

CHAPTER 56

House Substitute for SENATE BILL No. 13
(Amended by Chapter 85)

AN ACT relating to the sale and consumption of alcoholic beverages; amending K.S.A. 41-2706 and 41-2726 and K.S.A. 2016 Supp. 41-102, 41-307, 41-308, 41-2701, 41-2702, 41-2704, 41-2708 and 41-2722 and repealing the existing sections; also repealing K.S.A. 41-103.

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

New Section 1. (a) Notwithstanding the provisions of K.S.A. 41-1101, and amendments thereto, or the provisions of the Kansas cereal malt beverage act, a distributor may establish reasonable minimum order quantities or minimum dollar value of an order, or both, for alcoholic liquor and cereal malt beverages distributed by the distributor to a retailer.

(b) The provisions of K.S.A. 41-1101(b), and amendments thereto, shall apply to a person licensed pursuant to K.S.A. 41-2702, and amendments thereto, to sell cereal malt beverage and beer containing not more than 6% alcohol by volume to the same extent it applies to a retailer licensed pursuant to the Kansas liquor control act, and the provisions of K.S.A. 41-1101(d), and amendments thereto, shall apply to a retailer licensed pursuant to the Kansas liquor control act to the same extent it applies to a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto.

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

(d) The provisions of this section shall be effective on and after April 1, 2019.

New Sec. 2. (a) It is hereby declared to be the intent of the legislature that, for the purposes of any agreement entered into prior to April 1, 2019, pursuant to K.S.A. 41-410, and amendments thereto, between a supplier and a distributor regarding the geographic territory within which the distributor may sell one or more brands of the supplier's cereal malt beverage or beer, or both, the term "cereal malt beverage" shall have the meaning ascribed to such term in K.S.A. 41-2701, and amendments thereto, on the effective date of this act, and the term "beer" shall have the meaning ascribed to such term in K.S.A. 41-102, and amendments thereto, on the effective date of this act.

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

(c) The provisions of this section shall be effective on and after April 1, 2019.

New Sec. 3. (a) Following the 10th anniversary of the effective date of this act, the director shall conduct a market impact study of the sale of beer containing not more than 6% alcohol by volume by persons li-

censed as cereal malt beverage retailers pursuant to K.S.A. 41-2702, and amendments thereto. Such study shall include, but not be limited to, the changes subsequent to the effective date of this act, if any, in the number of retailers and the reasons for any changes; the changes subsequent to the effective date of this act, if any, in the number of persons licensed to sell cereal malt beverage in the original package for use or consumption off of and away from the licensed premises, and the reasons for any changes; the effect of this act on state and local tax revenues; the impact of this act on employment; and such other factors as the director deems pertinent. A report on the director's findings from such study shall be submitted to the legislature prior to adjournment of the 2029 session of the legislature.

(b) The director shall have oversight over the sale of beer containing not more than 6% alcohol by volume by persons licensed as cereal malt beverage retailers pursuant to K.S.A. 41-2702, and amendments thereto, to ensure that such sales promote an orderly market. For such purpose, the director may adopt such rules and regulations as the director deems necessary and appropriate, including rules and regulations making applicable to cereal malt beverage retailers selling beer containing not more than 6% alcohol by volume such provisions of the existing rules and regulations concerning industry trade practices as are necessary and appropriate. The rules and regulations authorized by this section shall be promulgated by the director on or before July 1, 2018.

Sec. 4. On and after April 1, 2019, K.S.A. 2016 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

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

(b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

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

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

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

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

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

(i) “Domestic beer” means beer which contains not more than 10% alcohol by weight and which is manufactured in this state.

(j) “Domestic fortified wine” means wine which contains more than 14%, but not more than 20% alcohol by volume and which is manufactured in this state.

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

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

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

(n) “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.

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

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

(2) “Manufacturer” does not include a microbrewery, microdistillery or a farm winery.

(q) “Microbrewery” means a brewery licensed by the director to manufacture, store and sell domestic beer and hard cider.

(r) “Microdistillery” means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

(s) “Minor” means any person under 21 years of age.

(t) “Nonbeverage user” means any manufacturer of any of the products set forth and described in K.S.A. 41-501, and amendments thereto,

when the products contain alcohol or wine, and all laboratories using alcohol for nonbeverage purposes.

(u) “Original package” means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. Original container does not include a sleeve.

(v) “Person” means any natural person, corporation, partnership, trust or association.

(w) “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.

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

(y) (1) “Retailer” means a person who *is licensed under the Kansas liquor control act and sells at retail, or offers for sale at retail, alcoholic liquors or cereal malt beverages.*

(2) “Retailer” does not include a microbrewery, microdistillery or a farm winery.

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

(aa) “Salesperson” means any natural person who:

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

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

(bb) “Secretary” means the secretary of revenue.

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

(2) “Sell at retail” and “sale at retail” do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed

drinking establishment, a licensed caterer or a holder of a temporary permit.

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

(ee) “Sleeve” means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

(ff) “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.

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

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

(ii) “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.

Sec. 5. On and after April 1, 2019, K.S.A. 2016 Supp. 41-307 is hereby amended to read as follows: 41-307. A beer distributor’s license shall allow:

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

(b) The sale of beer to:

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

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

(c) The sale of cereal malt beverage to:

- (1) Beer distributors licensed in this state;
- (2) clubs and drinking establishments, licensed in this state, and retailers licensed under K.S.A. 41-2702, and amendments thereto, except that such distributor shall sell a brand of cereal malt beverage only to those such clubs, drinking establishments and retailers of which the licensed premises are located in the geographic territory within which such

distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto;~~and~~

(3) *retailers; and*

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

(d) *The sale of beer containing not more than 6% alcohol by volume to cereal malt beverage retailers licensed pursuant to K.S.A. 41-2702, and amendments thereto.*

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

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

~~(f)~~(g) The storage and delivery, with proper invoicing in accordance with rules and regulations adopted by the secretary, on the premises of a public venue licensee, of beer sold to or available for purchase by the public venue during an event.

~~(g)~~(h) The withdrawal of beer or cereal malt beverage from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees, or to persons licensed under the club and drinking establishment act, and such person's employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, provided no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. Samples may be served on the premises of a licensee holding a license issued under the club and drinking establishment act, provided no sample shall be served on that portion of the premises that is open to the public and where sales of alcoholic liquor are made. No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of beer or cereal malt beverage shall be subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of providing samples pursuant to this subsection other than at industry seminars or to the licensee's employees, the term "sample" shall have the same meaning as that term is defined in K.S.A. 41-2601, and amendments thereto.

Sec. 6. On and after April 1, 2019, K.S.A. 2016 Supp. 41-308 is hereby amended to read as follows: 41-308. (a) Except as provided in K.S.A. 2016 Supp. 41-308d, and amendments thereto, a retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor *and cereal malt beverage* for use or consumption off and away from the premises specified in such license.

(b) A retailer's license shall permit sale and delivery of alcoholic liquor *and cereal malt beverage* only on the licensed premises and shall not permit sale of alcoholic liquor *and cereal malt beverage* for resale in any form, except that a licensed retailer may:

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

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

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

(c) A retailer may:

(1) Charge a delivery fee for delivery of *alcoholic liquor and cereal malt beverage* to a public venue, club, drinking establishment or caterer pursuant to subsection ~~(a)~~ (b);

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

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

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

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

~~(d) A retailer's license shall allow the licensee to~~ (5) store alcoholic liquor *and cereal malt beverage* in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor *and cereal malt beverage* to consumers in a chilled condition; *and*

(6) *sell any other good or service on the licensed premises, except that*

the gross sales of other goods and services, excluding fees derived from the sale of lottery tickets and revenues from sales of cigarettes and tobacco products, shall not exceed 20% of the retailer's total gross sales.

Sec. 7. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2701 is hereby amended to read as follows: 41-2701. As used in this act unless the context otherwise requires:

(a) “Cereal malt beverage” 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, as defined in K.S.A. 2016 Supp. 41-2729, and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight.

(b) “Director” means the director of alcoholic beverage control of the department of revenue.

(c) “Manufacturer” means a manufacturer as defined by K.S.A. 41-102, and amendments thereto.

(d) “Person” means any individual, firm, partnership, corporation or association.

(e) “Retailer” means any person *who is licensed under the Kansas cereal malt beverage act and who sells or offers for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume* for use or consumption and not for resale in any form.

(f) “Place of business” means any place at which cereal malt beverages *or beer containing not more than 6% alcohol by volume* are sold.

(g) “Distributor” means a beer distributor licensed pursuant to the Kansas liquor control act.

(h) “Legal age for consumption of cereal malt beverage” means 21 years of age, except that “legal age for consumption of cereal malt beverage” shall mean 18 years of age if at any time the provisions of P.L. 98-363 penalizing states for permitting persons under 21 years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.

Sec. 8. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2702 is hereby amended to read as follows: 41-2702. (a) No retailer shall sell any cereal malt beverage *or beer containing not more than 6% alcohol by volume* without having first secured a license for each place of business as herein provided. In case such place of business is located within the corporate limits of a city, the application for license shall be made to the governing body of such city. In all other cases, the application for license shall be made to the board of county commissioners in the county in which such place of business is to be located, except that the application for license to sell on railway cars shall be made to the director as hereinafter provided.

(b) A board of county commissioners shall not issue or renew a retailer's license without giving the clerk of the township where the place

of business is to be located written notice by registered mail of the filing of the application for licensure or renewal. The township board may within 10 days file advisory recommendations as to the granting of such license or renewal and such advisory recommendations shall be considered by the board of county commissioners before such license is issued. If an original license is granted and issued, the board of county commissioners shall grant and issue renewals thereof upon application of the license holder, if the license holder is qualified to receive the same and the license has not been revoked as provided by law.

(c) An application for a retailer's license shall be verified and upon a form prepared by the attorney general of the state and shall contain:

- (1) The name and residence of the applicant;
- (2) the length of time that the applicant has resided within the state of Kansas;
- (3) the particular place of business for which a license is desired;
- (4) the name of the owner of the premises upon which the place of business is located; and
- (5) a statement that the applicant is a citizen of the United States and not less than 21 years of age and that the applicant has not within two years immediately preceding the date of making application been convicted of a felony, any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

(d) In addition to the fee provided by subsection (e), each application for a retailer's license to sell cereal malt beverages for consumption on the licensed premises shall be accompanied by a fee as follows:

- (1) For licensure of a place of business other than a railway car, a fee of not less than \$25 nor more than \$200, as prescribed by the board of county commissioners or the governing body of the city, as the case may be; and
- (2) for licensure to sell on railway cars, a fee of \$100.

(e) Each applicant for a retailer's license or renewal of such a license shall submit to the director a copy of the completed application for such license or license renewal, together with a fee of \$25. Upon receipt of such application, the director shall authorize a state stamp to be affixed to the license. No such stamp shall be affixed to any license except such stamps as provided by the director and no retailer's license shall be issued or renewed unless such stamp has first been affixed thereto.

(f) The director shall remit all fees collected by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund, except that the director may provide for the

deposit in the cereal malt beverage tax refund fund of such amounts as necessary for the refund of any license fees collected hereunder.

(g) The board of county commissioners of the several counties or the governing body of a city shall issue a license upon application duly made as otherwise provided for herein, to any retailer engaged in business in such county or city and qualified to receive such license, to sell only cereal malt beverages in original and unopened containers, and not for consumption on the premises. The annual license fee for such license, which shall be in addition to the fee provided by subsection (e), shall be not less than \$25 nor more than \$50.

(h) No license issued under this act shall be transferable.

Sec. 9. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of the cereal malt beverage act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Within any city where the days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, and within any township where the hours and days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, no cereal malt beverages *or beer containing not more than 6% alcohol by volume* may be sold:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(c) Within any city where the days of sale at retail of cereal malt beverage in the original package have been expanded as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, and have not been subsequently restricted as provided in K.S.A. 2016 Supp. 41-2911, and amendments thereto, and within any township where the days of sale at retail of cereal malt beverage in the original package have been expanded

as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, and have not been subsequently restricted as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, no person shall sell at retail cereal malt beverage:

- (1) Between the hours of 12 midnight and 6 a.m.;
- (2) in the original package before 12 noon *or* after 8 p.m. on Sunday;
- (3) on Easter Sunday; or
- (4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(d) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises also are licensed as a club pursuant to the club and drinking establishment act.

(e) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment act shall be open to law enforcement officers and not to the public.

(f) Except as otherwise provided by this subsection, no licensee shall permit a person under the legal age for consumption of cereal malt beverage *or beer containing not more than 6% alcohol by volume* to consume or purchase any cereal malt beverage in or about a place of business. A licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage *or beer containing not more than 6% alcohol by volume*, if:

(1) The licensee's place of business is licensed only to sell at retail cereal malt beverage *or beer containing not more than 6% alcohol by volume* in the original package and not for consumption on the premises; or

(2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(g) No person shall have any alcoholic liquor, *except beer containing not more than 6% alcohol by volume*, in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(h) Cereal malt beverages may be sold on premises which are licensed

pursuant to both the *Kansas* cereal malt beverage act and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 10. On and after April 1, 2019, K.S.A. 41-2706 is hereby amended to read as follows: 41-2706. (a) Except as provided by subsection (b), no person shall sell or furnish cereal malt beverages *or beer containing not more than 6% alcohol by volume* at retail to any person on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; or in payment for any services rendered. If any person extends credit for such purpose, the debt attempted to be created shall not be recoverable at law and, in addition, such person shall be subject to the penalties provided in K.S.A. 41-2707, and amendments thereto.

(b) A licensed retailer may sell cereal malt beverages *or beer containing not more than 6% alcohol by volume* to a consumer on credit pursuant to a credit card which entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the credit card.

Sec. 11. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2708 is hereby amended to read as follows: 41-2708. (a) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, may revoke or suspend the license for any one of the following reasons:

(1) The licensee has violated any of the provisions of K.S.A. 41-2701 et seq., and amendments thereto, or any rules or regulations made by the board or the city, as the case may be;

(2) drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;

(3) the sale of cereal malt beverages *or beer containing not more than 6% alcohol by volume* to any person under the legal age for consumption of cereal malt beverage;

(4) permitting any person to mix drinks with materials purchased in or upon the place of business or brought in for that purpose;

(5) the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102, and amendments thereto, *except beer containing not more than 6% alcohol by volume*; or

(6) the licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act.

(b) The provisions of subsections (a)(4) and (5) shall not apply if the place of business or premises also are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(c) The board of county commissioners or the governing body of any

city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

- (1) The licensee has fraudulently obtained the license by giving false information in the application therefor;
- (2) the licensee has become ineligible to obtain a license under this act;
- (3) the nonpayment of any license fees;
- (4) permitting any gambling in or upon the licensee's place of business;
- (5) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages *or beer containing not more than 6% alcohol by volume*;
- (6) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; or
- (7) there has been a violation of K.S.A. 21-4106 or 21-4107, prior to their repeal, or K.S.A. 2016 Supp. 21-6204, and amendments thereto, in or upon the licensee's place of business.

(d) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal.

Sec. 12. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2722 is hereby amended to read as follows: 41-2722. (a) No retailer, or employee or agent of a retailer, licensed to sell cereal malt beverage *and beer containing not more than 6% alcohol by volume* for consumption on the licensed premises shall:

- (1) Offer or serve any free cereal malt beverage *or beer containing not more than 6% alcohol by volume* to any person;
- (2) offer or serve to any person a drink at a price that is less than the acquisition cost of the drink to the licensee;
- (3) sell, offer to sell or serve to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the general public;
- (4) encourage or permit, on the licensed premises, any game or contest which involves drinking cereal malt beverage *or beer containing not more than 6% alcohol by volume* or the awarding of drinks as prizes; or
- (5) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (4).

- (b) A retailer may:
 - (1) Offer free food or entertainment at any time;
 - (2) sell, offer to sell and serve individual drinks at different prices throughout any day; or
 - (3) sell or serve cereal malt beverage in a pitcher capable of containing not more than 64 fluid ounces.
- (c) Violation of any provisions of this section is a misdemeanor punishable as provided by K.S.A. 41-2711, and amendments thereto.
- (d) Violation of any provision of this act shall be grounds for suspension or revocation of the retailer's license as provided by K.S.A. 41-2708, and amendments thereto.
- (e) Every licensee subject to the provisions of this section shall make available at any time upon request a price list showing the licensee's current prices for all cereal malt beverages *and beer containing not more than 6% alcohol by volume*.
- (f) This section shall be part of and supplemental to K.S.A. 41-2701 through 41-2721, and amendments thereto.

Sec. 13. On and after April 1, 2019, K.S.A. 41-2726 is hereby amended to read as follows: 41-2726. (a) No retailer licensed under K.S.A. 41-2701 et seq., and amendments thereto, to sell cereal malt beverage *or beer containing not more than 6% alcohol by volume* in original and unopened containers and not for consumption on the licensed premises shall sell or offer for sale *directly or indirectly* any cereal malt beverage *or beer containing not more than 6% alcohol by volume* at a price that is less than the acquisition cost of such cereal malt beverage *or beer containing not more than 6% alcohol by volume* to the licensee.

(b) *The director may issue to a retailer a permit authorizing the retailer to sell cereal malt beverage or beer containing not more than 6% alcohol by volume at less than the acquisition cost thereof, if:*

- (1) *The retailer is actually closing out the retailer's stock for the purpose of completely discontinuing sale of the item for a period of not less than 12 months;*
- (2) *the item is damaged or deteriorated in quality and notice is given to the public thereof; or*
- (3) *the sale of the item is by an officer acting under the order of a court.*

(c) Violation of this section is a misdemeanor punishable as provided by K.S.A. 41-2711, and amendments thereto.

~~(e)~~(d) Violation of this section shall be grounds for suspension or revocation of the retailer's license as provided by K.S.A. 41-2708, and amendments thereto.

Sec. 14. On and after April 1, 2019, K.S.A. 41-103, 41-2706 and 41-2726 and K.S.A. 2016 Supp. 41-102, 41-307, 41-308, 41-2701, 41-2702, 41-2704, 41-2708 and 41-2722 are hereby repealed.

Sec. 15. This act shall take effect and be in force from and after January 1, 2018, and its publication in the statute book.

Approved April 18, 2017.

CHAPTER 57

House Substitute for SENATE BILL No. 51

AN ACT concerning controlled substances; the state board of pharmacy; relating to scheduling of controlled substance analogs, controlled substances and new drugs; emergency scheduling; amending K.S.A. 2016 Supp. 21-5701, 65-4101, 65-4102, 65-4105, 65-4107, 65-4111 and 65-4113 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 21-5701 is hereby amended to read as follows: 21-5701. As used in K.S.A. 2016 Supp. 21-5701 through 21-5717, and amendments thereto: (a) “Controlled substance” means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(b) (1) “Controlled substance analog” means a substance that is intended for human consumption, and *at least one of the following*:

(A) The chemical structure of ~~which the substance~~ is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) ~~which the substance~~ has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, ~~which the~~ *such* individual represents or intends *the substance* to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal