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### **Federal and State Affairs**

#### **E-3 Liquor Laws**

Kansas laws concerning intoxicating liquor are included in the Liquor Control Act, the Cereal Malt Beverage Act, the Club and Drinking Establishment Act, the Nonalcoholic Malt Beverages Act, the Flavored Malt Beverages Act, the Beer and Cereal Malt Beverages Keg Registration Act, farm winery statutes, microbrewery statutes, and microdistillery statutes.

#### **State and Local Regulatory Authority**

The Division of Alcoholic Beverage Control (ABC) and the Director of ABC within the Kansas Department of Revenue (KDOR) have the primary responsibility for overseeing and enforcing Kansas intoxicating liquor laws. As part of its regulatory authority under the different liquor acts, ABC issues 17 different licenses and 5 different permits for the manufacture, distribution, and sale of alcoholic liquor.

County and city governments also have considerable regulatory authority over the sale of intoxicating and alcoholic liquors and cereal malt beverages in the State of Kansas. Article 15 §10 of the *Kansas Constitution* allows the Legislature to regulate intoxicating liquor. Cities and counties have the option to remain “dry” and exempt themselves from liquor laws passed by the State, or local units of government can submit a referendum to voters proposing the legalization of liquor in the local jurisdiction. If such a referendum is passed by a majority of the locality’s voters, alcoholic liquor becomes legal in the city or county and will be subject to state, county, and city laws, ordinances, and regulations.

#### **Liquor Control Act**

The Liquor Control Act grants the State its regulatory power to control the manufacture, distribution, sale, possession, and transportation of alcoholic liquor and the manufacturing of beer. Cities and counties are able to regulate certain aspects, such as the time and days for the sale of alcoholic liquor, but local governments cannot adopt laws that conflict with the provisions of the Liquor Control Act.

Farm wineries, farm winery outlets, microbreweries, microbrewery packaging and warehousing facilities, and microdistilleries also are regulated by the Liquor Control Act.

### **Cereal Malt Beverage Act**

Local governments have additional authority under the Cereal Malt Beverage (CMB) Act. According to law, applications for CMB licenses are made either to the city or county government, depending on where the business is located.

As long as any local regulations and ordinances adopted are consistent with the CMB Act, the board of county commissioners or the governing body of a city may set hours and days of operation, closing time, standards of conduct, and adopt rules and regulations concerning the moral, sanitary, and health conditions of licensed premises. If the local government does not set hours and days of operation, the default hours and days provided in the CMB Act govern the sale of CMBs. Counties and cities also may establish zoning requirements that regulate establishments selling CMBs and that may limit them to certain locations.

The CMB Act also allows local governments some discretion in revoking licenses and requires such action by local governments in specific situations.

### **Club and Drinking Establishment Act**

In Kansas, the sale of alcoholic liquor by the drink is controlled by the Club and Drinking Establishment Act.

The board of county commissioners may submit a proposition to voters to (1) prohibit the sale of individual alcoholic drinks in the county, (2) permit the sale of individual alcoholic drinks only if an establishment receives 30.0 percent of its gross receipts from food sales, or (3) permit the sale of individual alcoholic drinks only if an establishment receives some portion of gross receipts from food sales. If a majority of voters in the county vote in favor of the proposition, the Director of ABC must

respect the local results when issuing or denying licenses in that county.

Additionally, the county commissioners are required to submit a proposition to the voters upon receiving a petition if the petition is signed by at least 10.0 percent of voters who voted in the election for the Secretary of State the last time that office was on the ballot in a general election. The petition must contain the language required in KSA 41-2646(3)(b), and the petition must be filed with the county election officer.

### **Nonalcoholic Malt Beverages Act**

Retail sales of nonalcoholic malt beverages are controlled by the Liquor Control Act, the Club and Drinking Establishment Act, or the CMB Act, depending on which act the retailer is licensed under for selling or providing the nonalcoholic malt beverage.

### **Flavored Malt Beverage Act**

Kansas adopted the federal definitions of flavored malt beverages (FMB). However, the federal government does not offer FMB licenses or impose penalties in Kansas. The ABC is responsible for FMB regulation and penalties associated with FMBs in the state. Because FMBs are CMBs, they are regulated under the CMB Act.

### **Beer and Cereal Malt Beverage Keg Registration Act**

Retailers selling kegs are regulated under the Liquor Control Act or the CMB Act, depending on the type of alcoholic beverage(s) the retailer is selling.

Although local governments have delegated authority under the CMB Act, city and county ordinances that conflict with the Beer and Cereal Malt Beverage Keg Registration Act are void.

## Liquor Taxes

Currently, Kansas imposes three levels of liquor taxes. For more information, see [article L-3 Liquor Taxes](#).

### 2019 Changes to Liquor Laws—SB 70, HB 2035

#### SB 70

**Temporary permit holders.** The bill allows a temporary permit holder to serve alcohol for consumption on licensed or unlicensed premises, or on premises subject to a separate temporary permit.

**Common consumption areas.** The bill allows a drinking establishment licensee, public venue, hotel, hotel caterer, or drinking establishment caterer to extend its licensed premises into a city, county, or township street, alley, road, sidewalk, or highway under certain circumstances.

**Delivery of liquor.** The bill requires every express company or other common carrier that delivers alcohol from outside the state to consumers within the state to prepare a monthly report of shipments.

**Sale of farm wine by producer licensees.** The bill allows producers of certain fermentative products to sell wine made at a farm winery with certain minimum Kansas content requirements.

#### HB 2035

The bill, among other things, makes notice and procedural requirements for violations of the CMB Act the same as for violations of the Liquor Control Act and the Club and Drinking Establishment Act and places violations of the CMB Act under the authority of the ABC. The bill makes the enforcement authority for violations involving beer up to 6.0 percent alcohol by volume uniform across state liquor laws. The bill also clarifies all retail sales of liquor, CMB, and nonalcoholic malt beverage are subject to the liquor enforcement tax described in KSA 2018 Supp. 79-4101.

## 2018 Changes to Liquor Laws—HB 2362

**Microbreweries production and packaging.** The bill allows microbreweries in Kansas to contract with other microbreweries for production and packaging of beer and hard cider. The contracting Kansas microbrewery will be held to all applicable state and federal laws concerning manufacturing, packaging, and labeling and will be responsible for payment of all state and federal taxes on the beer or hard cider. Production of beer or hard cider will count toward production limits in current law for both the microbreweries involved in such a contract. The bill allows the beer or hard cider to be transferred to the microbrewery on whose behalf the beer or hard cider was produced, after production and packaging.

**Sale of alcoholic candy.** The bill defines “alcoholic candy” and includes the term in the existing definition of “alcoholic liquor.” Alcoholic candy is subject to regulation by the ABC and a retailer is required to have a liquor license to sell such products.

**Sale of domestic beer in refillable containers.** The bill allows a microbrewery licensee to sell beer manufactured by the licensee in refillable and sealable containers to consumers for off-premises consumption. Such containers may not contain less than 32 fluid ounces or more than 64 fluid ounces of beer. Licensees are required to affix labels to all containers sold, which includes the licensee’s name and the name and type of beer in the container.

**Hours of sale and service for alcohol.** The bill increases the length of time that certain businesses may serve or sell alcohol:

- Establishments licensed to serve alcohol may begin serving alcohol at 6:00 a.m.; and
- Farm wineries, microbreweries, and microdistilleries are allowed to sell their respective alcoholic products in their original containers between 6:00 a.m. and 12:00 a.m. on any day.

**Self-service beer from automated devices.** The bill allows licensed public venues, clubs, and

drinking establishments to provide self-service beer to customers from automated devices in the same manner as is permitted for wine under continuing law, so long as the licensee monitors the dispensing of beer and can control such dispensing. The bill requires any licensee offering self-service beer or wine from any automated device to provide constant video monitoring of the automated devices at all times the licensee is open to the public and maintain the footage for at least 60 days. The bill also sets out requirements for prepaid access cards that contain a fixed monetary amount that can be directly exchanged for beer or wine from an automated device.

### **2017 Changes to Liquor Laws—House Sub. for SB 13, Sub. for HB 2277**

#### ***House Sub. for SB 13***

**Expanded sale of strong beer.** The bill allows convenience, grocery, and drug stores licensed to sell CMBs, defined as any fermented but undistilled beverage with an alcohol weight of 3.2 percent or less, to sell beer containing not more than 6.0 percent alcohol by volume on and after April 1, 2019. Also effective April 1, 2019, any person with a retailer's license to sell alcoholic liquor (beer, wine, and distilled spirits) may sell CMB. Liquor retailers may sell other goods or services, provided the amount of nonalcoholic sales—excluding the sales of lottery tickets, cigarettes, and other tobacco products—does not exceed 20.0 percent of the retailer's total gross sales. Liquor retailers may continue to provide product for resale by bars, restaurants, clubs, and caterers. Distributors may establish minimum quantities and dollar amounts for orders of CMB and alcoholic liquor. Ten years after the bill's effective date, the Director of ABC must conduct a market impact study on the sale of beer by persons holding CMB licenses, which must be reported in the 2029 Legislative Session.

#### ***Sub. for HB 2277***

**Common consumption areas.** The bill allows a city or county to establish one or more common consumption areas by ordinance or resolution

and designate the boundaries of these areas. Common consumption area permits can be issued to cities, counties, Kansas residents, or organizations with a principal place of business in Kansas and approved by the respective city or county. Common consumption area permit holders are liable for liquor violations occurring within the common consumption area the permit identifies. Licensees are liable for violations on their individual premises.

**Class B clubs.** The bill also removes from current law a ten-day waiting period for an applicant to become a member of a class B club.

### **2016 Changes to Liquor Laws—SB 326**

**Microbrewery production limits.** The legislation increased the allowable amount of beer manufactured with a microbrewery license to 60,000 barrels of domestic beer in a calendar year for each microbrewery license issued in the state. If a licensee has a 10.0 percent or greater ownership interest in one or more entities that also hold a microbrewery license, the aggregate amount of beer manufactured by all licenses under such common ownership cannot exceed 60,000 barrels.

The legislation allowed microbrewery licensees also licensed as a club or drinking establishment to sell and transfer domestic beer to that club or drinking establishment. Microbrewery licensees also are able to remove hard cider produced by the licensee from the licensed premises for delivery to licensed wine distributors.

**Hard cider.** The legislation allowed a microbrewery to manufacture and distribute not more than 100,000 gallons of hard cider, as defined by the bill. Under prior law, microbreweries could manufacture only beer.

**Residency requirements.** The legislation amends the Liquor Control Act to remove the one-year residency requirement for microbrewery, microdistillery, and farm winery licensees. Microbrewery, microdistillery, and farm winery licensees still are required to be Kansas residents.

## 2015 Changes to Liquor Laws—HB 2223

**Infusion.** The legislation allowed drinking establishments to sell and serve alcoholic liquor infused with spices, herbs, fruits, vegetables, candy, or other substances intended for human consumption if no additional fermentation occurs during the process.

**Citations.** In addition to making changes to the required contents of citations, the legislation specified when issuing a citation for a violation of the liquor laws, agents of the ABC must deliver the citation issued to a person in charge of the licensed premises at the time of the alleged violation.

Previously, the law required delivery of the citation to the person allegedly committing the violation.

**Powdered alcohol.** The legislation banned clubs, drinking establishments, caterers, holders of temporary permits, and public venues from selling, offering to sell, or serving free of charge any form of powdered alcohol.

**Automated wine devices.** The legislation allowed public venues, clubs, and drinking establishments to offer customer self-service of wine from automated devices on licensed premises. Licensees are required to monitor and have the ability to control the dispensing of wine from the automated devices.

**Eligibility for licensure.** The legislation added to the list of persons who cannot receive liquor licenses any person who, after a hearing before the Director of ABC, is found to have held an undisclosed beneficial interest in a liquor license obtained through fraud or a false statement on the application for the license. The legislation also established requirements for limited liability companies applying for a liquor license.

**Alcohol consumption on Capitol premises.** The legislation allowed consumption of alcoholic liquor on the premises of the Capitol for official state functions that are nonpartisan in nature. Any such function must be approved by the Legislative Coordinating Council before the consumption of alcoholic liquor may begin.

**Alcohol consumption on unlicensed premises.** The legislation provided that patrons and guests of unlicensed businesses will be allowed to consume alcoholic liquor and CMB on the premises of unlicensed business property if the following conditions are met:

- The business, or any owner of the business, has not had a license issued under the Kansas Liquor Control Act or the Club and Drinking Establishment Act revoked for any reason;
- No charge is made by the business for the privilege of possession or consumption of alcohol on the premises or for mere entry onto the premises; and
- Any alcoholic liquor remains in the personal possession of the patron; it is not sold, offered for sale, or given away by the owner or employees of such business; and no possession or consumption takes place between 12 a.m. and 9 a.m.

**Alcohol consumption for catered events.** The legislation allowed the consumption of alcoholic liquor at catered events held on public property where the caterer has provided 48-hour notice to the ABC.

**Notification requirements.** The legislation changed the required notification caterers must give to the ABC by requiring electronic notice 48 hours before an event. Previously, the law required a caterer to provide notice to the ABC ten days before any event and provide notice to the Chief of Police or Sheriff where the event was to occur.

**Distributor sampling.** The legislation allowed alcoholic beverage distributors to provide samples of spirits, wine, and beer or CMBs to alcoholic beverage retailers and their employees and other alcoholic beverage distributors and their employees in the course of business or at industry seminars.

**Vineyard permits.** The legislation allowed any person engaged in business as a Kansas vineyard with more than 100 vines to apply for an annual

permit. The permit authorizes the following on the premises specified in the permit:

- The sale of wine in the original, unopened container;
- The serving of wine by the drink; and
- Conducting wine tastings in accordance with current law.

**Location of certain licensees.** The legislation allowed cities to pass ordinances allowing liquor retailers, microbreweries, microdistilleries, and farm wineries to locate within 200 feet of any public or parochial school, college, or church in a core commercial district.

**Temporary permits—State Fair.** The legislation allowed the Director of ABC, on or after July 1, 2016, to issue a sufficient number of temporary permits for the sale of wine in unopened containers and the sale of beer, wine, or both by the glass on the State Fairgrounds. The number of permits issued must be consistent with the requirements of the State Fair Board.

**Farmers' market permits.** The legislation allowed farm wineries to sell wine at farmers' markets. Applications for these permits must include the location(s) of the farmers' markets at which wine will be sold.

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