



HANDBOOK

FOR

SUPPLIERS

**Division of Alcoholic Beverage Control
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Changes made to this handbook since the previous revision(s) have been highlighted with a **light blue background**.

Please report errors, omissions or suggestions for improvement to this handbook to the Division of Alcoholic Beverage Control by telephone at 785-296-7015, by fax at 785-296-7185 or by email to Kdor_abc.email@ks.gov.

Definitions

“Alcoholic candy”

means any candy or other confectionary product with an alcohol content greater than 0.5% alcohol by volume (for purposes of manufacturing), or 1% alcohol by volume (for purposes of sale at retail). [Subsection (b) of K.S.A. 41-102]

"Alcoholic liquor"

means alcohol, **alcoholic candy**, 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 (“CMB”). [Subsection (c) of K.S.A. 41-102]

"Beer"

means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content. [Subsection (d) of K.S.A. 41-102]

"Beer distributor"

is defined as a person licensed to sell beer or CMB to any person authorized by law to sell beer or CMB at retail. [Subsection (c) of K.A.R. 14-14-1]

“Beneficial interest”

means any ownership interest by a person or that person’s spouse in a business, corporation, partnership, trust, association, or other form of business organization that exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization. [Subsection (d) of K.A.R. 14-14-1]

"Cereal malt beverage"

(CMB) means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage (FMB), as defined in Section 1 of House Bill 2955 effective July 1, 2006, but does not include any such liquor which is more than 3.2% alcohol by weight. [Subsection (a) of K.S.A. 41-2701] Since 3.2% alcohol by weight is equivalent to 4% alcohol by volume, CMB does not include any FMB which contains more than 4% alcohol by volume.

"Distributor"

means a 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 the Liquor Control Act or the Cereal Malt Beverage Act. [Subsection (i) of K.S.A. 41-102]

"Domestic beer"

is defined as having no more than **15%** alcohol by weight and manufactured from agricultural products grown in Kansas. [Subsection (j) of K.S.A. 41-102]

"Flavored malt beverage"

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

Paragraph (a) of section 7.11 of 27 CFR Part 7 deals with the use of flavorings in malt beverages.

Paragraph (b) of section 25.15 of 27 CFR Part 25 deals with the use of flavorings in beer. They

are essentially identical. No more than 49 percent of the overall alcohol content of the malt beverage or beer may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. In the case of malt beverage or beer with an alcohol content of more than 6% by volume, no more than 1.5 percent of the volume of the malt beverage or beer may consist of alcohol derived from added flavors and other non-beverage ingredients containing alcohol.

“Hard Cider”

means any alcoholic beverage that:

- (1) Contains less than 8.5% alcohol by volume;
- (2) has a carbonation level that does not exceed 6.4 grams per liter; and
- (3) is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.

[Subsection (o) of K.S.A. 41-102]

"Industry member"

means any distributor, manufacturer or supplier, or any agent, salesperson or representative thereof.

[Subsection (f) of K.A.R. 14-10-5]

"Manufacturer"

means a Kansas 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. "Manufacturer" does not include a microbrewery or a farm winery. [Subsection (q) of K.S.A. 41-102]

"Person"

means any natural person, corporation, partnership, trust or association. [Subsection (w) of K.S.A. 41-102]

“Powdered alcohol”

means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a non-alcoholic liquid. [Subsection (x) of K.S.A. 41-102]

"Retailer"

means a person who sells or offers for sale at retail any alcoholic liquor or CMB, except a microbrewery or farm winery. [Subsection (z) of K.S.A. 41-102]

"Spirits"

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

"Supplier"

means an out-of-state manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson. [Subsection (hh) of K.S.A. 41-102]

"Wine"

means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol

or spirits or containing sugar added for the purpose of correcting natural deficiencies. The term “wine” shall include hard cider and any other product that is commonly known as a subset of wine. [Subsection (jj) of K.S.A. 41-102]

Procedure for Obtaining a Supplier Permit

Every supplier desiring to sell alcoholic liquor or cereal malt beverage to distributors in Kansas must first obtain an annual permit from the Director of ABC, unless the supplier is already licensed in Kansas as a manufacturer or distributor. Supplier permits must be renewed annually and are valid from July 1st through June 30th. Supplier permits applied for at any time during the year are effective from the date approved through June 30th. The cost of the annual permit is \$25. [Subsection (a) of K.S.A. 41-331]

There are no qualifications for issuance of supplier permits listed in the Liquor Control Act or liquor regulations. An application for a supplier permit is made by applying online at www.ksabconline.org or downloading and printing the online forms from our webpage at www.ksrevenue.org/abcsupper.html. Follow the directions for submitting the application to ABC.

The packet includes a Supplier Permit Application and Agreement form (ABC-1000). Each applicant must execute and return the Supplier Permit Application and Agreement form, along with a copy of the applicant’s federal Basic Permit or Brewers Notice. The applicant keeps a copy of the executed Supplier Permit Application and Agreement for their records. Permits are emailed to the supplier upon approval by ABC. Approved supplier permits are posted to the Active Liquor Licensee database on our website at <https://www.kdor.ks.gov/apps/liquorlicensee/>.

Additional Requirements for Non-Residents

All non-resident applicants for a supplier permit under the Kansas Liquor Control Act shall file with the Kansas Secretary of 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 Kansas 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), etc. The Irrevocable Consent to Jurisdiction (ABC-160) is used for this purpose and can be found at this webpage www.ksrevenue.org/pdf/abc160.pdf. The Secretary of State requires a \$35 filing fee for this form and charges \$1 for each additional file-stamped copy. A file-stamped copy must be provided by the permit applicant to ABC. [Subsection (b) of K.S.A. 41-313]

In addition, if the applicant is a corporation, then subsection (b) of K.S.A. 41-313 requires that the President and Secretary of the corporation must sign a Resolution stating that they have authority to sign the Irrevocable Consent to Jurisdiction. This Resolution is included on the Irrevocable Consent to Jurisdiction form (ABC-160). However, ABC will accept signatures of other corporate officers if accompanied by a letter stating (1) why the President and/or Secretary are not available to sign the form, and (2) that the officers who do sign the form have authority to do so on behalf of the corporation. [Ruling made by ABC attorney on July 6, 2005.]

Brand Registration and Label Approval

Every manufacturer and supplier desiring to sell alcoholic liquor or cereal malt beverage to distributors in Kansas must first register each brand of alcoholic liquor or cereal malt beverage with the director prior to making shipments to distributors in Kansas. There is no fee for brand registration. [Subsection (b) of K.S.A. 41-331]

An annual registration fee of \$25 must be paid by the supplier for each label to be sold in Kansas. [Subsection (b) of K.S.A. 41-331] Labels for each size of the same brand may be different, if the label includes the amount of alcoholic liquor in the container. Often, labels for different sizes of the same brand also differ in wording and artwork. Therefore, the label for each size of the same brand must be registered separately and the \$25 fee paid.

If any changes are made to the approved label, the new label must be submitted for approval along with the \$25 label fee. This includes any graphic changes, vintage changes, etc.

K.A.R. 14-6-5 prohibits having any false or misleading representations on the label.

Each label of alcoholic liquor and CMB sold in Kansas must comply with the labeling requirements of the Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau located at 27 CFR Parts 4, 5, and 7.

Additional to the labeling requirements of malt beverages provided in 27 CFR Part 7, the label of any container of CMB must bear a statement that the contents contain no more than 3.2% alcohol by weight, except that any brand of CMB that contains less than 0.5% alcohol by volume may show a statement to that effect. [K.A.R. 14-6-4]

Suppliers must register their brand(s) and label(s) online at <https://www.ksrevenue.org/abcbrandreg.html>. Forms mentioned below can be located at this webpage www.ksrevenue.org/abcforms.html. There is a \$25 fee for each label and the following documents must be submitted:

1. Executed franchise agreement between the manufacturer and the Kansas distributor. For your convenience, you may use the Manufacturer Franchise Agreement for Brand Distribution in Kansas form (ABC-1004).
2. State Map of Kansas illustrating the designated territory (ABC-1005).
3. Approved copy of the federal application for the Certificate of Label Approval - COLA or TTB form (TTBF 5100.31) www.ttb.gov/forms/f510031.pdf.
4. If the name of the importer or manufacturer is not the same as the applicant, then a letter of authority from the brand owner is required.
5. If there has been a change of brand ownership or authority to register the product and the label is not in the applicant's name, then a letter granting the authority to use up labels is required.

The ABC documents referenced above are also available on the Brand Registration and Label Approval page on our website at www.ksrevenue.org/abcbrandreg.html.

Value added packs

Suppliers are authorized to include goods packaged with the alcoholic liquor for sale in retail liquor stores as long as they are approved by the director at least 30 days prior to the intended shipping date. [Subsection (a) of K.A.R. 14-10-11]

Value added packs are registered online. A color photo, not less than 5" by 7", of the complete package must be provided. There is no fee.

Combo packs

Combo packs are registered online. There is no fee.

Franchise Agreements for Specific Products and Geographic Distribution Rights

K.S.A. 41-410 requires that all distributors licensed in Kansas must provide to ABC a signed copy of the franchise agreement between the distributor and their supplier, manufacturer, farm winery, microbrewery or microdistillery.

Termination of an existing franchise agreement does not require ABC approval. However, the supplier, manufacturer, farm winery, microbrewery or microdistillery must give ABC at least 30 days advance notice before the termination becomes effective. Any notice submitted to the ABC by a **supplier** must also be accompanied by an affidavit Form ABC-1007 stating that the termination, modification or alteration is not caused by the failure of the distributor to comply with any provision of the Liquor Control Act or any rules and regulations adopted pursuant thereto. A Kansas manufacturer, farm winery, microbrewery or microdistillery is not required to submit an affidavit.

Upon receipt of the notice of termination and affidavit (required for suppliers only), the director is required to "immediately" send notice by certified mail to all affected parties of the impending termination, modification or alteration of the franchise agreement. [Subsections (c) and (d) of K.S.A. 41-410]

The ABC Marketing Unit will perform the following actions with regard to a termination of a distributor by a supplier, manufacturer, farm winery, microbrewery or microdistillery:

Mail a letter by certified mail to all affected parties notifying them of the pending termination. This would include the distributor being terminated and the proposed new distributor, if any. A copy of the notice of termination and the affidavit (required for suppliers only) from the supplier, manufacturer, farm winery, microbrewery or microdistillery will be enclosed. The letter will state the effective date of the termination, which will be 30 days after ABC received the notice of termination from the supplier, manufacturer, farm winery, microbrewery or microdistillery. A copy of this letter will also be sent to the supplier, manufacturer, farm winery, microbrewery or microdistillery so that they are made aware of the effective date of the termination on ABC's records.

Unless prohibited by court order, on the next business day following the 30 day waiting period ABC will update the Active Brands database on ABC's website to reflect the termination and, if applicable, the transfer of products to the new distributor.

Voluntary relinquishment of a franchise agreement by a distributor will be processed by ABC in the same manner as a termination. [Ruling by the director, Sept. 10, 2012]

Termination of a franchise agreement, other than by mutual agreement of the parties, must be for "reasonable cause." [Subsection (f) of K.S.A. 41-410] In any situation where termination is disputed, the aggrieved party may file an action in state district court to determine whether there is "reasonable cause." [Subsection (e) of K.S.A. 41-410]

The statutes do not address the situation where a manufacturer goes out of business with one or more franchise agreements still running with Kansas distributors. If approval is requested from ABC for a new franchise agreement on a product currently covered by a franchise agreement, and there is an assertion that the manufacturer under the existing franchise agreement has gone out of business, then ABC will require documents or evidence supporting the assertion.

A franchise agreement does not automatically terminate upon close of business by either the manufacturer or the distributor, unless the agreement specifically authorizes such termination.

Pricing Restrictions

Kansas does not regulate the pricing of products sold by suppliers to distributors in Kansas.

Signs, Advertising, Trade Practices and Promotional Activities

For further clarification of trade practices involving product displays, point of sale items and equipment, refer to "Policy Memorandum 2016-1" dated March 30, 2016, on ABC webpage: <https://www.ksrevenue.org/pdf/abcpm2016-1.pdf>.

Outside signs.

Industry members may give, lend or sell basic signs advertising the industry member's products. The value of the signs may not exceed \$400. The industry member cannot make payments or give credits to the licensee for displaying their sign and cannot pay for the installation, removal or operation of the sign. This would prohibit the industry member from supplying the structure to mount the sign on, such as a billboard, marquee with space to post additional information, a semi-trailer truck, etc. [27 CFR ch. 1, Sec. 6.102, as adopted by K.A.R. 14-10-17]

Definition of advertising.

"Advertising" means the medium of radio, television, newspapers, periodicals, circulars, pamphlets, or other publications or any sign or outdoor advertising or any other printed or graphic matter. [K.A.R. 14-8-1] Webster's Dictionary (New Riverside University Edition published in 1984) defines "graphic" as:

- pertaining to written representation
- pertaining to pictorial representation
- pictorial device, as an illustration or chart
- display by a computer or imaging device

Radio and television advertising.

Licensees may purchase live radio or TV commercials to take place at the licensed premises if the licensee pays the entire cost of the commercial. An industry member may be present and hand out promotional items to consumers on the premises during the time the commercial is broadcast but shall not participate in the commercial or pay any of the cost thereof. [Ruling by the director on Aug. 1, 2005] A licensee may arrange for a radio or television station to run a remote broadcast from the licensee's parking lot or anywhere **outside** the licensed premises and the licensee or the radio or television station may give away food or promotional items at that location. Any food or other items may be given free to the public. The food cannot be paid for by an industry member (manufacturer, supplier or distributor).

Industry members selling, giving or lending equipment or supplies.

Industry members are prohibited from giving or lending money, equipment, supplies, services or anything of value to a licensee except as permitted by K.A.R. 14-10-17. The following are allowed:

- Glassware, as long as the price is not less than what the industry member paid for it.
- Tapping and dispensing equipment, as long as the price is not less than what the industry member paid for it.
- Carbon dioxide gas and ice, as long as the price is not less than the local market price.
- Coil cleaning service.

Industry members selling or giving services.

Industry members are prohibited from inducing licensees to purchase product from them by paying or crediting the licensee for any advertising, display or distribution service. The following practices are prohibited:

- Participating in paying for an advertisement placed by the retailer.
- The purchase of advertising on signs, scoreboards, programs, scorecards, and similar items from the retail concessionaire at ballparks, racetracks or stadiums.
- The purchase of advertising in a publication of the retailer which is distributed to consumers or the general public.
- Reimbursements to retailers for setting up product or other displays.
- Rental of display space in the licensed premises.

[Subsection (d) of 27 CFR, ch. 1, Sec. 6.21, as adopted by K.A.R. 14-10-14]

Industry members shall not obtain tickets to a concert or other event and give them away to consumers either directly or through a third party if the concert or other event is being held on a licensee's premises. This is interpreted as furnishing something of value to the licensee (inducing consumers to visit the licensed premises) in violation of subsection (a) of K.S.A. 41-703. [Ruling by the director on Aug. 1, 2005]

Industry members shall not arrange for a radio station to have its mobile unit park at a licensee's location and offer something of value to the public for finding the mobile unit and broadcast clues to find the mobile unit. This is interpreted as furnishing something of value to the licensee (inducing consumers to visit the licensed premises) in violation of subsection (a) of K.S.A. 41-703. [Ruling by the director on Aug. 1, 2005]

However, industry members may furnish, give, rent, loan or sell newspaper cuts, mats or engraved blocks to a licensee for use in their advertising of the industry member's products. [27 CFR, ch. 1, Sec. 6.92, as adopted by K.A.R. 14-10-17]

Industry members may put the name of the retailer on the label or packaging of the products sold to retailers. If the name is added to a label that has previously been registered with ABC, the new label must be separately registered with ABC. [Ruling by the director on Aug. 20, 2007]

Product displays.

Industry members may give or sell product displays to licensees. The selling or giving of the product displays may be conditioned upon the purchase of enough of the liquor products advertised on the display for the initial completion of the display. No other conditions are allowed. [Subpart (c)(3) of 27 CFR, ch. 1, Sec. 6.83, as adopted by K.A.R. 14-10-17]

"Product display" means any wine racks, bins, barrels, casks, shelving, or similar items whose primary function is to hold and display consumer products. [Subpart (b) of 27 CFR, ch. 1, Sec. 6.83, as adopted by K.A.R. 14-10-17] The total value, based on actual cost to the industry member, of all product displays given or sold by an industry member may not exceed \$300 per brand at any one time in any one licensed premises. [Subpart (c)(1) of 27 CFR, ch. 1, Sec. 6.83, as adopted by K.A.R. 14-10-17]

All product displays must bear conspicuous and substantial, permanently affixed, advertising material about the product or the industry member. The product display may also include the name and address of the retailer. [Subpart (c)(2) of 27 CFR, ch. 1, Sec. 6.83, as adopted by K.A.R. 14-10-17]

Point of Sale ("POS") Advertising Materials.

Industry members may provide to licensees items intended to be used within the establishment to attract customers' attention to the products of the industry member. Such advertising materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, menu cards, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, banners, display cards, ceiling danglers, table tents and alcoholic beverage lists or menus dealing with alcoholic beverages. [Subpart (b)(1) of 27 CFR, ch. 1, Sec. 6.84, as adopted by K.A.R. 14-10-17]

All POS must bear conspicuous and substantial, permanently affixed, advertising material about the product or the industry member. The POS may also include the name and address of the retailer. [Subpart (c)(1) of 27 CFR, ch. 1, Sec. 6.84, as adopted by K.A.R. 14-10-17]

Consumer advertising specialties ("CAS") offered by industry members.

Industry members may provide to licensees consumer advertising specialties that are designed to be carried away by the consumer, such as trading stamps, nonalcoholic mixers, pouring racks, ashtrays, bottle or can openers, corkscrews, shopping bags, matches, printed recipes, informational pamphlets, cards and leaflets, post cards, posters, printed sports schedules, pens, pencils, koozies, t-shirts, ball caps and other similar items as approved by the director for distribution to the general public. [Subpart (b)(2) of 27 CFR, ch. 1, Sec. 6.84, as adopted by K.A.R. 14-10-17]

The CAS must bear conspicuous and substantial advertising material about the product or the industry member. The CAS may also include the retailer's name and address. The licensee shall not be paid or credited in any manner, directly or indirectly, for this distribution service. [Subpart (c) of 27 CFR, ch. 1, Sec. 6.84, as adopted by K.A.R. 14-10-17]

Retailer-Generated Consumer Advertising Specialties ("CAS").

A retailer (on or off-premise licensee) may generate and distribute unconditionally and free of charge to the general public CAS intended to be carried away by the consumer. Such items include ash trays, bottle or can openers, cork screws, matches, printed recipes, informational pamphlets, cards and leaflets, post cards, posters, printed sports schedules, pens, pencils, koozies, t-shirts, ball caps and other similar items as approved by the director. Each CAS must bear conspicuous and substantial advertising material relating to the operation of the retail establishment.

There can be no requirement to purchase anything in order to receive the retailer-generated CAS. Industry members are prohibited from providing or paying for retailer-generated CAS.

Table 1: Point of Sale (POS) and Consumer Advertising Specialties (CAS) Quick Reference

Type of Materials	Purpose	For consumers	Advertising about	Costs paid by	Keep Records	Notify ABC of New Items
Industry Member POS	Materials provided by industry member for use within a retailer's premises to attract customer attention to the products	No	Industry member or product May include retailer's information	Industry member or retailer	No	No
Industry Member CAS	Materials provided by industry member designed to be carried away by consumers	Yes	Industry member or product May include retailer's information	Industry member or retailer	No	Yes
*Retailer-generated CAS	Materials generated by retailers that are designed to be carried away by consumers	Yes	Retailer. Can include name, logo, address, phone, website, etc.	Retailer	No	Yes

* Retailer means any on or off-premise establishment and includes retail liquor dealers, clubs, public venues, drinking establishments, and caterers.

Offering coupons, premiums, rebates and refunds to customers by industry members.

Industry members may offer coupons through retailers (on and off-premise licensees) to consumers if all retailers within the market where the offer is made may redeem the coupons. Industry members may not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee. [Subpart (a) of 27 CFR, ch. 1, Sec. 6.96, as adopted by K.A.R. 14-10-17] The director has interpreted this regulation to also permit redemption of such coupons for free or discounted non-alcoholic items at grocery stores.

Industry members may offer contest prizes, premiums, refunds and like items directly to consumers. A premium may or may not be conditioned upon the purchase of an alcoholic beverage. The retailer shall not accept any reimbursement, payment or credit for providing this service to the industry member. Officers, employees and representatives of distributors and retailers shall be excluded from participation. [Subpart (b) of 27 CFR, ch. 1, Sec. 6.96, as adopted by K.A.R. 14-10-17]

"Premium" is not defined in the statutes or regulations but is defined by Webster's Dictionary as "something offered free or at a reduced price as an inducement to buy." and by Black's Law Dictionary as "a reward for an act done."

Industry member support of events sponsored by licensees.

Industry members may not support these events through the donation of money, advertising, consumer advertising specialties or product. [Subsection (a) of K.S.A. 41-702 and subsection (a) of K.A.R. 14-14-11] Subsection (e) of K.S.A. 41-703 authorizes the Secretary of Revenue to adopt rules and regulations authorizing exceptions to the general prohibition in K.S.A. 41-702. K.A.R. 14-10-1 et seq. dictates exceptions to the prohibition on industry members giving anything of value to retailers and it does not provide for any assistance with licensee sponsored events, whether they be fundraising or otherwise.

Industry members may participate in these events but any fees paid by such industry members shall be the same as paid by any other participant.

Industry member support of fundraising events sponsored by charitable organizations with sponsorship in whole or in part by a liquor licensee.

Industry members may support these events through the donation of money and consumer advertising specialties directly to the charity, but not to the event sponsor or any other party. They may not donate product. Industry members may participate in these events, however any contributions made or fees paid by such industry members shall be the same as that contributed or paid by any other participant.

Industry member support of fundraising events sponsored by Charities, Not-for-profit Organizations with **no** Retailer Involvement.

Industry members may support these events through the donation of money and consumer advertising specialties directly to the charity. They may not donate product. Industry members may participate in these events, however any contributions made or fees paid by such industry members shall be the same as that contributed or paid by any other participant.

Industry member support to Liquor Association Sponsored Events.

Industry members may participate in these events to a limited extent. Industry members may: display products at a convention or trade show; rent display space at the same rental rate paid by all other exhibitors; provide hospitality independent from that provided by the retail association; purchase tickets to functions and pay registration fees at the same price paid by all other attendees, participants, or exhibitors; and pay for advertising in programs or brochures if the total payments made by an industry member for all such advertisements does not exceed \$300 per year for any retail association. [27 CFR, ch. 1, Sec. 6.100, as adopted by K.A.R. 14-10-17]

Table 2: Industry member support to fundraising and other events

Type of Support	Retailer Sponsored Event	Charity sponsored events with retailer involvement	Charity sponsored events with NO retailer involvement	Liquor association sponsored events
Monetary Donations	No	Conditional (2)	Yes	No
Product Donations	No	No	No	Conditional (3)
CAS Donations	No	Conditional (2)	Yes	Yes
Participation Fees	Conditional (1)	Conditional (1)	Yes	Conditional (1)

Conditions

- (1) Participation fees not in excess to those paid by all other participants.
- (2) May only be provided to the charity. Donations may not go through retailer or any other party.
- (3) May be provided as hospitality or at industry seminars.

Temporary Permits to Import Alcoholic Liquor or Cereal Malt Beverage

K.S.A. 41-332 provides for the ABC Director to issue temporary permits to suppliers to import into Kansas to a licensed distributor either alcoholic liquor or CMB for which such distributor does not have a franchise to sell. Typically this alcoholic liquor or CMB is used for sampling by the distributor for deciding whether to distribute the product. The permit shall specify the brand and quantity to be imported. Such alcoholic liquor or CMB cannot be resold by the distributor and is not subject to gallonage tax.

Suppliers apply for the temporary permit by sending a letter addressed to the director which includes the following information:

- name of distributor
- description and quantity of alcoholic liquor or CMB
- date and means of delivery to the distributor

The Director will review the request. If approved, ABC will notify the supplier in writing of the approval. The notification will serve as the permit. The supplier may deliver the alcoholic liquor through its own salesperson or other employee or by common carrier.

Gallonage Tax Paid on Products Imported into Kansas

Kansas distributors must pay the gallonage tax on all alcoholic liquor and cereal malt beverages received from suppliers. [Subsection (a) and (b) of K.S.A. 41-501]

Gallonage tax is not imposed upon:

- Wines manufactured solely and exclusively for sacramental purposes (religious ceremonies conducted by authorized representatives of churches or other religious groups). [Subsection (d) of K.S.A. 41-501]
- Alcohol or wine manufactured and sold to a non-beverage user licensed as such in Kansas. [Subsection (e)(1) of K.S.A. 41-501]

Reporting

Each Supplier is required to file a monthly report of shipments to Kansas Distributors by filing the Kansas Suppliers Monthly Report of Shipments to Kansas Distributors form (ABC-1003). The report is due on or before the 15th day of the following month. [K.S.A. 41-601]

Record Keeping

Records of all equipment, supplies, samples, retailer advertising specialty items and product display items furnished to retailers, clubs, drinking establishment, public venues or caterers must be kept on the supplier's premises for a period of three years. Each record shall contain the following information:

- ◆ name and address of the retailer, club, drinking establishment or caterer receiving the item
- ◆ date furnished
- ◆ description of the item furnished
- ◆ cost of the item furnished to the industry member
- ◆ any charges to the retailer, club, drinking establishment and caterer

[27 CFR Part 6, Subpart D, Sec. 6.81(b), as adopted by reference in K.A.R. 14-10-17]

Each supplier shall maintain records of all alcoholic liquor or wine sold to a non-beverage user. The records shall show the quantities of alcoholic liquor and wine sold to any non-beverage user, the name, address, and license number of the non-beverage user and any other information the director may require. [Subsection (b) of K.A.R. 14-14-10]

- For a period of 90 days after the sale, the records must be kept on the licensed premises. The records may be in electronic or paper format. If electronic, the records must be available to print upon request by the director or any agent or employee of the director. [Ruling by the director on July 16, 2012]
- After 90 days, the records may be stored off the licensed premises but shall be provided within a reasonable time upon request. [Ruling by the director on July 16, 2012]

These records are subject to inspection by the director or any agent or employee of the director. [Subsection (e) of K.A.R. 14-14-8]

Authorized Activities

Suppliers may only distribute:

- Their alcoholic liquor and cereal malt beverage intended for human consumption in Kansas through a distributor licensed in Kansas.
- Wines manufactured solely and exclusively for sacramental purposes (religious ceremonies) to bonafide churches and religious organizations. [K.A.R. 14-17-2]
- Alcohol and wine to a non-beverage user licensed in Kansas. [Subsection (e)(1) of K.S.A. 41-501]

Participation in a tasting event at a retail liquor store.

Suppliers may participate in a tasting event at a retailer's licensed premises or at adjacent premises monitored and regulated by the division of ABC. A supplier or its agent may pour samples, provide information about the product(s) being sampled and provide cups and napkins for the sampling event. If the event is located at premises adjacent to a retail liquor store, the supplier may also provide food and non-alcoholic mixers for the tasting event. Any liquor sampled during the event must be purchased by the supplier from the retailer. [K.A.R. 14-13-17]

Serving alcoholic liquor or CMB at certain fundraising activities.

A supplier may serve complimentary alcoholic liquor or CMB at fundraising activities of:

- Charitable organizations which engage in the activity of soliciting funds or donations for any fraternal, benevolent, social, educational, alumni, historical, humane, public health or other charitable purpose, and have been granted exemption from payment of federal income taxes by the Internal Revenue Service; or
- Candidate, party or political committees formed pursuant to Kansas campaign finance laws, K.S.A. 25-4142 et seq.

The alcoholic liquor or CMB may not be donated by the supplier. The supplier may only serve alcoholic liquor or CMB which has been purchased by the sponsor of the fundraising activity as permitted by law. [Subsection (h) of K.S.A. 41-104]

Prohibited Activities

Sales in federal areas.

Suppliers shall not directly sell any alcoholic liquor in a federal area. The penalty for violation is revocation of the manufacturer's license or supplier's permit. [Subsection (a) of K.S.A. 41-329] A "federal area" means any lands or premises which are located within the exterior boundaries of Kansas 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. [Subsection (a)(1) of K.S.A. 41-501]

Interest in licensed distributor.

Suppliers shall not directly or indirectly own or have any interest in a distributor licensed in Kansas. [K.S.A. 41-704]

Providing services or equipment to licensees.

No Supplier shall offer, give or furnish, directly or indirectly, any gifts, prizes, coupons, premiums, rebates, quantity discounts, entertainment, decorations, or the services of any employee, including errands and administrative services, or any other inducement or thing of value of any kind to a licensed retailer, club, drinking establishment or caterer or to an applicant for a retailer, club, drinking establishment or caterer license except as provided in Article 10 of the Kansas Administrative regulations. [Subsection (a) of K.A.R. 14-14-11]

Offering rebates.

No supplier shall offer, furnish or give, directly or indirectly, any rebates to any distributor, distributor's spouse, agent, salesperson or representative. [Subsection (b) of K.A.R. 14-14-11]

Require additional purchases.

A supplier shall not, as a condition for the sale or delivery of alcoholic liquor or cereal malt beverage to any distributor, require distributor to purchase alcoholic liquor or cereal malt beverage of another form, quantity or brand in addition to, or partially in lieu of, that which was specifically ordered or desired. A supplier shall not sell or deliver alcoholic liquor or cereal malt beverage to a distributor under any arrangement, agreement or understanding, direct or implied, that the sale or delivery will be made only if the distributor also buys or accepts delivery of a quantity of alcoholic liquor or cereal malt beverage of another form or brand. [Subsection (c) of K.A.R. 14-14-11]

Giving free product.

A supplier may not give away or donate product to any person or organization for any reason. [K.S.A. 41-406, 41-406a and 41-407, read in conjunction with K.S.A. 41-104]

A supplier wishing to participate in a charitable event may donate money, which the charitable organization may use as it sees fit, which may include the purchase from a retail liquor store of the products distributed by that supplier.

Administrative Actions for Violations of Statutes and Regulations

The director may, in accordance with the Kansas Administrative Procedures Act, suspend or revoke a supplier's permit for violation of any provision of the Liquor Control Act or the CMB Act or any regulations adopted thereunder. [Subsection (c) of K.S.A. 41-331]