

Proposed

Alcoholic Beverage Control
915 SW Harrison St.
Topeka, KS 66612



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www.ksrevenue.org

Nick Jordan, Secretary
Dean Reynoldson, Director

Sam Brownback, Governor

State of Kansas
Department of Revenue, Alcoholic Beverage Control Division
Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted by the Department of Revenue, Alcoholic Beverage Control Division at 9:00 a.m. on Tuesday, September 15, 2015, in Room 230, Secretary's Conference Room on the second floor of the Docking State Office Building, 915 SW Harrison, Topeka to consider adoption of proposed regulations relating to the use of automated devices for the self-service of wine. Copies of these proposed regulations may be found at www.ksrevenue.org.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments from the public on the proposed regulations. All interested parties may submit written public comments on the proposed regulations prior to the hearing to Doug Taylor, Assistant Attorney General, Alcoholic Beverage Control, Docking State Office Building, 915 SW Harrison, Topeka, Kansas 66612 or through e-mail at doug.taylor@kdor.ks.gov.

All interested parties will be given a reasonable opportunity to present their views, either orally or in writing or both, concerning the adoption of the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Kathleen Smith at (785) 296-3081 or TTY (785) 296-6461. Disabled parking is located in State Parking Lot No. 2, south of the Docking Building facing Harrison Street. The east entrance to the Docking Building is accessible.

These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and the economic impacts follows:

Alcoholic Beverage Control
Article 19. Class A Clubs

K.A.R. 14-19-40. The proposed K.A.R. 14-19-40 provides guidelines and requirements for the use of automated devices for the self-service of wine by Class A club licensees.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

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**Alcoholic Beverage Control
Article 20. Class B Clubs**

K.A.R. 14-20-42. The proposed K.A.R. 14-20-42 provides guidelines and requirements for the use of automated devices for the self-service of wine by Class B club licensees.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

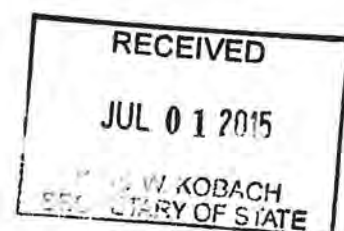
**Alcoholic Beverage Control
Article 21. Drinking Establishments**

K.A.R. 14-21-23. The proposed K.A.R. 14-21-23 provides guidelines and requirements for the use of automated devices for the self-service of wine by drinking establishment licensees.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

A copy of these regulations and the economic impact statements may be obtained from the Kansas Department of Revenue, Office of Policy and Research, Room 230, Docking State Office Building, 915 SW Harrison, Topeka, Kansas 66612-1588 or via our website: www.ksrevenue.org.



14-19-40. Class A clubs; automated devices. (a)(1) "Automated device" shall mean any mechanized device capable of dispensing wine directly to a customer in exchange for compensation that a licensee has received directly from the customer.

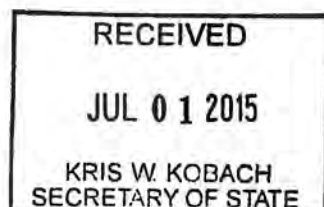
(2) "Business day" shall mean the hours authorized by state law during which alcohol can be served on the licensed premises.

(b) No licensee shall allow an automated device to be used on its licensed premises without first providing written or electronic notification to the director of the licensee's intent to use the automated device. The licensee shall provide this notification at least 48 hours before any automated device is used on the licensed premises.

(c) Each licensee offering customer self-service of wine from any automated device shall provide constant video monitoring of the automated device at all times during which the licensee is open to the public. The licensee shall keep recorded footage from the video monitoring for at least 60 days and shall provide the footage, upon request, to any agent of the director or other authorized law enforcement agent.

(d) The compensation required by subsection (a) shall be in the form of a programmable, prepaid access card containing a fixed amount of monetary credit that may be directly exchanged for wine dispensed from the automated device. Access cards may be sold, used, or reactivated only during a business day.

Each access card shall be purchased from the licensee by a customer. A licensee shall not issue more than one active access card to a customer. For purposes of this regulation, an access card shall be deemed "active" if the access card contains monetary credit or has not yet been used to dispense 15 ounces of wine.



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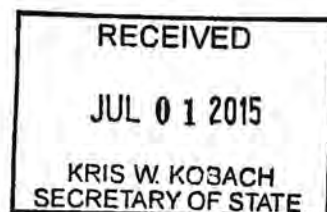
Each purchase of an access card under this regulation shall be subject to the liquor drink tax imposed by K.S.A. 79-41a02, and amendments thereto.

(e) In order to obtain a prepaid access card from a licensee, each customer shall produce a valid driver's license, identification card, or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least 21 years of age. Each access card shall be programmed to require the production of the customer's valid identification before the access card can be used for the first time during any business day or for any subsequent reactivation as provided in subsection (f). Each access card shall become inactive at the end of each business day.

(f) Each access card shall be programmed to allow the dispensing of no more than 15 ounces of wine to a customer. Once an access card has been used to dispense 15 ounces of wine to a customer, the access card shall become inactive. Any customer in possession of an inactive access card may, upon production of the customer's valid identification to the licensee or licensee's employee, have the access card reactivated to allow the dispensing of an additional 15 ounces of wine from an automated device.

This subsection shall not apply to wine dispensed by an automated device if the wine is dispensed directly to the licensee or the licensee's agent or employee.

(Authorized by K.S.A. 2014 Supp. 41-2640, as amended by 2015 HB 2223, sec. 5; implementing K.S.A. 2014 Supp. 41-2640, as amended by 2015 HB 2223, sec. 5, and K.S.A. 2014 Supp. 79-41a02; effective, T-_____, _____; effective P-_____.)



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14-20-42. Class B clubs; automated devices. (a)(1) "Automated device" shall mean any mechanized device capable of dispensing wine directly to a customer in exchange for compensation that a licensee has received directly from the customer.

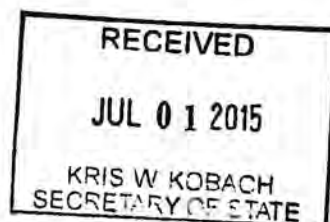
(2) "Business day" shall mean the hours authorized by state law during which alcohol can be served on the licensed premises.

(b) No licensee shall allow an automated device to be used on its licensed premises without first providing written or electronic notification to the director of the licensee's intent to use the automated device. The licensee shall provide this notification at least 48 hours before any automated device is used on the licensed premises.

(c) Each licensee offering customer self-service of wine from any automated device shall provide constant video monitoring of the automated device at all times during which the licensee is open to the public. The licensee shall keep recorded footage from the video monitoring for at least 60 days and shall provide the footage, upon request, to any agent of the director or other authorized law enforcement agent.

(d) The compensation required by subsection (a) shall be in the form of a programmable, prepaid access card containing a fixed amount of monetary credit that may be directly exchanged for wine dispensed from the automated device. Access cards may be sold, used, or reactivated only during a business day.

Each access card shall be purchased from the licensee by a customer. A licensee shall not issue more than one active access card to a customer. For purposes of this regulation, an access card shall be deemed "active" if the access card contains monetary credit or has not yet been used to dispense 15 ounces of wine.



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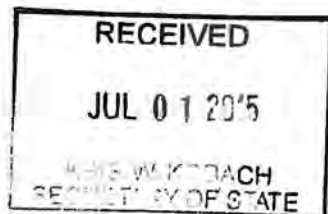
Each purchase of an access card under this regulation shall be subject to the liquor drink tax imposed by K.S.A. 79-41a02, and amendments thereto.

(e) In order to obtain a prepaid access card from a licensee, each customer shall produce a valid driver's license, identification card, or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least 21 years of age. Each access card shall be programmed to require the production of the customer's valid identification before the access card can be used for the first time during any business day or for any subsequent reactivation as provided in subsection (f). Each access card shall become inactive at the end of each business day.

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
This subsection shall not apply to wine dispensed by an automated device if the wine is dispensed directly to the licensee or the licensee's agent or employee.

(Authorized by K.S.A. 2014 Supp. 41-2640, as amended by 2015 HB 2223, sec. 5; implementing K.S.A. 2014 Supp. 41-2640, as amended by 2015 HB 2223, sec. 5, and K.S.A. 2014 Supp. 79-41a02; effective, T-_____, _____; effective P-_____.)



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14-21-23. Drinking establishments; automated devices. (a)(1) "Automated device" shall mean any mechanized device capable of dispensing wine directly to a customer in exchange for compensation that a licensee has received directly from the customer.

(2) "Business day" shall mean the hours authorized by state law during which alcohol can be served on the licensed premises.

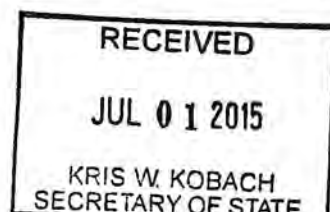
(b) No licensee shall allow an automated device to be used on its licensed premises without first providing written or electronic notification to the director of the licensee's intent to use the automated device. The licensee shall provide this notification at least 48 hours before any automated device is used on the licensed premises.

(c) Each licensee offering customer self-service of wine from any automated device shall provide constant video monitoring of the automated device at all times during which the licensee is open to the public. The licensee shall keep recorded footage from the video monitoring for at least 60 days and shall provide the footage, upon request, to any agent of the director or other authorized law enforcement agent.

(d) The compensation required by subsection (a) shall be in the form of a programmable, prepaid access card containing a fixed amount of monetary credit that may be directly exchanged for wine dispensed from the automated device. Access cards may be sold, used, or reactivated only during a business day.

Each access card shall be purchased from the licensee by a customer. A licensee shall not issue more than one active access card to a customer. For purposes of this regulation, an access card shall be deemed "active" if the access card contains monetary credit or has not yet been used to dispense 15 ounces of wine.

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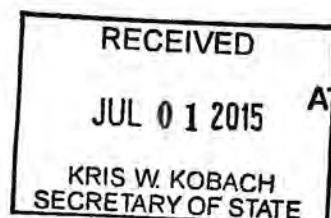
Each purchase of an access card under this regulation shall be subject to the liquor drink tax imposed by K.S.A. 79-41a02, and amendments thereto.

(e) In order to obtain a prepaid access card from a licensee, each customer shall produce a valid driver's license, identification card, or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least 21 years of age. Each access card shall be programmed to require the production of the customer's valid identification before the access card can be used for the first time during any business day or for any subsequent reactivation as provided in subsection (f). Each access card shall become inactive at the end of each business day.

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This subsection shall not apply to wine dispensed by an automated device if the wine is dispensed directly to the licensee or the licensee's agent or employee.

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**KANSAS DEPARTMENT OF REVENUE,
ALCOHOLIC BEVERAGE CONTROL DIVISION
ECONOMIC IMPACT STATEMENT
K.A.R. 14-19-40, 14-20-42, and 14-21-23**

I. Summary of Proposed Regulation, Including its Purpose.

K.A.R. 14-19-40, 14-20-42, and 14-21-23 are new regulations that provide guidelines for the use of automated devices for the self-dispensing of wine to customers. The purpose of these regulations is to address the manner in which wine can be dispensed from the automated devices, as well as to establish additional criteria that licensees must follow in order to use these automated devices. Overall, the regulation is intended to serve the agency's goal of protecting public health and safety by attempting to control the over-service and overconsumption of alcohol.

II. Reason the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.

As a point of clarification, these three regulations are identical. The reason for adopting three identical regulations in different articles stems from the specific authorization given by 2015 HB 2223. With the passage of 2015 HB 2223, drinking establishments, clubs and public venues are authorized to offer customer self-service of wine from automated devices. Since ABC has separate regulatory articles for drinking establishment licensees, Class A club licensees, and Class B club licensees, an identical version of the regulation was necessary in each article. ABC does not currently have regulations in place regarding public venue licensees since it is a relatively new and seldom issued license type, but as an internal policy, public venue licensees are largely treated as drinking establishments.

Since 2015 HB 2223 merely authorizes the use of automated devices by these licensees, specific guidelines are necessary to ensure that customers' access to wine from these automated devices is subject to the same level of responsibility and safety currently observed in face-to-face interactions with a licensee's employees. Without certain restrictions in place, these automated devices could present a potential health and safety risk in the form of underage access to alcohol

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and overconsumption of alcohol. These regulations are not mandated by federal law, and therefore, they do not exceed the requirements of federal law.

III. Anticipated Economic Impact on the Kansas Department of Revenue, Alcoholic Beverage Control Division.

ABC does not anticipate any economic impact on the agency as a result of these regulations. These regulations simply allow for another method of dispensing alcohol that is already in the possession of licensees, as opposed to allowing a new product or form of alcohol altogether. As such, the amount of alcohol sold by licensees using automated devices should not increase or decrease dramatically. These regulations will provide for additional items for ABC enforcement agents to monitor and investigate while in their normal course of business, but this additional investigation would typically take place during the course of an otherwise regularly scheduled inspection. As such, no additional resources are projected to be necessary. To the agency's knowledge, there is currently only one licensee in possession of an automated device, although that number will most likely increase once the law goes into effect.

IV. Anticipated Economic Impact on Other Governmental Agencies and Private Businesses or Individuals.

ABC does not anticipate significant economic impact on other governmental agencies or on private business. As stated above, the regulation merely allows for a new method of dispensing alcohol that is already sold by private business licensees. Individual licensees may wish to provide additional training to their staff regarding use of the automated devices, but such training would not present any substantial or significant costs to those licensees above or beyond those costs typically associated with other types of staff training.

V. Less Costly or Intrusive Methods Considered, but Rejected, and the Reason for Rejection.

The terms of these regulations were developed after discussion with two primary industry members: the specific licensee currently in possession of an automated device, and the manufacturer of automated device itself. With this in mind, the agency was able to develop regulatory requirements with the assurance that such requirements were feasible for the licensee, both practically and financially.

