this section.

(e) The tax provided for by this section is not imposed upon:

(1) Any alcohol or wine, whether manufactured in or imported into this state, when sold to a nonbeverage user licensed by the state, for use in the manufacture of any of the following when they are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic and toilet preparations; flavoring extracts and syrups and food products; scientific, industrial and chemical products; or scientific, chemical, experimental or mechanical purposes; or

(2) the privilege of engaging in any business of interstate commerce or otherwise, which business may not be made the subject of taxation by this state under the constitution and statutes of the United States.

(f) The tax imposed by this section shall be in addition to all other taxes imposed by the state of Kansas or by any municipal corporation or political subdivision thereof.

(g) Retail sales of alcoholic liquor, sales of beer to consumers by microbreweries and sales of wine to consumers by farm wineries shall not be subject to the tax imposed by the Kansas retailers' sales tax act but shall be subject to the enforcement tax provided for in this act.

(h) Notwithstanding any ordinance to the contrary, no city shall impose an occupation or privilege tax on the business of any person, firm or corporation licensed as a manufacturer, distributor, microbrewery, farm winery, retailer or nonbeverage user under this act and doing business within the boundaries of the city except as specifically authorized by K.S.A. 41-310, and amendments thereto.

(i) The director shall collect the taxes imposed by this section and shall account for and remit all moneys collected from the tax to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit 1/10 of the moneys collected from taxes imposed upon alcohol and spirits under subsection (b)(1) to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and shall credit the balance of the moneys collected to the state general fund.

(j) If any alcoholic liquor manufactured in or imported into this state is sold to a licensed manufacturer or distributor of this state to be used solely as an ingredient in the manufacture of any beverage for human consumption, the tax imposed upon the manufacturer or distributor shall be reduced by the amount of the taxes which have been paid under this section as to the alcoholic liquor so used.

(k) The tax provided for by this section is not imposed upon alcohol or wine used by any school or college for scientific, chemical, experimental or mechanical purposes or by hospitals, sanatoria or other institutions caring for the sick. Any school, college, hospital, sanatorium or other institution caring for the sick may import alcohol or wine for scientific, chemical, experimental, mechanical or medicinal purposes by making application to the director for a permit to import it and receiving such a permit. Application for the permit shall be on a form prescribed and furnished by the director, and a separate permit shall be required for each purchase of alcohol or wine. A fee of \$2 shall accompany each application. All permits shall be issued in triplicate to the applicant and shall be under the seal of the office of the director. Two copies of the permit shall be forwarded by the applicant to the microbrewery, farm winery, manufacturer or distributor from which the alcohol or wine is purchased, and the microbrewery, farm winery, manufacturer or distributor shall return to the office of the director one copy of the permit with its shipping affidavit and invoice. Within 10 days after receipt of any alcohol or wine, the school, college, hospital or sanatorium ordering it shall file a report in the office of the director upon forms furnished by the director, showing the amount of alcohol or wine received, the place where it is to be stored, from whom it was received, the purpose for which it is to be used and such other information as required by the director. Any school, college, hospital, sanatorium or institution caring for the sick, which complies with the provisions of this subsection, shall not be required to have any other license to purchase alcohol or wine from a microbrewery, farm winery, manufacturer or distributor.

History: L. 1949, ch. 242, § 53; L. 1953, ch. 238, § 6; L. 1958, ch. 50, § 2 (Budget Session); L. 1958, ch. 14, § 1 (Special Session); L. 1961, ch. 240, § 1; L. 1964, ch. 34, § 1 (Budget Session); L. 1971, ch. 174, § 1; L. 1977, ch. 167, § 1; L. 1977, ch. 168, § 1; L. 1983, ch. 161, § 12; L. 1984, ch. 179, § 1; L. 1985, ch. 172, § 1; L. 1986, ch. 185, § 5; L. 1987, ch. 182, § 41; L. 1993, ch. 234, § 3; L. 2001, ch. 5, § 129; July 1.

41-501a. Tax on liquor being delivered to federal area. If any alcoholic liquor which is taxable under the provisions of K.S.A. 41-501 and amendments thereto is transported in interstate commerce into this state or a federal area for delivery to a consignee or person located, residing or stationed on or at a federal area, such tax shall be paid by the consignee or person. For the purpose of collection and payment of such tax, any and all common, contract or private carriers transporting or delivering any such alcoholic liquor consigned to consignees or persons located, residing or stationed on or at any federal area shall not deliver such alcoholic liquor unless and until the consignee or person shall either (a) present to the carrier written evidence, signed by the director, that the tax imposed by K.S.A. 41-501 and amendments thereto on such alcoholic liquor has been paid, or (b) shall pay such tax to the carrier. All such carriers are authorized to collect from such consignee or person the tax imposed by K.S.A. 41-501 and amendments thereto at the time of delivery, and to account for and pay the same to the director.

The secretary of revenue shall adopt, pursuant to K.S.A. 41-210 and amendments thereto, such rules and regulations as necessary to carry out the intent and purposes of this section. Such rules and regulations may include, but shall not be limited to, provisions for the inspection and sealing of cargoes of alcoholic liquor consigned, being transported or delivered to consignees or persons located, residing or stationed on or at federal areas.

History: L. 1958, ch. 14, § 2 (Special Session); L. 1985, ch. 170, § 10; L. 1993, ch. 20, § 7; July 1.

41-502. Collection and payment of tax. The secretary of revenue shall prescribe, by rules and regulations adopted pursuant to K.S.A. 41-210 and amendments thereto and designed to protect the revenue of this state, a method of reporting, paying and collecting the tax imposed by K.S.A. 41-501 and amendments thereto, other than the affixture to original packages of alcoholic liquor of stamps or other visible evidence of the payment of such tax. Such tax shall be paid on or before the 15th day of the calendar month next succeeding the month in which the distributor acquires possession of alcoholic liquors made taxable by the provisions of K.S.A. 41-501 and amendments thereto. The reporting and payment thereof within the time prescribed by this section and in the manner prescribed by the rules and regulations shall constitute a compliance with the provisions of K.S.A. 41-501 and amendments thereto.

History: L. 1949, ch. 242, § 54; L. 1953, ch. 238, § 7; L. 1958, ch. 14, § 3 (Special Session); L. 1973, ch. 200, § 1; L. 1983, ch. 161, § 13; L. 1985, ch. 170, § 11; L. 1989, ch. 146, § 4; L. 1993, ch. 20, § 8; July 1.

41-503 [Repealed 1993]

41-504 through 506. [Repealed 1990]

41-507. Alcoholic liquor tax refund fund; use. A revolving fund designated the alcoholic liquor tax refund fund shall be set apart and maintained by the director from the license fees and excise tax collected under the provisions of this act and held by the state treasurer for the refund of license fees, and the refund of gallonage taxes. Such fund shall be in such amount as the director determines necessary for the purpose of making such refunds.

History: L. 1949, ch. 242, § 59; L. 1958, ch. 50, § 3 (Budget Session); L. 1979, ch. 154, § 1; L. 1993, ch. 20, § 9; July 1.

41-508. Possession of untaxed liquor by retailer; penalty. It shall be unlawful for the holder of any retailer's license to receive or possess any alcoholic liquor upon which the gallonage tax levied by this act has not been paid. Any such licensee who shall violate the provisions of this section shall be guilty of a misdemeanor and upon conviction fined not more than \$500, to which may be added not more than 12 months' imprisonment.

History: L. 1949, ch. 242, § 60; L. 1993, ch. 20, § 10; July 1.

41-509. [Repealed 1969]

41-510. Credit for spirits sold to federal military installation. (a) Notwithstanding the provisions of K.S.A. 41-501 and amendments thereto, any distributor may claim and receive from the director a credit for taxes imposed by K.S.A. 41-501 and amendments thereto on spirits sold to a federal military installation in a federal area.

(b) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 1989, ch. 91, § 3; July 1.

Article 6 – MANUFACTURER’S AND WHOLESALER’S RECORDS AND REPORTS

41-601. Manufacturers, distributors, microbreweries and farm wineries; monthly reports.

Every manufacturer, distributor, microbrewery which sells any beer to a beer distributor at wholesale and farm winery which sells any wine to a distributor at wholesale shall between the 1st and 15th day of each calendar month, make return under oath to the director of all alcoholic liquor manufactured and sold by the manufacturer, distributor, microbrewery or farm winery in the course of business during the preceding calendar month. In the case of a distributor, the return shall also show: (a) The total amount of liquor purchased by the distributor during the preceding calendar month, the names of the distillers or distributors from whom purchased, the quantity of each brand and the price paid therefor; and (b) the names and locations of the retailers to whom alcoholic liquor was sold by the distributor during the preceding calendar month, the quantity of each brand and the price charged therefor. The return shall be made upon forms prescribed and furnished by the director and shall contain such other information as the director reasonably requires.

History: L. 1949, ch. 242, § 62; L. 1983, ch. 161, § 14; L. 1987, ch. 182, § 43; Jan. 1, 1988.

41-602. Same; records of sales. It is the duty of each manufacturer, distributor, microbrewery which sells any beer to a beer distributor and farm winery which sells any wine to a distributor to keep complete and accurate records of all sales of liquor, wine or beer and complete and accurate records of all alcoholic liquors produced, manufactured, compounded or imported. The director, in the director's discretion, may prescribe reasonable and uniform methods for keeping records by manufacturers, distributors, microbreweries and farm wineries as contemplated by K.S.A. 41-401 through 41-409, and amendments thereto.

History: L. 1949, ch. 242, § 63; L. 1983, ch. 161, § 15; L. 1987, ch. 182, § 44; Jan. 1, 1988.

Article 7 – CERTAIN PROHIBITED ACTS AND PENALTIES

41-701. Certain sales by distributors or manufacturers prohibited. (a) Except as provided in subsection (d), no spirits distributor shall sell or attempt to sell any spirits within this state except to:

- (1) A licensed manufacturer, licensed nonbeverage user or licensed spirits distributor; or
- (2) a licensed retailer, as authorized by K.S.A. 41-306 and amendments thereto.

(b) Except as provided in subsection (d), no wine distributor shall sell or attempt to sell any wine within this state except to:

- (1) A licensed manufacturer, licensed nonbeverage user or licensed wine distributor;
- (2) a licensed caterer; or
- (3) a retailer, club or drinking establishment, licensed in this state, as authorized by K.S.A. 41-306a.

(c) Except as provided by subsection (d), no beer distributor shall sell or attempt to sell any beer or cereal malt beverage within this state except to:

- (1) A licensed manufacturer, licensed nonbeverage user or licensed beer distributor;
- (2) a licensed caterer; or
- (3) a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto or a club or drinking establishment, licensed in this state, as authorized by 41-307 and amendments thereto.

(d) (1) If any spirits distributor refuses to sell spirits which such distributor is authorized to sell or refuses to provide any service in connection therewith to any licensed retailer as authorized by K.S.A. 41-306 and amendments thereto, it shall be lawful for any other licensed spirits distributor to sell such spirits to such retailer.

(2) If any wine distributor refuses to sell wine which such distributor is authorized to sell or refuses to furnish service in connection therewith to any licensed retailer, as authorized by K.S.A. 41-306a, it shall be lawful for any other licensed wine distributor to sell such wine to such retailer.

(3) If any beer distributor refuses to sell beer or cereal malt beverage which such distributor is authorized to sell or provide service in connection therewith to any retailer licensed under this act or under K.S.A. 41-2702 and amendments thereto, as authorized by K.S.A. 41-307 and amendments thereto, it shall be lawful for any other licensed beer distributor to sell such beer or cereal malt beverage to such retailer.

(e) No manufacturer of alcoholic liquor or cereal malt beverage shall sell or attempt to sell any alcoholic liquor or cereal malt beverage within this state except to a licensed manufacturer, licensed distributor or licensed nonbeverage user.

(f) No supplier, wholesaler, distributor, manufacturer or importer shall by oral or written contract or agreement, expressly or impliedly fix, maintain, coerce or control the resale price of alcoholic liquor, beer or cereal malt beverage to be resold by such wholesaler, distributor, manufacturer or importer.

(g) Any supplier, wholesaler, distributor or manufacturer violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$500 and not more than \$1,000, to which may be added not to exceed six months' imprisonment. In addition, any supplier, wholesaler, distributor, manufacturer or importer violating the provisions of this section relating to fixing, maintaining or controlling the resale price of alcoholic liquor, beer or cereal malt beverage shall be liable in a civil action to treble the amount of any damages awarded plus reasonable attorney fees for the damaged party.

History: L. 1949, ch. 242, § 64; L. 1974, ch. 195, § 3; L. 1979, ch. 153, § 4; L. 1987, ch. 182, § 45; L. 1987, ch. 182, § 46; Jan. 1, 1988.

41-702. Gifts and credit from manufacturer or distributor prohibited. (a) Except to the extent permitted pursuant to K.S.A. 41-703 and amendments thereto, no licensed retailer, club, drinking establishment or caterer, or any officer, associate, member, representative or agent thereof, shall accept, receive or borrow money or anything else of value, or accept or receive credit, directly or indirectly, from: (1) Any manufacturer or distributor; (2) any person connected with, in any way representing or a member of the family of a manufacturer or distributor; (3) any stockholders in a manufacturer or distributor; or (4) any officer, manager, agent or representative of a manufacturer or distributor.

(b) Except to the extent permitted pursuant to K.S.A. 41-703 and amendments thereto, no manufacturer or distributor shall give or lend money or anything of value or otherwise loan or extend credit, directly or indirectly, to any retailer licensed under this act or under K.S.A. 41-2702 and amendments thereto, or to any licensed club, drinking establishment or caterer, or to the manager, representative, agent, officer or director thereof.

(c) If any licensed retailer, distributor, manufacturer, club, drinking establishment or caterer violates any provision of this section, the license of such retailer, distributor, manufacturer, club, drinking establishment or caterer shall be suspended or revoked by the director in the manner provided by law for revocation or suspension for other violations of this act.

History: L. 1949, ch. 242, § 65; L. 1987, ch. 182, § 47; July 1.

41-703. Gifts, loans and interest in customer's business by manufacturer or distributor prohibited, exceptions. (a) Except as provided by subsection (d), no manufacturer or distributor shall directly or indirectly: (1) Sell, supply, furnish, give, pay for, loan or lease any furnishing, fixture or equipment on the premises of a place of business of a licensee under the club and drinking establishment act or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto; (2) pay for any such licensee's or retailer's license, or advance, furnish, lend or give money for payment of such license; (3) purchase or become the owner of any note, mortgage or other evidence of indebtedness of any such licensee or retailer or any form of security therefor; (4) be interested in the ownership, conduct or operation of the business of any such licensee or retailer; or (5) be interested, directly or indirectly, or as owner, part owner, lessee or lessor thereof, in the licensed premises of any such licensee or retailer.

(b) Except as provided by subsection (d), no manufacturer or distributor shall, directly or indirectly, or through a subsidiary or affiliate or by any officer, director or firm of such manufacturer or distributor, furnish, give, lend or rent any interior decorations or any signs, for inside or outside use, for use in or about or in connection with the licensed premises of a licensee under the club and drinking establishment act, or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto products of the manufacturer or distributor are sold.

(c) No manufacturer or distributor shall directly or indirectly pay for or advance, furnish or lend money for the payment of any license of another under the club and drinking establishment act, the Kansas liquor control act or K.S.A. 41-2702 and amendments thereto.

(d) (1) A manufacturer or distributor may furnish things of value to a licensee under the club and drinking establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto to the extent permitted by rules and regulations adopted by the secretary pursuant to subsection (e).

(2) Notwithstanding any other provision of law to the contrary, an owner, officer, stockholder or director of a distributor may have an interest in the licensed premises of a club, a drinking establishment or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto, if such premises are located outside the geographic territory of the distributor's franchise.

(e) The secretary shall adopt rules and regulations permitting manufacturers and distributors to furnish equipment, signs, supplies or similar things of value to licensees under the club and drinking

establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto. Such rules and regulations shall limit the furnishing of such things of value so that they are not conditioned on or an inducement to the purchase of any alcoholic liquor or cereal malt beverage. In adopting such rules and regulations, the secretary shall consider and, to the extent the secretary determines suitable, base such rules and regulations on the standards of the bureau of alcohol, tobacco and firearms of the United States treasury.

History: L. 1949, ch. 242, § 66; L. 1987, ch. 182, § 48; L. 1991, ch. 141, § 2; July 1.

41-704. Manufacturers; interest in business of distributor prohibited. No manufacturer of alcoholic liquors holding a manufacturer's license under this act and no manufacturer of alcoholic liquors outside of this state manufacturing alcoholic liquors for distribution and sale within this state shall, directly or indirectly, as owner or part owner, or through a subsidiary or affiliate, or by any officer, director or employee thereof, or by stock ownership, interlocking directors, trusteeship, loan, mortgage or lien on any personal or real property, as guarantor, endorser or surety, be interested in the ownership, conduct, operation or management of any alcoholic liquor distributor holding an alcoholic liquor distributor's license under this act; nor shall any manufacturer of alcoholic liquors holding a manufacturer's license under this act nor any manufacturer of alcoholic liquors outside of this state manufacturing alcoholic liquors for distribution and sale within this state, be interested directly or indirectly, as lessor or lessee, as owner or part owner, or through a subsidiary or affiliate, or by any officer, director or employee thereof, or by stock ownership, interlocking directors or trusteeship in the premises upon which the place of business of an alcoholic liquor distributor holding an alcoholic liquor distributor's license under this act is located, established, conducted or operated in whole or in part.

History: L. 1949, ch. 242, § 67; March 9.

41-705. Violation of 41-703 or 41-704; effect. Any licensee who shall permit or assent, or be a party in any way to any violation or infringement of the provisions of K.S.A. 41-703 or 41-704 shall be deemed guilty of a violation of this act, and any money loaned contrary to a provision of this act shall not be recovered back, or any note, mortgage or other evidence of indebtedness, or security, or any lease or contract obtained or made contrary to this act shall be unenforceable and void.

History: L. 1949, ch. 242, § 68; March 9.

41-706. Requirements relating to revenue stamps, labels, seals. No manufacturer, distributor or wholesaler shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer, distributor or wholesaler, unless the package has affixed thereto all canceled revenue stamps which may be provided by federal law and shall also carry thereon a clear and legible label containing the name and kind of alcoholic liquor contained therein, and the alcoholic content thereof, except in the case of beer, and such other information as may be required by federal laws and rules and regulations and by rules and regulations adopted by the secretary of revenue. No package shall be delivered by any manufacturer or distributor or importing distributor unless the same shall be securely sealed so that the contents thereof cannot be removed without breaking the seal so placed thereon by such manufacturer, and no other licensee shall sell, have in the possession of the licensee or use any package or container which does not comply with this section or K.S.A. 41-707 and amendments thereto, or does not bear evidence that such package, when delivered to the licensee, complied with this section.

History: L. 1949, ch. 242, § 69; L. 1985, ch. 170, § 14; L. 1993, ch. 20, § 11; July 1.

41-707. Labels; quality of liquor; requirements. No alcoholic liquor labeled as "whisky" or "gin" shall be sold at retail in this state, unless the entire alcoholic content thereof, except flavoring materials, is a distillate of fermented mash of grain or mixture of grains. Alcoholic liquor of the type of whisky or gin or wine not conforming to this requirement may be sold at retail if labeled "imitation whisky" or "imitation gin" or "imitation wine" as the case may be. No spirits shall contain any substance, compound or ingredient which is injurious to health or deleterious for human consumption.

History: L. 1949, ch. 242, § 70; March 9.

41-708. Retailer must obtain liquor from licensed distributor; exceptions; penalties. No retailer licensed under this act shall purchase or receive alcoholic liquor from any source except from a distributor licensed under this act and having a place of business in this state, except that a licensed retailer may purchase confiscated alcoholic liquor at a sheriff's sale. Any retail licensee who violates this section is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$200, nor more than \$1,000, to which may be added imprisonment for not more than six months, and the license of such licensee may be revoked as provided by law.

History: L. 1949, ch. 242, § 71; L. 1996, ch. 154, § 5; July 1.

41-709. Authorized sale or delivery by manufacturer or distributor; withdrawal of samples from warehouse; license revocation for violations. (a) No manufacturer or distributor shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer or distributor for resale, unless the person to whom such package is sold or delivered is authorized to receive such package in accordance with the provisions of this act.

(b) Notwithstanding any other provision of the Kansas liquor control act, a distributor may withdraw from the distributor's inventory alcoholic liquor or cereal malt beverage for use as samples in the course of the business of the distributor or at industry seminars. The withdrawal of such alcoholic liquor or cereal malt beverage shall be in accordance with rules and regulations adopted by the secretary in accordance with K.S.A. 41-210 and amendments thereto and shall be subject to the tax imposed by K.S.A. 79-4101 *et seq.* and amendments thereto based on the applicable current posted bottle or case price.

(c) The director shall revoke the license of any manufacturer or distributor who violates the provisions of this section.

History: L. 1949, ch. 242, § 72; L. 1987, ch. 182, § 49; L. 1996, ch. 154, § 6; July 1.

41-710. Location of retail store, microbrewery or farm winery; restrictions. (a) No retailer's license shall be issued for premises unless such premises comply with all applicable zoning regulations.

(b) No microbrewery license or farm winery license shall be issued for premises which are zoned for any purpose except agricultural, commercial or business purposes.

(c) No retailer's, microbrewery or farm winery license shall be issued for premises which:

(1) Are located within 200 feet of any public or parochial school or college or church, except that if any such school, college or church is established within 200 feet of any licensed premises after the premises have been licensed, the premises shall be an eligible location for retail licensing; and

(2) do not conform all applicable building regulations.

History: L. 1949, ch. 242, § 73; L. 1983, ch. 161, § 16; L. 1985, ch. 170, § 29; L. 1987, ch. 182, § 50; L. 2005, ch. 201, § 7; November 15.

41-711. Sale at retail forbidden on certain premises. No alcoholic liquor shall be sold at retail upon any premises which have an inside entrance or opening which connects with any other place of business.

History: L. 1949, ch. 242, § 74; March 9.

41-712. Sale at retail; forbidden on certain days; hours of sale, exception. (a) Within any city where the days of sale at retail of alcoholic liquor in the original package have not been expanded as provided by K.S.A. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 41-2911, and amendments thereto, and within any township where the days of sale at retail of alcoholic liquor in the original package have not been expanded as provided by K.S.A. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 41-2911, and amendments thereto, no person shall sell at retail any alcoholic liquor in the original package: (1) On Sunday; (2) on Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any day when the sale is permitted. The governing body of any city by ordinance may require the closing of the premises prior to 11 p.m., but such ordinance shall not require closing prior to 8 p.m.

(b) Within any city where the days of sale at retail of alcoholic liquor in the original package have been expanded as provided by K.S.A. 41-2911, and amendments thereto, and have not been subsequently restricted as provided by K.S.A. 41-2911, and amendments thereto, and within any township where the days of sale at retail of alcoholic liquor in the original package have been expanded as provided by K.S.A. 41-2911, and amendments thereto, and have not been subsequently restricted as provided by K.S.A. 41-2911, and amendments thereto, no person shall sell at retail any alcoholic liquor in the original package: (1) On Sunday before 12 noon or after 8 p.m.; (2) on Easter Sunday, Thanksgiving Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any day when the sale is permitted. The governing body of any city by ordinance may require the closing of the premises prior to 11 p.m., but such ordinance shall not require closing prior to 8 p.m.

History: L. 1949, ch. 242, § 75; L. 1994, ch. 166, § 1; L. 2005, ch. 201, § 8; November 15.

41-713. Retailers; mixing drinks on premises and employment of certain persons prohibited. It shall be unlawful for a retailer of alcoholic liquor: (1) To permit any person to mix drinks in or on the licensed premises; (2) to employ any person under the age of twenty-one (21) years in connection with the operation of such retail establishment; or (3) to employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony.

History: L. 1949, ch. 242, § 76; March 9.

41-714. Advertising and display of liquor; restrictions. (a) Any advertising of a farm winery or microbrewery shall be subject to approval by the director prior to its dissemination.

(b) The secretary of revenue may adopt, in accordance with K.S.A. 41-210 and amendments thereto, rules and regulations necessary to regulate and control the advertising, in any form, and display of alcoholic.

History: L. 1949, ch. 242, § 77; L. 1983, ch. 161, § 17; L. 1985, ch. 170, § 15; L. 1987, ch. 182, § 51; L. 1991, ch. 142, § 3; L. 2005, ch. 210, § 10; November 15.

41-715. Sale of liquor to incapacitated or intoxicated person; penalties. (a) No person shall knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor.

(b) Violation of this section is a misdemeanor punishable by a fine of not less than \$100 and not exceeding \$250 or imprisonment not exceeding 30 days, or both.

History: L. 1949, ch. 242, § 78; L. 1963, ch. 267, § 1; L. 1965, ch. 277, § 8; L. 1985, ch. 173, § 1; July 1.

41-716. [Repealed 1975]

41-717. Certain sales on credit, in trade or by check prohibited. (a) (1) Except as provided by subsection (a)(2), no person shall sell or furnish at retail and no microbrewery or farm winery shall sell to any consumer any alcoholic liquor on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; or in payment for any services rendered. If any person extends credit in violation of this subsection, the debt attempted to be created shall not be recoverable at law.

(2) A licensed retailer may sell alcoholic liquor and nonalcoholic malt beverage to a consumer, a licensed microbrewery may sell domestic beer to a consumer and a licensed farm winery may sell domestic wine to a consumer on credit pursuant to a credit card which entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the credit card.

(b) No microbrewery, farm winery or retailer of alcoholic liquor shall accept a check for payment for alcoholic liquors sold by the winery or retailer to a consumer, other than the personal check of the person making the purchase.

History: L. 1949, ch. 242, § 80; L. 1983, ch. 161, § 18; L. 1987, ch. 182, § 52; L. 1995, ch. 266, § 1; July 1.

41-718. Sale only in original package; refilling prohibited. (a) No person except a manufacturer, distributor, microbrewery, farm winery or wholesaler shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor.

(b) No person shall have in the person's possession for sale at retail any bottles, casks or other containers containing alcoholic liquor, except in original packages.

History: L. 1949, ch. 242, § 81; L. 1983, ch. 161, § 19; L. 1987, ch. 182, § 53; Jan. 1, 1988.

41-719. Consumption of alcoholic liquor prohibited in certain places; exemptions. (a) No person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; or

(5) on the premises of a microbrewery or farm winery, if authorized by K.S.A. 41-308a or 41-308b, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if:

(A) The alcoholic liquor is domestic beer or wine or wine imported under subsection (e) of K.S.A. 41-308a, and amendments thereto, and is consumed only for purposes of judging competitions;

(B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or

(C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions as the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.

(10) On the premises of any Kansas national guard regional training center, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(11) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g) or (h).

(d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.

(e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.

(f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

History: L. 1949, ch. 242, § 82; L. 1968, ch. 35, § 1; L. 1969, ch. 242, § 1; L. 1971, ch. 175, § 1; L. 1975, ch. 251, § 1; L. 1979, ch. 153, § 13; L. 1981, ch. 200, § 1; L. 1987, ch. 182, § 54; L. 1988, ch. 165, § 3; L. 1990, ch. 180, § 2; L. 1991, ch. 143, § 1; L. 1992, ch. 269, § 1; L. 1995, ch. 59, § 1; L. 1998, ch. 92, § 8; L. 1998, ch. 191, § 4; L. 1999, ch. 153, § 2; L. 2000, ch. 166, § 3; L. 2002, ch. 139, § 1; L. 2005, ch. 201, § 7; L. 2006, ch 206, § 1; July 1.

41-720. Nonbeverage licensee forbidden to give or sell alcoholic liquors; violation; penalty.

No nonbeverage user shall sell, give away or otherwise dispose of any alcohol or wine, purchased under his license as such nonbeverage user, in any form fit for beverage purposes. Any nonbeverage user who shall violate the provisions of this section shall pay to the director, for the use of the liquor control administration fund, the sum of two dollars and ten cents (\$2.10) for each gallon of alcohol or wine so diverted, and in addition thereto shall be subject to the penalties provided in K.S.A. 41-901.

History: L. 1949, ch. 242, § 83; March 9.

41-721. No retail licenses to issue in cities where electors voted contrary. It shall not be lawful to sell alcoholic liquor at retail nor shall the director grant or issue, or cause to be granted or issued, any license to sell alcoholic liquor at retail within the limits of any city of this state, while the prohibition against such sales, arising under K.S.A. 41-301 and 41-302, or otherwise as provided in this act, is in effect; and if any such license be granted or issued in violation hereof the same shall be void: *Provided*, That this section shall not prohibit the issuance of a manufacturer's or distributor's license in accordance with law by the director in such prohibited territory.

History: L. 1949, ch. 242, § 84; March 9.

41-722. Giving or selling liquor to evade law declared unlawful. The giving away or delivery of any alcoholic liquor for the purpose of evading any provision of K.S.A. 41-721 or taking of orders or the making of agreements, at or within any governmental subdivision, while such sales are prohibited, for the sale or delivery of any alcoholic liquor, or other shift or device to evade any provision of this act, shall be held to be an unlawful selling.

History: L. 1949, ch. 242, § 85; March 9.

41-723. Violating 41-721 and 41-722; places declared common nuisances. All places where alcoholic liquor is sold in violation of any provision of K.S.A. 41-721 and 41-722 shall be and are declared to be common nuisances, and may be abated as such in the manner hereinafter provided.

History: L. 1949, ch. 242, § 86; March 9.

41-724. Transportation of liquor into state forbidden; exceptions. No person or common carrier shall haul or transport alcoholic liquor in or into this state, for sale, or for storage and sale in this state, upon which the required labeling or gauging fee, tax, duty or license has not been paid, except for delivery to distributors, distillers, manufacturers, importers, blenders, rectifiers, wholesalers or jobbers maintaining a bonded warehouse within this state.

History: L. 1949, ch. 242, § 87; March 9.

41-725. Common carriers; must deliver only to consignee. It shall be unlawful for any officer, agent or employee of any railroad company, express company or other common carrier to deliver any alcoholic liquors to any person other than to the person to whom such shipment is consigned, or to his authorized agent, and without a written receipt in each instance by such consignee in person therefor, or by his authorized agent; or to deliver any such shipments to any person whomsoever where such shipments have been consigned to a fictitious person or persons under a fictitious name.

History: L. 1949, ch. 242, § 88; March 9.

41-726. False statements to common carriers unlawful. It shall be unlawful for any person to make a false statement, for the purpose of obtaining alcoholic liquors, to any railroad, express or transportation company, or any person engaged in the business of transporting goods, wares or merchandise for the purpose of obtaining the shipment, transportation or delivery of same.

History: L. 1949, ch. 242, § 89; March 9.

41-727. Purchase or consumption of alcoholic beverage by minor; penalty; exceptions. (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a class C misdemeanor for which the minimum fine is \$200.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the Kansas juvenile justice code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than \$200 nor more than \$500.

(d) In addition to any other penalty provided for a violation of this section: (1) The court may order the offender to do either or both of the following:

(A) Perform 40 hours of public service; or

(B) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans; and

(2) upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.

(3) upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.

(4) upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privileges of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) Any city ordinance or county resolution prohibiting the acts prohibited by this section shall provide a minimum penalty which is not less than the minimum penalty prescribed by this section.

(g) A law enforcement officer may request a person under 21 years of age to submit to a preliminary screening test of the person's breath to determine if alcohol has been consumed by such person if the officer has reasonable grounds to believe that the person has alcohol in the person's body except that, if the officer has reasonable grounds to believe the person has been operating or attempting to operate a vehicle under the influence of alcohol, the provisions of K.S.A. 8-1012, and amendments thereto, shall apply. No waiting period shall apply to the use of a preliminary breath test under this subsection. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made for violation of this section. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results or a refusal to submit to a preliminary breath test shall be admissible in court in any criminal action, but are not per se proof that the person has violated this section. The person may present to the court evidence to establish the positive preliminary screening test was not the result of a violation of this section.

(h) This section shall be part of and supplemental to the Kansas liquor control act.

History: L. 1985, ch. 173, § 2; L. 1987, ch. 182, § 55; L. 1988, ch. 165, § 9; L. 1990, ch. 179, § 4; L. 1994, ch. 300, § 1; L. 1996, ch. 229, § 115; L. 2000, ch. 166, § 4; L. 2001, ch. 200, § 9; L. 2004, ch. 94, § 3; L. 2006, ch. _____ (House Bill 2916), § 7; July 1.

41-727a. Use of minors to determine compliance with law, limitations. (a) Any person listed in subsections (b)(1), (b)(2) or (b)(3) may engage or direct a person under 21 years of age to violate the provisions of the Kansas liquor control act in order to develop a program or system which determines and encourages compliance with the provisions of such act prohibiting the furnishing or sale of alcoholic liquor to a person under 21 years of age or the consumption of alcoholic liquor by such persons.

(b) No person shall engage or direct a person under 21 years of age to violate any provision of the Kansas liquor control act for purposes of determining compliance with the provisions of such act unless such person is:

- (1) An officer having authority to enforce the provisions of the Kansas liquor control act;
- (2) an authorized representative of the attorney general, a county attorney or a district attorney; or
- (3) a licensee under the Kansas liquor control act or such licensee's designee pursuant to a self-compliance program designed to increase compliance with the provisions of the Kansas liquor control act if such program has been approved by the director.

History: L. 2000, ch. 166, § 5; July 1.

41-728. Sales of liquor by distributors; prohibited acts. (a) No distributor shall, directly or indirectly, sell on credit any alcoholic liquor or cereal malt beverage to a club, drinking establishment or caterer, and no club, drinking establishment or caterer shall, directly or indirectly, buy on credit any alcoholic liquor or cereal malt beverage from a distributor.

(b) Any sales of alcoholic liquor or cereal malt beverage by a distributor to a club, drinking establishment, caterer or retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto shall be separate transactions from sales by such distributor to any other such club, drinking establishment, caterer or retailer even if the licensee is the same person or entity as the holder of the license for such other club, drinking establishment, caterer or retailer.

(c) Except as otherwise provided by this section or K.S.A. 41-702, 41-703 and 41-2707, and amendments thereto, any financial instrument, other than a second-party check, may be used by a club, drinking establishment, caterer or retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto to purchase alcoholic liquor or cereal malt beverage from a distributor and a distributor may accept any such financial instrument as payment. In addition, a prepayment plan may be used for the purpose of making such purchases if the amount prepaid does not exceed the usual purchases made for the period of time for which prepayment is made.

(d) Sales of alcoholic liquor by a distributor to clubs, drinking establishments, caterers or retailers licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto shall be final except that a distributor may:

(1) Buy back any item of alcoholic liquor or cereal malt beverage which such club, drinking establishment, caterer or retailer has obtained the approval of the director to close out;

(2) buy back any item of alcoholic liquor or cereal malt beverage when required by the supplier; and

(3) buy back or exchange, within 24 hours after delivery, any item of alcoholic liquor or cereal malt beverage which is damaged or deteriorated in quality.

History: L. 1987, ch. 182, § 136; April 30.

41-729. Retail sales at less than cost; permit required. (a) No retailer shall sell, directly or indirectly, any alcoholic liquor at less than the acquisition cost of such liquor without first having obtained from the director a permit to do so.

(b) The director may issue to a licensed retailer a permit authorizing the retailer to sell alcoholic liquor at less than the acquisition act of such liquor if:

(1) The retailer is actually closing out the retailer's stock for the purpose of completely discontinuing sale of the item of alcoholic liquor for a period of not less than 12 months;

(2) the item of alcoholic liquor is damaged or deteriorated in quality and notice is given to the public thereof; or

(3) the sale of the item of alcoholic liquor is by an officer acting under the order of a court.

History: L. 1987, ch. 182, § 137; April 30.

[ABC Attorneys' Note: The following statute passed in 2005 as Section 9 of SB298 has been placed in Article 29 of Chapter 41 at the end of the Beer and Cereal Malt Beverage Keg Registration Act by the Revisor's Office, but a copy is included here because it is referenced in K.S.A. 41-712.]

K.S.A. 41-2911. (a) (1) The board of county commissioners of any county may, by resolution:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the unincorporated area of the county on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to allow such sale within the unincorporated area of the county on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the unincorporated area of the county on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the unincorporated area of the county, to prohibit such sale within the unincorporated area of the county on Sunday, Memorial Day, Independence Day and Labor Day.

Such resolution shall be published once, within two weeks after its adoption, in the official county newspaper. Such resolution shall not become effective earlier than 60 days following the date of its publication or November 15, 2005, whichever is later. If, within 60 days following publication of the resolution, a petition requesting that a proposition be submitted for approval by the voters is filed in accordance with subsection (a)(2), such resolution shall not become effective until a proposition is submitted to and approved at an election as provided by this subsection (a).

(2) A petition to submit a proposition to the qualified voters of a county pursuant to this subsection (a) shall be filed with the county election officer. The petition shall be signed by qualified voters of the county who reside within the unincorporated area of the county equal in number to not less than 5% of the voters of the county residing within the unincorporated area of the county who voted for the office of president of the United States at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the unincorporated area of _____ county."

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the petition shall read: "We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the unincorporated area of _____ county and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day) within the unincorporated area of _____ county."

(3) Upon submission of a valid petition calling for an election pursuant to this subsection (a), the county commission shall call a special election to be held not later than 45 days after submission of the petition unless a countywide primary or general election is to be held within 90 days after submission of the petition, in which case the proposition shall be submitted at such countywide election. Thereupon, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the unincorporated area of the county at such election:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: "Within the unincorporated area

of _____ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday)?”

(B) If licensing of sale at retail of alcoholic liquor is authorized within the unincorporated area of the county, the following proposition shall be placed on the ballot: “Within the unincorporated area of _____ county shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day)?”

(b) (1) The governing body of any city may, by ordinance:

(A) Expand the days of sale at retail of cereal malt beverage in the original package to allow such sale within the city on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and expand the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to allow such sale within the city on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day; or

(B) restrict the days of sale at retail of cereal malt beverage in the original package to prohibit such sale within the city on Sunday and restrict the days of sale at retail of alcoholic liquor in the original package, if licensing of such sale of alcoholic liquor is authorized within the city, to prohibit such sale within the city on Sunday, Memorial Day, Independence Day and Labor Day.

Such ordinance shall be published at least once each week for two consecutive weeks in the official city newspaper. Such ordinance shall not become effective earlier than 60 days following the date of its publication or November 15, 2005, whichever is later. If, within 60 days following publication of the ordinance, a petition requesting that a proposition be submitted for approval by the voters is filed in accordance with subsection (b)(2), such ordinance shall not become effective until a proposition is submitted to and approved at an election as provided by this subsection (b).

(2) A petition to submit a proposition to the qualified voters of a city pursuant to this subsection (b) shall be filed with the county election officer. The petition shall be signed by qualified voters of the city equal in number to not less than 5% of the voters of the city who voted for the office of president of the United States at the last preceding general election at which such office was elected. The appropriate version of the following shall appear on the petition:

(A) If licensing of sale at retail of alcoholic liquor in the original package is not authorized within the city, the petition shall read: “We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the city of _____.”

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the petition shall read: “We request an election to determine whether sale at retail of cereal malt beverage in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) within the city of _____ and whether sale at retail of alcoholic liquor in the original package shall be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day) within the city of _____.”

(3) Upon submission of a valid petition calling for an election pursuant to this subsection (b), the city governing body shall call a special election to be held not later than 45 days after submission of the petition unless a citywide primary or general election is to be held within 90 days after submission of the petition, in which case the proposition shall be submitted at such citywide election. Thereupon, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot in the city at such election:

(A) If licensing of sale at retail of alcoholic liquor is not authorized within the city, the following proposition shall be placed on the ballot: “Within the city of _____ shall sale at retail of cereal

malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday)?”

(B) If licensing of sale at retail of alcoholic liquor is authorized within the city, the following proposition shall be placed on the ballot: “Within the city of _____ shall sale at retail of cereal malt beverage in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.) (prohibited on Sunday) and shall the sale at retail of alcoholic liquor in the original package be (allowed on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor Day) (prohibited on Sunday, Memorial Day, Independence Day and Labor Day)?”

(c) The county election officer shall transmit to the director a copy of the results of an election pursuant to this section.

(d) An election provided for by this section shall be called and held in the manner provided by the general bond law.

History: L. 2005, ch. 201, § 9; November 15.

Article 8 – MISDEMEANORS AND NUISANCES

41-801. [Repealed 2002]

41-802. [Repealed 1969]

41-803. Open saloon; definition; prohibition. (a) It shall be unlawful for any person to own, maintain, operate or conduct, either directly or indirectly, an open saloon.

(b) As used in this section, "open saloon" means any place, public or private, where alcoholic liquor is sold or offered or kept for sale by the drink or in any quantity of less than 100 milliliters (3.4 fluid ounces) or sold or offered or kept for sale for consumption on the premises where sold, but does not include any premises where the sale of liquor is authorized by the club and drinking establishment act or, on and after January 1, 1988, any microbrewery or farm winery, if authorized by K.S.A. 41-308a or K.S.A. 41-308b, and amendments thereto.

(c) Any violation of the provisions of this section is a misdemeanor punishable by a fine of not more than \$500 and by imprisonment for not more than 90 days.

History: L. 1949, ch. 242, § 92; L. 1978, ch. 187, § 2; L. 1978, ch. 189, § 13; L. 1979, ch. 152, § 4; L. 1986, ch. 185, § 6; L. 1987, ch. 182, § 56; April 30.

41-804. [Transferred to K.S.A. 8-1599]

41-805. Nuisances; places and properties operated or used in violation of act; lien for fines and costs; leases void; procedure for seizure and sale of vehicles and airplanes; appeals; stay of proceedings. (1) Any room, house, building, boat, vehicle, airplane, structure or place of any kind where alcoholic liquors are sold, manufactured, bartered or given away, in violation of this act, or any building, structure or boat where persons are permitted to resort for the purpose of drinking alcoholic liquors, in violation of this act, or any place where such liquors are kept for sale, barter or gift, in violation of this act, and all such liquors, and all property kept in and used in maintaining such a place, are each and all of them hereby declared to be a common nuisance. Any person who maintains or assists in maintaining such common nuisance is guilty of a misdemeanor punishable by imprisonment for not more than one year or by a fine not exceeding \$25,000, or by both. If the court finds that the owner of real property knew or should have known under the circumstances of the maintenance of a common nuisance on such property, contrary to the liquor laws of this state, and did not make a bona fide attempt to abate such nuisance under the circumstances, such property shall be subject to a lien for, and may be sold to pay all fines and costs assessed against the occupant of such building or premises for any violation of this act; and such lien shall be immediately enforced by civil action, in any court having jurisdiction, by the county or district attorney of the county wherein such building or premises may be located, or by the attorney for the director, when ordered by the director. For purposes of this section, evidence of a bona fide attempt to abate such nuisance by the owner of the property shall include, but not be limited to, the filing of a written report, by such owner or at such owner's direction, to the local law enforcement agency that the property is suspected by the owner of the property of being used in maintaining a common nuisance as set forth in K.S.A. 22-3901, and amendments thereto, contrary to the liquor laws of this state. If a tenant of any building or premises uses the building or premises, or any part thereof, in maintaining a common nuisance as hereinbefore defined, or knowingly permits such use by another, such use shall render void the lease under which the tenant holds, and shall cause the right of possession to revert to the owner or lessor, who may make immediate entry upon the premises, or may invoke the remedy provided for the forcible detention thereof.

(2) Upon the filing of a complaint or information charging that a vehicle or airplane is a common nuisance as above declared, a warrant shall be issued authorizing and directing the officer to whom it

is directed to arrest the person or persons described in the complaint or information or the person or persons using the vehicle or airplane in violation of this act and to seize and take into the officer's custody all such vehicles and airplanes so used which the officer finds, and safely keep them subject to the order of the court. In the complaint or information it shall not be necessary to accurately describe the vehicle or airplane so used, but only such description shall be necessary as will enable the officer executing the warrant to identify it properly.

Whenever any vehicles or airplanes shall be seized under any such warrant, whether an arrest has been made or not, a notice shall issue within 48 hours after the return of the warrant in the same manner as a summons, directed to the defendant in such action and to all persons claiming any interest in such vehicles or airplanes, fixing a time, to be not less than 60 days, and place at which all persons claiming any interest therein may appear and answer the complaint made against such vehicles or airplanes and show cause why they should not be adjudged forfeited and sold as hereinafter provided. Such notice shall be served upon the defendant in the action in the same manner as a summons if the defendant be found within the jurisdiction of the court, and a copy thereof shall also be posted in one or more public places in the county in which the cause is pending. If at the time for filing answer the notice has not been duly served or sufficient cause appear, the time for answering shall be extended by the court and such other notice issued as will supply any defect in the previous notice and give reasonable time and opportunity for all persons interested to appear and answer. At or before the time fixed by notice, any person claiming an interest in the vehicles or airplanes seized, may file an answer in writing, setting up a claim thereto, and shall thereupon be admitted as a party defendant to the proceedings against such vehicles or airplanes. The complaint or information and answer or answers that may be filed shall be the only pleadings required. At the time fixed for answer, or at any other time to be fixed by the court, a trial shall be held in a summary manner before the court on the allegation of the complaint or information against the property seized. Whether any answer shall be filed or not, it shall be the duty of the county or district attorney to appear and adduce evidence in support of such allegation.

(3) If the court finds that such vehicles or airplanes were at the time a common nuisance, as defined in this section, the court shall adjudge forfeited so much thereof as the court finds to be a common nuisance, and shall order the officer in whose custody they are to sell them publicly. The officer shall cause notice to be given by publication for at least one week in the official county paper of the time and place of the sale of the property and shall file in the court a return showing the sale of the property and the amount received therefor and shall pay the same into court to await the order of the court. The court, if it approves such sale, shall declare forfeited the proceeds of the sale and, after paying out of the proceeds of the sale the costs of the action, including costs of sale and the keeping and maintenance of the property, shall out of the balance of the money received from the property at the sale, pay all liens, according to their priorities, which are established by intervention or otherwise at the hearing or another proceeding brought for that purpose as being bona fide and for value and as having been created without the lienor having any notice that the vehicle or airplane was being used in so violating the provisions of this act and without the lienor having any notice at any time subsequent to the creation of the lien and prior to the seizure in time to have protected the lien that the vehicle was so being used. The balance remaining shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto, except that, if upon proper proof, a lien as herein provided is established in excess of the value of the vehicle as found by the court, the court may order, without sale, the surrender of such vehicle to such lienor upon the payment of all costs as is herein provided.

(4) Either the state or any defendant or other person claiming the vehicle or airplane seized, or an interest therein, may appeal from the judgment of the court in any such proceedings against the property seized in the manner provided for taking appeals in criminal cases. Any claimant of such property who appeals, in order to stay proceedings, must enter into an undertaking with two or more sureties to the state of Kansas, to be approved by the judge of the district court, in the sum of not less than \$100 nor less than double the amount of the value of the property as fixed by the court and the

costs adjudged against the property, conditioned that the claimant will prosecute the appeal without unnecessary delay, and if judgment is entered against the claimant on appeal, the claimant will satisfy the judgment and costs, and no bond shall be required for an appeal by the state, and such appeal shall stay the execution of the judgment.

History: L. 1949, ch. 242, § 94; L. 1973, ch. 106, § 7; L. 1978, ch. 105, § 12; L. 1990, ch. 114, § 4; L. 1992, ch. 314, § 7; July 1.

41-806. Action by injunction to abate nuisance; procedure; fees of prosecuting attorneys; closing and padlocking; bond of owner, lessee or occupant. The attorney for the director when ordered by the director, or county attorney in the county in which such nuisance exists, or is kept or maintained, may maintain an action by injunction, in the name of the state of Kansas, to abate and temporarily or permanently to enjoin such nuisance. The court shall have the right to make temporary and final orders as in other injunction proceedings. The plaintiff shall not be required to give bond in such action.

Upon final judgment against the defendant, such court shall allow the attorneys for the state of Kansas a reasonable fee for prosecuting the action which shall be taxed as costs and shall also order that such room, house, building, structure, boat or place of any kind shall be closed and padlocked for a period of not less than three (3) months nor more than two (2) years, and until the owner, lessee, tenant or occupant thereof shall give bond with sufficient surety to be approved by the court making the order, in the penal sum of not less than one thousand dollars (\$1,000), payable to the state of Kansas, and conditioned that no alcoholic liquor will for a period of two years thereafter be manufactured, possessed, sold, bartered or given away or furnished or otherwise disposed of thereon or therein, or kept thereon or therein with intent to sell, barter, give away, or otherwise dispose of the same, contrary to this act, and that he and his surety will pay all fines and costs assessed against him for any violation of this act.

If any condition of such bond be violated, the whole amount may be recovered as a penalty for the use of the state of Kansas; and, in such suit on the bond, both principal and surety may be joined as party defendants, and satisfaction may be had from either of them. In such action a notice to nonresident defendants may be given by publication as authorized by law under the code of civil procedure, or upon their agents for service in this state, if any.

History: L. 1949, ch. 242, § 95; March 9.

Article 9 – GENERAL PENALTY PROVISIONS

41-901. Violations of act by persons required to be licensed; penalties; revocation of license; forfeiture and sale of liquor. (a) No person shall manufacture, import for distribution as a distributor at wholesale or distribute or sell alcoholic liquor or cereal malt beverage at any place within the state without having first obtained a valid license therefor under the provisions of this act or under K.S.A. 41-2702 and amendments thereto. No person shall obtain a license to carry on the business authorized by the license as agent for another, obtain a license by fraud or make any false statement or otherwise violate any of the provisions of this act in obtaining any license hereunder. No person having obtained a license hereunder shall violate any of the provisions of this act with respect to the manufacture, possession, distribution or sale of alcoholic liquor or cereal malt beverage; or with respect to the maintenance of the licensed premises.

(b) Violation of subsection (a) shall be punishable as follows, except where other penalties are specifically provided by law:

(1) For a first offense, by a fine of not more than \$500; and

(2) for a second or subsequent offense, by a fine of not more than \$1,000 or by imprisonment for not more than six months, or both.

(c) Each day any person engages in business as a manufacturer, distributor, microbrewery, farm winery or retailer in violation of the provisions of this act shall constitute a separate offense.

(d) Any license obtained to carry on the business as agent for another or any license obtained by fraud or by false statements shall be revoked by the director. When a license has been revoked for obtaining a license to carry on the business authorized by the license as agent for another, or obtained a license by fraud or by any false statement, all alcoholic liquor in the possession of the person who procured the license shall be forfeited and sold and the proceeds of the sale shall be paid to the county treasurer of the county where the alcoholic liquor was located. During the pendency of any appeal from any order revoking a license, the director may obtain an order from the district court of the county where the alcoholic liquor is located, restraining the sale or disposal of the alcoholic liquor. When an order revoking any license is issued by the director, the director shall forthwith forward by registered mail a certified copy of the order revoking the license under the seal of the director to the county attorney of the county where the alcoholic liquor is located.

Within 15 days after the order of revocation becomes final, the county attorney shall institute, against the person who procured the license, a civil action under the code of civil procedure in the district court of the county in the name of the state of Kansas on the relation of the county attorney to forfeit all alcoholic liquor. Summons shall be served as provided by the code of civil procedure upon the person who procured the license. Upon the return day of the summons issued or as soon after as convenient to the court, an order shall be entered by the court forfeiting the alcoholic liquor to the state of Kansas and ordering it to be sold by the sheriff of the county in which the forfeiture occurred. The order shall fix the time and place of sale and the method and manner in which the sale shall be held, together with notice of the sale as the court directs. After payment of all costs of the action, including a reasonable fee for the county attorney, the balance remaining shall be paid to the state treasurer pursuant to K.S.A. 20-2801 and amendments thereto.

History: L. 1949, ch. 242, § 96; L. 1953, ch. 238, § 8; L. 1973, ch. 106, § 8; L. 1978, ch. 105, § 13; L. 1983, ch. 161, § 20; L. 1987, ch. 182, § 57; Jan. 1, 1988.

41-902. General penalty. Any person who shall violate any provision of this act for which a penalty is not otherwise specifically provided shall upon conviction of any such violation be fined not to exceed five hundred dollars (\$500) or by imprisonment not to exceed six (6) months or by both such fine and imprisonment.

History: L. 1949, ch. 242, § 97; March 9.

41-903. Knowingly permitting licensee to unlawfully use premises deemed violation of act. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person, shall knowingly permit the licensee to use such licensed premises in violation of the terms of this act, such owner, agent or other person shall be deemed guilty of a violation of this act to the same extent as such licensee and be subject to the same punishment.

History: L. 1949, ch. 242, § 98; March 9.

41-904. Violation by agent or employee of licensee; deemed act of licensee, when. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this act, by any officer, director, manager or other agent or employee of any licensee, if such act is committed or omission is made with the authorization, knowledge or approval of the licensee, shall be deemed and held to be the act of such employer or licensee, and such employer or licensee shall be punishable in the same manner as if such act or omission had been done or omitted by him personally.

History: L. 1949, ch. 242, § 99; March 9.

41-905. False branding; forfeiture; penalty. Any person who shall knowingly possess, sell, ship, transport or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of such alcoholic liquor or who shall cause any such act to be done, shall forfeit to the state such alcoholic liquor and such packages and containers, and shall be subject to the punishment and penalties provided for violation of this act.

History: L. 1949, ch. 242, § 100; March 9.

Article 10 – PROSECUTION AND ENFORCEMENT

41-1001. Violations; sufficiency of complaint, indictment or information; sufficiency of proof. In any indictment, information or complaint, charging the violation of any of the provisions of this act, it shall be sufficient to charge that the accused unlawfully manufactured, sold, offered for sale, kept for sale, delivered or otherwise unlawfully disposed of alcoholic liquor without any further or more specific description of such liquor; and proof of any kind of alcoholic liquor unlawfully manufactured, sold, offered for sale, kept for sale, delivered, or otherwise unlawfully disposed of, as the case may be, shall be sufficient proof as to the character or kind of alcoholic liquor.

History: L. 1949, ch. 242, § 101; March 9.

41-1002. Complaint, indictment or information; allegations as to quantity and kind; second offense; proof. In any indictment, information, or complaint charging the violation of any of the provisions of this act, it shall not be necessary to allege the quantity of such alcoholic liquor or the kind thereof further than to allege that the same was alcoholic liquor and, in case of sale, keeping for sale or delivery, it shall not be necessary to set out the name of the person to whom sale or delivery has been made; and, in any prosecution for a second offense, it shall not be necessary to state in the indictment, complaint or information the record of the former conviction, but it shall be sufficient briefly to allege such conviction. Proof of sale, delivery or unlawful disposition of alcoholic liquors to any person, not authorized by this act to purchase or receive the same, shall be sufficient to sustain the allegation of unlawful sale, delivery or disposition, as the case may be.

History: L. 1949, ch. 242, § 102; March 9.

41-1003. Same; separate offenses may be joined; allegation as to place and time; exceptions need not be negated. In any indictment, information, or complaint, against any one or more individuals charging the violation of any of the provisions of this act, separate offenses hereunder may be joined in the same indictment, information, or complaint; and the accused may be prosecuted and convicted upon all or any of such counts so joined the same as upon separate indictments, informations or complaints; and judgment may be rendered on each count upon which there is a conviction. In any indictment, information or complaint for any violation of this act, it shall not be necessary to describe the place where the offense was committed, except to allege that it was committed in the county wherein the prosecution was had, unless the particular place where the violation occurred constitutes one of the specific ingredients of the offense; nor shall it be necessary to negative any of the exceptions contained in this act, nor shall it be necessary to state the day or the hour when the offense was committed unless the day or hour constitutes a special element or ingredient of the offense.

History: L. 1949, ch. 242, § 103; March 9.

41-1004. Possession of special tax stamp of federal government, effect; evidence. The possession of a special tax stamp from the government of the United States authorizing the sale or manufacture of alcoholic liquor as defined in this act by a person not licensed under this act, shall be prima facie evidence that the person so holding said special tax stamp is manufacturing or selling in violation of this act. A certified copy of such special tax stamp verified by the proper authority shall be admitted in evidence in all respects as the original special tax stamp might be received.

History: L. 1949, ch. 242, § 104; March 9.

41-1005 to 41-1009. [Repealed 1963]

Article 11 – MISCELLANEOUS PROVISIONS

41-1101. Discrimination in sales, services or prices unlawful; filing of statement; exceptions; multiple case discounts prohibited. (a) No distributor licensed under this act shall purchase any alcoholic liquor from any manufacturer, owner of alcoholic liquor at the time it becomes a marketable product, exclusive agent of such manufacturer or owner, microbrewery, farm winery or distributor of alcoholic liquor bottled in a foreign country either within or without this state, unless the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor files with the director a written statement sworn to by the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor or, in case of a corporation, one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor manufactured or distributed by the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor to any distributor licensed in this state and having a franchise to distribute the alcoholic liquor pursuant to K.S.A. 41-410 and amendments thereto and to make such sales to all such licensed distributors in this state at the same current price and without discrimination.

Each manufacturer, owner, exclusive agent, microbrewery or farm winery shall provide to each distributor written notice not less than 45 days before any change in the current price of any spirits or wine which such manufacturer, owner, exclusive agent, microbrewery or farm winery sells to such distributor.

If any manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor making the agreement violates the agreement by refusing to sell such alcoholic liquor to any such franchised licensed distributor in this state or discriminates in current prices among such franchised licensed distributors making or attempting to make purchases of alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor, the director shall notify, by registered mail, each such franchised licensed distributor in this state of the violation.

Thereupon, it shall be unlawful for a franchised licensed distributor in this state to purchase any alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor.

If thereafter such a franchised licensed distributor purchases any alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor, such franchised distributor's license shall be revoked by the director.

If any manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor of alcoholic liquor bottled in a foreign country, making any agreement hereunder, does not have a sufficient supply of alcoholic liquor of any of the brands or kinds which the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor manufactures or distributes to supply the demands of all licensed distributors having a franchise to distribute such alcoholic liquor, the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor may ration such alcoholic liquor and apportion the available supply among such franchised licensed distributors purchasing or attempting to purchase it, in accordance with a plan which shall be subject to the approval of the director.

(b) No retailer licensed under this act shall purchase any alcoholic liquor from any distributor licensed under this act unless the distributor files with the director a written statement sworn to by the distributor, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor distributed by the distributor and to provide service in connection therewith to any licensed retailer whose licensed premises are located within the geographic territory of the distributor's franchise for the alcoholic liquor, unless written approval to do otherwise is obtained from the director, and to make such sales to all such licensed retailers at the same current bottle, sleeve and case price and without discrimination.

For purposes of this subsection the "same current bottle, sleeve and case price" for spirits and wine means a price effective for a specified period as designated by the distributor on or before the first day of each month.

If any distributor making the agreement violates the agreement by refusing to sell or provide service to any such licensed retailer in this state without written approval of the director or discriminates in current prices among such licensed retailers making or attempting to make purchases of alcoholic liquor from the distributor, the director may revoke the license of the distributor.

If any licensed distributor making any agreement hereunder does not have a sufficient supply of alcoholic liquor of any of the brands or kinds which the distributor distributes to supply the demands of all such licensed retailers, the distributor may ration such alcoholic liquor and apportion the available supply among such licensed retailers purchasing or attempting to purchase the same, in accordance with a plan which shall be subject to the approval of the director.

(c) No club or drinking establishment licensed in this state shall purchase any wine or beer from any distributor licensed under this act unless the distributor files with the director a written statement sworn to by the distributor, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of wine or beer distributed by the distributor to those clubs and drinking establishments to which the distributor is authorized to sell such wine or beer and to which the distributor desires to sell such wine or beer, unless written approval to do otherwise is obtained from the director and to make such sales to all such licensed clubs or drinking establishments at the same current bottle and case price and without discrimination.

If any distributor making the agreement violates the agreement by refusing to sell to any such licensed club or drinking establishment in this state without written approval of the director or discriminates in current prices among such licensed clubs or drinking establishments making or attempting to make purchases of wine or beer from the distributor, the director may revoke the license of the distributor.

If any licensed distributor making any agreement hereunder does not have a sufficient supply of wine or beer of any of the brands or kinds which the distributor distributes to supply the demands of all such licensed clubs or drinking establishments, the distributor may ration such wine or beer and apportion the available supply among such licensed clubs or drinking establishments purchasing or attempting to purchase the same, in accordance with a plan which shall be subject to the approval of the director.

For the purposes of this subsection, a delivery charge shall not be considered a part of the price of wine or beer sold by a distributor.

(d) No retailer licensed under K.S.A. 41-2701 *et seq.* and amendments thereto shall purchase any cereal malt beverage from any distributor licensed under this act unless the distributor files with the director a written statement sworn to by the distributor, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of cereal malt beverage distributed by the distributor to those retailers to which the distributor is authorized to sell such cereal malt beverage, unless written approval to do otherwise is obtained from the director, and to make such sales to all such licensed retailers at the same current price and without discrimination.

If any distributor making the agreement violates the agreement by refusing to sell to any such licensed retailer in this state without written approval of the director or discriminates in current prices among such licensed retailers making or attempting to make purchases of cereal malt beverage from the distributor, the director may revoke the license of the distributor.

If any licensed distributor making any agreement hereunder does not have a sufficient supply of cereal malt beverage of any of the brands or kinds which the distributor distributes to supply the demands of all such licensed retailers, the distributor may ration such cereal malt beverage and apportion the available supply among such licensed retailers purchasing or attempting to purchase the same, in accordance with a plan which shall be subject to the approval of the director.

(e) No distributor shall sell alcoholic liquor or cereal malt beverage to a retailer licensed under the Kansas liquor control act, to a club, drinking establishment or caterer licensed under the club and drinking establishment act or to a retailer licensed under K.S.A. 41-2702 and amendments thereto at a discount for multiple case lots.

History: L. 1949, ch. 242, § 110; L. 1953, ch. 238, § 9; L. 1978, ch. 185, § 3; L. 1979, ch. 153, § 5; L. 1983, ch. 161, § 21; L. 1987, ch. 182, § 58; L. 1987, ch. 182, § 59; L. 1991, ch. 141, § 3; L. 1993, ch. 234, § 4; L. 1995, ch. 258, § 3; L. 1996, ch. 154, § 7; July 1.

41-1102. Disposal or sale of liquor of licensee terminating business. Any licensee who shall quit business or shall have the license suspended or revoked may sell and dispose of any alcoholic liquor which the licensee has possession of at the time of quitting business or of the suspension or revocation of the license in accordance with rules and regulations adopted by the secretary of revenue.

History: L. 1949, ch. 242, § 111; L. 1985, ch. 170, § 16; July 1.

41-1103, 41-1104. [Repealed 1990]

41-1105. Invalidity of part. If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section.

History: L. 1949, ch. 242, § 114; March 9.

41-1106. [Repealed 1990]

41-1107. Duty of county attorney; penalty for neglect; duty of attorney general. It shall be the duty of the county attorneys of the several counties to diligently prosecute any and all persons violating any of the provisions of this act in their respective counties, and to bring suit upon all bonds or recognizances forfeited immediately after the happening of such forfeiture, to recover the penalty, and to pay all money so collected to the county treasurer of his county. If any county attorney shall fail, neglect, or refuse to faithfully perform any duty imposed upon him by this act, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), and be imprisoned in the county jail not less than ten (10) days nor more than ninety (90) days; and such conviction shall operate as a forfeiture of his office, and the court before whom such conviction may be had shall order and adjudge such forfeiture of office in addition to the fine or imprisonment imposed as herein provided.

Whenever the county attorney shall be unable or shall neglect or refuse to enforce the provisions of this act in his county, or for any reason whatever the provisions of this act shall not be enforced in any county, it shall be the duty of the attorney general to enforce the same in such county, and for that purpose he may appoint as many assistants as he shall see fit, and he and his assistants shall be authorized to sign, verify and file all such complaints, informations, petitions and papers as the county attorney is authorized to sign, verify or file, and to do and perform any act that the county attorney might lawfully do or perform.

History: L. 1949, ch. 242, § 116; L. 1973, ch. 106, § 9; June 1.

41-1108 to 41-1110. [Repealed 1961]

41-1111. Regulation of retail mark-ups; legislative findings. In the public interest and in order to promote the orderly sale and distribution of alcoholic liquor, to foster temperance and to promote the public welfare, the legislature finds: (a) That sales prices of alcoholic liquor sold by manufacturers and others to distributors licensed in this state should be no higher than the lowest price for which the same is sold to distributors anywhere in the continental United States; and (b) that minimum mark-ups on alcoholic liquor sold by retailers licensed in this state should be determined and regulated by law.

History: L. 1961, ch. 241, § 1; L. 1979, ch. 153, § 6; May 10.

41-1112. Same; prices filed by manufacturers and others to be as low as in any other state; determination. The prices filed by manufacturers and others authorized to sell alcoholic liquors to licensed distributors, pursuant to subsection (1) of K.S.A. 41-1101, shall be the current prices, F.O.B. point of shipment, and said price as filed by each manufacturer or vendor shall be as low as the lowest price for which the item is sold anywhere in any state in the continental United States by such manufacturer or vendor: *Provided*, That in determining the lowest price for which an item of alcoholic liquor is sold in any such state there shall be taken into consideration all advertising, depletion and promotional allowances and rebates of every kind whatsoever made to purchasers in such state by the vendor.

History: L. 1961, ch. 241, § 2; April 10.

41-1113. [Repealed 1979]

41-1114. Same; minimum retail mark-ups. The board shall establish minimum mark-ups which shall be charged by retailers on sales of alcoholic liquor to consumers.

History: L. 1961, ch. 241, § 4; L. 1979, ch. 153, § 7; May 10.

41-1115. Same; minimum mark-ups on cases, bottles, mixed cases. The board, in exercising its powers and duties under the provisions of this act, shall establish the minimum mark-up by retailers on sales of cases, bottles and mixed cases to consumers.

History: L. 1961, ch. 241, § 5; L. 1979, ch. 153, § 8; May 10.

41-1116. Same; establishment of minimum mark-ups; guidelines; samplings, studies. The minimum mark-ups established by the board shall be fair and reasonable to licensed retailers and the ultimate consumer. Such mark-ups must be in the public interest and such that they do not unduly stimulate the sale and consumption of alcoholic liquor or tend to disrupt the orderly sale and distribution of alcoholic liquor. The board in establishing minimum mark-ups shall take into consideration and be guided by the following: (a) The mean of acquisition costs of licensed retailers; (b) federal, state and local taxes and license fees which are paid by retailers and are levied or imposed in connection with their business of selling alcoholic liquor in this state; (c) the mean of selling costs of licensed retailers; (d) the mean of any legitimate, reasonable expense not hereinbefore specified, incurred in the legal conduct of licensed retailers' businesses; and (e) a reasonable profit for licensed retailers. The board may base its determination of the mean of retailers' acquisition costs, selling costs and operating expenses on a sampling of retailers generally representative of all retailers in the state. To insure that retailers in this state receive only a reasonable mark-up and profit, the alcoholic beverage control board of review, within six (6) months after the effective date of this act, shall conduct and complete studies to determine whether the present minimum mark-ups prescribed for licensed retailers should be maintained as currently established, increased or decreased. Until such studies are completed, the minimum mark-ups in effect immediately prior to the effective date of this act shall remain in effect.

History: L. 1961, ch. 241, § 6; L. 1977, ch. 167, § 5; L. 1977, ch. 168, § 3; L. 1979, ch. 153, § 9; May 10.

41-1117. Same; filing, publication and distribution of minimum mark-ups; effective date; less than minimum mark-up, when permitted. (1) Whenever the board shall establish minimum retailer mark-ups, it shall immediately file a copy thereof with the director. The director, at least once in each quarter of each year, shall publish such minimum mark-ups and shall promptly mail a copy to each licensed distributor and retailer authorized to do business in this state. Minimum mark-ups shall become effective at twelve (12) o'clock midnight on the last day of the first calendar month commencing after the seventh (7th) day following the day such mark-ups are mailed to licensed retailers.

(2) No retailer shall sell, directly or indirectly, any alcoholic liquor at less than its current posted bottle cost plus minimum mark-up without first having obtained from the director a permit so to do; and the director is authorized to issue such a permit in the following cases:

(a) where the retailer is actually closing out his or her stock for the purpose of completely discontinuing sale of such item of alcoholic liquor for a period of not less than twelve (12) months;

(b) where the item of alcoholic liquor is damaged or deteriorated in quality and notice is given to the public thereof; or

(c) where the sale of the item of alcoholic liquor is by an officer acting under the order of any court.

History: L. 1961, ch. 241, § 7; L. 1979, ch. 153, § 10; May 10.

41-1118. Regulation of retail mark-ups; rules and regulations; information required of licensees. The secretary of revenue may adopt, in accordance with K.S.A. 41-210 and amendments thereto, such rules and regulations as may be necessary to carry out the intent and purposes of this act and may require manufacturers, distributors and retailers to furnish any necessary information for use in determining fair and reasonable sales prices of alcoholic liquors in carrying out the intent, purposes and provisions of this act.

History: L. 1961, ch. 241, § 8; L. 1985, ch. 170, § 17; July 1.

41-1119. Same; rules and regulations. The secretary of revenue may adopt, in accordance with K.S.A. 41-210 and amendments thereto, such rules and regulations as necessary for the administration and enforcement of the sales prices determined and fixed under the provisions of this act.

History: L. 1961, ch. 241, § 9; L. 1985, ch. 170, § 18; July 1.

41-1120. Same; act supplemental to liquor control act. This act is and shall be construed as supplementary to and part of the Kansas liquor control act, and shall not be construed as repealing any law not specifically repealed by this act.

History: L. 1961, ch. 241, § 10; April 10.

41-1121. Same; penalties for violations. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law.

History: L. 1961, ch. 241, § 11; April 10.

41-1122. Sale of certain liquor by director authorized. The director of alcoholic beverage control is authorized to sell at public or private sale alcoholic liquor in his custody heretofore or hereafter purchased or confiscated by his agents or other peace officers of the state for use as evidence in any investigation, proceeding or trial when such liquor is no longer required for such investigation, trial or proceeding.

History: L. 1965, ch. 317, § 1; June 30.

41-1123. Same; sales or destruction of certain liquors by director. All alcoholic liquor in the custody of the director through seizure by agents of alcoholic beverage control or other peace officers of the state under authority of a duly executed search warrant shall be held until final determination of any prosecution arising under such search and seizure. Upon the final determination of such prosecution and if such alcoholic liquor is fit for human consumption the director may make application to the court in which such alcoholic liquor was offered as evidence for an order to sell such liquor. The court, if satisfied that such liquor so seized was being manufactured, distributed, stored, sold or used in violation of law, shall make an order that such property be sold by the director at public or private sale.

All alcoholic liquor which is unfit for human consumption may be summarily destroyed by the director.

History: L. 1965, ch. 317, § 2; June 30.

41-1124. Same; disposition of proceeds of sales. The proceeds of all such sales by the director shall be deposited in the state general fund.

History: L. 1965, ch. 317, § 3; L. 1968, ch. 100, § 1; July 1.

41-1125. Alcoholic liquors subject to levy of execution; sale by sheriff, when; disposition of proceeds. The sheriff of any county who has in his possession alcoholic liquors on which he has levied execution for a judgment creditor may sell such alcoholic liquors when an order of the court is entered directing such sale. Such order shall be directed to the sheriff of the county in which execution is levied and shall fix the time and place of sale, method and manner in which the sale shall be held, together with such notice as the court shall direct. After payment of all costs of said action, the balance shall be paid to the judgment creditor, except, if the amount exceeds the amount of the judgment, then any excess of the judgment amount shall be returned to defendant debtor. This act shall not apply in any case in which the court has ordered and directed confiscation of liquors as part of a judgment or conviction.

History: L. 1968, ch. 354, § 1; March 30.

41-1126. Other state fees fund; use and expenditure of moneys in fund. (a) In addition to other purposes for which expenditures may be made from the other state fees fund of the department of social and rehabilitation services, moneys in the other state fees fund of the department of social and rehabilitation services shall be used by the secretary of social and rehabilitation services to provide financial assistance to community-based alcoholism and intoxication treatment programs for the following purposes: (1) Matching money under title XX of the federal social security act to purchase treatment services from approved treatment facilities; (2) providing start-up or expansion grants for halfway houses or rehabilitation centers for alcoholics; (3) purchasing services from approved treatment facilities for persons who are needy but who are not eligible for assistance under either title XIX or title XX of the federal social security act, and administrative costs of the alcohol and drug abuse section which shall not exceed 10% of the total moneys in the community alcoholism and intoxication programs fund; and (4) assisting to develop programs for prevention, education, early identification and facility assistance and review team.

(b) No state alcohol treatment program at Topeka state hospital, Osawatomie state hospital, Rainbow mental health facility or Larned state hospital shall receive any moneys under the provisions of subsection (a) of this section.

History: L. 1977, ch. 167, § 6; L. 1977, ch. 168, § 4; L. 1978, ch. 349, § 4; L. 1995, ch. 219, § 12; July 1.

41-1127. Sections part of liquor control act. K.S.A. 41-307a, 41-308b, 41-331 through 41-341, 41-728 and 41-729 shall be part of and supplemental to the Kansas liquor control act.

History: L. 1987, ch. 182, § 139; April 30.