

SENATE BILL No. 7

Proposed Amendments for SB 7
March 20, 2013
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Office of the Revisor of Statutes

By Joint Committee on Administrative Rules and Regulations

1 AN ACT concerning alcoholic beverages; relating to preparation of
2 samples for tasting; relating to penalties; amending K.S.A. 41-713 and
3 K.S.A. 2012 Supp. 41-308d, 41-354 and 41-2655 and repealing the
4 existing sections.
5

relating to consumption of alcoholic

, 41-719

6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Notwithstanding the provisions of either the
8 Kansas administrative procedure act, and amendments thereto, or any rule
9 and regulation adopted pursuant to the Kansas liquor control act, and
10 amendments thereto, governing the issuance of any written administrative
11 notice or order concerning the imposition of any proposed civil fine or
12 other penalty to be imposed for a violation of any of the provisions of the
13 Kansas liquor control act, K.S.A. 41-101 et seq., and amendments thereto,
14 such notice or order shall be issued no later than 90 days after the date a
15 citation for such violation was issued.

16 (b) This section shall be part of and supplemental to the provisions of
17 the Kansas liquor control act, K.S.A. 41-101 et seq., and amendments
18 thereto.

19 New Sec. 2. (a) Notwithstanding the provisions of either the Kansas
20 administrative procedure act, and amendments thereto, or any rule and
21 regulation adopted pursuant to the club and drinking establishment act, and
22 amendments thereto, governing the issuance of any written administrative
23 notice or order concerning the imposition of any proposed civil fine or
24 other penalty to be imposed for a violation of any of the provisions of the
25 club and drinking establishment act, K.S.A. 41-2601 et seq., and
26 amendments thereto, such notice or order shall be issued no later than 90
27 days after the date a citation for such violation was issued.

28 (b) This section shall be part of and supplemental to the provisions of
29 the Kansas club and drinking establishment act, K.S.A. 41-2601 et seq.,
30 and amendments thereto.

31 Sec. 3. K.S.A. 2012 Supp. 41-308d is hereby amended to read as
32 follows: 41-308d. (a) Notwithstanding any other provisions of the Kansas
33 liquor control act to the contrary, any person or entity who is licensed to
34 sell alcoholic liquor in the original package at retail may conduct wine,
35 beer and distilled spirit tastings on the licensed premises, or adjacent
36 premises, monitored and regulated by the division of alcoholic beverage

1 control, as follows:

2 (1) Wine, beer and spirits for the tastings shall come from the
3 inventory of the licensee. Except as provided by paragraph (2), a person
4 other than the licensee or the licensee's agent or employee may not
5 dispense or participate in the dispensing of alcoholic beverages under this
6 section.

7 (2) The holder of a supplier's permit or such permit holder's agent or
8 employee may participate in and conduct product tastings of alcoholic
9 beverages at a retail licensee's premises, or adjacent premises, monitored
10 and regulated by the division of alcoholic beverage control, and may open,
11 touch, or pour alcoholic beverages, make a presentation, or answer
12 questions at the tasting. Any alcoholic beverage tasted under this
13 subsection must be purchased from the retailer on whose premises the
14 tasting is held. The retailer may not require the purchase of more alcoholic
15 beverages than are necessary for the tasting. This section does not
16 authorize the supplier or its agent to withdraw or purchase an alcoholic
17 beverage from the holder of a distributor's permit or provide an alcoholic
18 beverage for tasting on a retailer's premises that is not purchased from the
19 retailer.

20 (3) No charge of any sort may be made for a sample serving.

21 (4) A person may be served more than one sample. Samples may not
22 be served to a minor. No samples may be removed from the licensed
23 premises.

24 (5) The act of providing samples to consumers shall be exempt from
25 the requirement of holding a Kansas food service dealer license from the
26 department of agriculture under the provisions of chapter 65 of the Kansas
27 Statutes Annotated, and amendments thereto.

28 (b) Nothing in this section shall be construed to permit the licensee to
29 sell wine, malt beverages or distilled spirits for on-premises consumption.

30 (c) The provisions of this section shall take effect and be in force
31 from and after July 1, 2012.

32 (d) *All rules and regulations adopted on and after July 1, 2012, and*
33 *prior to July 1, 2013, to implement this section shall continue to be*
34 *effective and shall be deemed to be duly adopted rules and regulations of*
35 *the secretary until revised, amended, revoked or nullified pursuant to law.*

36 (e) *This section shall be a part of and supplemental to the Kansas*
37 *liquor control act.*

38 Sec. 4. K.S.A. 41-713 is hereby amended to read as follows: 41-713.

39 (a) It shall be unlawful for a retailer of alcoholic liquor:

40 (1) To permit any person to mix drinks in or on the licensed premises,
41 except as provided in subsection (b);

42 (2) to employ any person under the age of ~~twenty-one~~ (21) 21 years
43 in connection with the operation of such retail establishment; or

1 (3) to employ any person in connection with the operation of such
2 retail establishment who has been adjudged guilty of a felony.

3 (b) *The provisions of subsection (a)(1) shall not apply to the*
4 *preparation or mixing of samples for the purposes of conducting wine,*
5 *beer, or distilled spirit tastings, or any combination thereof, as authorized*
6 *by K.S.A. 2012 Supp. 41-308d, and amendments thereto.*

7 Sec. 5. K.S.A. 2012 Supp. 41-354 is hereby amended to read as
8 follows: 41-354. (a) A microdistillery license shall allow:

9 (1) The manufacture of not more than 50,000 gallons of spirits per
10 year and the storage thereof;

11 (2) the sale to spirit distributors of spirits, manufactured by the
12 licensee;

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

16 (4) the serving free of charge on the licensed premises and at special
17 events, monitored and regulated by the division of alcoholic beverage
18 control, of samples of spirits manufactured by the licensee, if the premises
19 are located in a county where the sale of alcoholic liquor is permitted by
20 law in licensed drinking establishments;

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

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

28 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
29 310, and amendments thereto, by a microdistillery licensee, the director
30 may issue not to exceed one microdistillery packaging and warehousing
31 facility license to the microdistillery licensee. A microdistillery packaging
32 and warehousing facility license shall allow:

33 (1) The transfer, from the licensed premises of the microdistillery to
34 the licensed premises of the microdistillery packaging and warehousing
35 facility, of spirits manufactured by the licensee, for the purpose of
36 packaging or storage, or both;

37 (2) the transfer, from the licensed premises of the microdistillery
38 packaging and warehousing facility to the licensed premises of the
39 microdistillery, of spirits manufactured by the licensee; or

40 (3) the removal from the licensed premises of the microdistillery
41 packaging and warehousing facility of spirits manufactured by the licensee
42 for the purpose of delivery to a licensed spirits wholesaler.

43 (c) A microdistillery may sell spirits in the original unopened

1 container to consumers for consumption off the licensed premises at any
2 time between 6 a.m. and 12 midnight on any day except Sunday and
3 between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a
4 microdistillery may serve samples of spirits and serve and sell spirits and
5 other alcoholic liquor for consumption on the licensed premises at any
6 time when a club or drinking establishment is authorized to serve and sell
7 alcoholic liquor.

8 (d) The director may issue to the Kansas state fair or any bona fide
9 group of distillers a permit to import into this state small quantities of
10 spirits. Such spirits shall be used only for bona fide educational and
11 scientific tasting programs and shall not be resold. Such spirits shall not be
12 subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The
13 permit shall identify specifically the brand and type of spirit to be
14 imported, the quantity to be imported, the tasting programs for which the
15 spirit is to be used and the times and locations of such programs. The
16 secretary shall adopt rules and regulations governing the importation of
17 spirits pursuant to this subsection and the conduct of tasting programs for
18 which such spirits are imported.

19 (e) A microdistillery license or microdistillery packaging and
20 warehousing facility license shall apply only to the premises described in
21 the application and in the license issued and only one location shall be
22 described in the license.

23 (f) No microdistillery shall:

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

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

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

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

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

38 (h) The provisions of this section shall take effect and be in force
39 from and after July 1, 2012.

40 (i) *All rules and regulations adopted on and after July 1, 2012, and*
41 *prior to July 1, 2013, to implement this section shall continue to be*
42 *effective and shall be deemed to be duly adopted rules and regulations of*
43 *the secretary until revised, amended, revoked or nullified pursuant to law.*

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

3 Sec. 6. K.S.A. 2012 Supp. 41-2655 is hereby amended to read as
4 follows: 41-2655. (a) A license for a public venue shall allow the licensee
5 to:

6 (1) Offer for sale, sell and serve alcoholic liquor by the individual
7 drink for consumption on the licensed premises;

8 (2) Offer for sale, sell and serve unlimited drinks for a fixed price in
9 designated areas of the licensed premises;

10 (3) Offer for sale and sell all inclusive packages which include
11 unlimited drinks in designated areas of the licensed premises;

12 (4) Offer for sale, sell and serve alcoholic liquor in the original
13 container for consumption on the licensed premises in private suites,
14 which are enclosed or semi-enclosed seating areas, having controlled
15 access and separated from the general admission areas by a permanent
16 barrier;

17 (5) store, in each private suite, which are enclosed or semi-enclosed
18 seating areas, having controlled access and separated from the general
19 admission areas by a permanent barrier, alcoholic liquor sold in the
20 original container to a customer in that private suite; and

21 (6) with the approval of the retailer or distributor, return for a full
22 refund of the original purchase price unopened containers of alcoholic
23 liquor to the retailer or distributor from whom such items were purchased
24 upon the conclusion of an event if the next scheduled event for that
25 premises is more than 90 days from the date of the concluded event.

26 (b) An applicant or public venue licensee shall specify in the
27 application for a license, or renewal of a license, the premises to be
28 licensed. No public venue licensee may offer for sale, sell or serve any
29 alcoholic liquor in any area not included in the licensed premises.

30 (c) The term "designated areas" for purposes of this section shall
31 mean an area identified in the license application, which may include
32 suites, that has controlled access and is separated from the general
33 admission by a barrier.

34 (d) The provisions of this section shall take effect and be in force
35 from and after July 1, 2012.

36 (e) All rules and regulations adopted on and after July 1, 2012, and
37 prior to July 1, 2013, to implement this section shall continue to be
38 effective and shall be deemed to be duly adopted rules and regulations of
39 the secretary until revised, amended, revoked or nullified pursuant to law.

40 (f) This section shall be a part of and supplemental to the club and
41 drinking establishment act.

42 Sec. 7. K.S.A. 41-713 and K.S.A. 2012 Supp. 41-308d, 41-354 and
43 41-2655 are hereby repealed.

See Attached Insert

41-719

8.

1 Sec. ~~8~~ This act shall take effect and be in force from and after its
2 publication in the statute book. 9.

Sec. 7. K.S.A. 2012 Supp. 41-719 is hereby amended to read as follows: 41-719. (a) (1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, 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.

(2) Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A. 41-2645, and amendments thereto, for such special event. Such special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event.

(3) No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(4) No person shall possess or consume alcoholic liquor inside the premises licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.

(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 manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or K.S.A. 2012 Supp. 41-354, 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 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 or armory, 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 the premises of any land or waters owned or managed by the department of wildlife, parks and tourism, except as otherwise prohibited by rules and regulations of the department adopted by the secretary pursuant to K.S.A. 32-805, and amendments thereto.
- (12) On the premises of the state capitol building or on its surrounding premises during an official state function that has been approved by the legislative coordinating council.
- (13) 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.

(j) For the purposes of this section, "special event" means a picnic, bazaar, festival or other similar community gathering, which has been approved by the local governing body of any city, county or township.