

HOUSE BILL No. 2431

By Committee on Federal and State Affairs

2-20

1 AN ACT concerning alcoholic liquor; relating to public waters; allowing
2 vessels that operate upon the Perry reservoir to be licensed as clubs or
3 drinking establishments notwithstanding any zoning regulation or other
4 regulation of any city, township or county; amending K.S.A. 41-2601,
5 41-2612 and 41-2702 and K.S.A. 2022 Supp. 41-719 and 41-2608 and
6 repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2022 Supp. 41-719 is hereby amended to read as
10 follows: 41-719. (a) (1) Except as otherwise provided herein and in K.S.A.
11 8-1599, and amendments thereto, no person shall drink or consume
12 alcoholic liquor on the public streets, alleys, roads or highways or inside
13 vehicles while on the public streets, alleys, roads or highways.

14 (2) Alcoholic liquor may be consumed on public streets, alleys, roads,
15 sidewalks or highways when:

16 (A) A temporary permit has been issued pursuant to K.S.A. 41-1201
17 or 41-2703, and amendments thereto, for such an event;

18 (B) a caterer's licensee has provided the required notification for a
19 catered event pursuant to K.S.A. 41-2643, and amendments thereto; or

20 (C) a public venue, hotel, hotel caterer, drinking establishment caterer
21 or drinking establishment licensee has been authorized to extend its
22 licensed premises pursuant to K.S.A. 41-2608, and amendments thereto.

23 (3) Consumption of alcoholic liquor on public streets, alleys, roads,
24 sidewalks or highways must be approved, by ordinance or resolution, by
25 the local governing body of any city, county or township where such
26 consumption will occur. No alcoholic liquor may be consumed inside
27 vehicles while on public streets, alleys, roads or highways at any time.

28 (4) No person shall remove any alcoholic liquor from inside the
29 boundaries of an event as designated by the governing body of any city,
30 county or township, from the boundaries of a catered event or from the
31 extended licensed premises of a public venue, hotel, hotel caterer, drinking
32 establishment caterer or drinking establishment. Such boundaries shall be
33 clearly marked by signs, a posted map or other means—~~which~~ *that*
34 reasonably identify the area in which alcoholic liquor may be possessed or
35 consumed.

36 (b) Alcoholic liquor may be consumed within common consumption

1 areas designated by a city or county on public streets, alleys, roads,
2 sidewalks or highways pursuant to K.S.A. 41-2659, and amendments
3 thereto, except that no alcoholic liquor may be consumed inside vehicles
4 while on public streets, alleys, roads or highways within a common
5 consumption area. Further, no person shall remove any alcoholic liquor
6 from inside the boundaries of the common consumption area ~~which~~ *that*
7 shall be clearly designated by a physical barrier.

8 (c) No person shall drink or consume alcoholic liquor on private
9 property except:

10 (1) On premises where the sale of liquor by the individual drink is
11 authorized by the club and drinking establishment act;

12 (2) upon private property by a person occupying such property as an
13 owner or lessee of an owner and by the guests of such person, if no charge
14 is made for the serving or mixing of any drink or drinks of alcoholic liquor
15 or for any substance mixed with any alcoholic liquor and if no sale of
16 alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,
17 takes place;

18 (3) in a lodging room of any hotel, motel or boarding house by the
19 person occupying such room and by the guests of such person, if no charge
20 is made for the serving or mixing of any drink or drinks of alcoholic liquor
21 or for any substance mixed with any alcoholic liquor and if no sale of
22 alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,
23 takes place;

24 (4) in a private dining room of a hotel, motel or restaurant, if the
25 dining room is rented or made available on a special occasion to an
26 individual or organization for a private party and if no sale of alcoholic
27 liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

28 (5) on the premises of a manufacturer, microbrewery, microdistillery
29 or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or 41-
30 354, and amendments thereto;

31 (6) on the premises of an unlicensed business as authorized pursuant
32 to subsection (j); or

33 (7) within a common consumption area established pursuant to
34 K.S.A. 41-2659, and amendments thereto.

35 (d) No person shall drink or consume alcoholic liquor on public
36 property except:

37 (1) On real property leased by a city to others under the provisions of
38 K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real
39 property is actually being used for hotel or motel purposes or purposes
40 incidental thereto.

41 (2) In any state-owned or operated building or structure, and on the
42 surrounding premises, ~~which~~ *that* is furnished to and occupied by any state
43 officer or employee as a residence.

1 (3) On premises licensed as a club or drinking establishment and
2 located on property owned or operated by an airport authority created
3 pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments
4 thereto, or established by a city.

5 (4) On the state fair grounds on the day of any race held thereon
6 pursuant to the Kansas parimutuel racing act.

7 (5) On the state fairgrounds, within boundaries that have been marked
8 with a three-dimensional barrier, if: (A) The alcoholic liquor is domestic
9 beer or wine or wine imported under K.S.A. 41-308a(e), and amendments
10 thereto, and is consumed only for purposes of judging competitions; (B)
11 the alcoholic liquor is wine or beer that is sold during the days of the
12 Kansas state fair, or as authorized by the Kansas state fair board, by the
13 holder of a temporary permit in accordance with the provisions of K.S.A.
14 41-1201(g), and amendments thereto; or (C) the alcoholic liquor is
15 consumed on nonfair days in conjunction with bona fide scheduled events
16 involving not less than 75 invited guests and the state fair board, in its
17 discretion, authorizes the consumption of the alcoholic liquor, subject to
18 any conditions or restrictions the board may require.

19 (6) In the state historical museum provided for by K.S.A. 76-2036,
20 and amendments thereto, on the surrounding premises and in any other
21 building on such premises, as authorized by rules and regulations of the
22 state historical society.

23 (7) On the premises of any state-owned historic site under the
24 jurisdiction and supervision of the state historical society, on the
25 surrounding premises and in any other building on such premises, as
26 authorized by rules and regulations of the state historical society.

27 (8) In a lake resort within the meaning of K.S.A. 32-867, and
28 amendments thereto, on state-owned or leased property.

29 (9) On the premises of any Kansas national guard regional training
30 center or armory, and any building on such premises, as authorized by
31 rules and regulations of the adjutant general and upon approval of the
32 Kansas military board.

33 (10) On the premises of any land or waters owned or managed by the
34 *Kansas* department of wildlife, ~~and parks and tourism~~, except as otherwise
35 prohibited by rules and regulations of the department adopted by the
36 secretary pursuant to K.S.A. 32-805, and amendments thereto, *that are not*
37 *in conflict with the provisions of K.S.A. 2022 Supp. 41-2608, and*
38 *amendments thereto.*

39 (11) On property exempted from this subsection pursuant to
40 subsection (e), (f), (g), (h) or (i).

41 (12) On the premises of the state capitol building or on its
42 surrounding premises during an official state function of a nonpartisan
43 nature that has been approved by the legislative coordinating council.

1 (13) On premises of a common consumption area established by
2 K.S.A. 41-2659, and amendments thereto.

3 (14) *Upon the waters of the Perry reservoir.*

4 (e) Any city may exempt, by ordinance, from the provisions of
5 subsection (d) specified property the title of which is vested in such city.

6 (f) The board of county commissioners of any county may exempt,
7 by resolution, from the provisions of subsection (d) specified property the
8 title of which is vested in such county.

9 (g) The state board of regents may exempt from the provisions of
10 subsection (d) the Sternberg museum on the campus of Fort Hays state
11 university, or other specified property ~~which~~ *that* is under the control of
12 such board and ~~which~~ is not used for classroom instruction, where
13 alcoholic liquor may be consumed in accordance with policies adopted by
14 such board.

15 (h) The board of regents of Washburn university may exempt from
16 the provisions of subsection (d) the Mulvane art center and the Bradbury
17 Thompson alumni center on the campus of Washburn university, and other
18 specified property the title of which is vested in such board and which is
19 not used for classroom instruction, where alcoholic liquor may be
20 consumed in accordance with policies adopted by such board.

21 (i) The board of trustees of a community college may exempt from
22 the provisions of subsection (d) specified property that is under the control
23 of such board and is not used for classroom instruction, where alcoholic
24 liquor may be consumed in accordance with policies adopted by such
25 board.

26 (j) (1) An unlicensed business may authorize patrons or guests of
27 such business to consume alcoholic liquor on the premises of such
28 business provided:

29 (A) Such alcoholic liquor is in the personal possession of the patron
30 and is not sold, offered for sale or given away by the owner of such
31 business or any employees thereof;

32 (B) possession and consumption of alcoholic liquor shall not be
33 authorized between the hours of 12 a.m. and 9 a.m.;

34 (C) the business, or any owner thereof, shall not have had a license
35 issued under either the Kansas liquor control act or the club and drinking
36 establishment act revoked for any reason; and

37 (D) no charge of any sort may be made by the business for the
38 privilege of possessing or consuming alcoholic liquor on the premises, or
39 for mere entry onto the premises.

40 (2) It shall be a violation of this section for any unlicensed business to
41 authorize the possession or consumption of alcoholic liquor by a patron of
42 such business when such authorization is not in accordance with the
43 provisions of this subsection.

1 (3) For the purposes of this subsection, "patron" means a natural
2 person who is a customer or guest of an unlicensed business.

3 (k) Violation of any provision of this section is a misdemeanor
4 punishable by a fine of not less than \$50 or more than \$200 or by
5 imprisonment for not more than six months, or both.

6 (l) For the purposes of this section, "common consumption area"
7 means the same as ~~that term is~~ defined in K.S.A. 41-2659, and
8 amendments thereto.

9 Sec. 2. K.S.A. 41-2601 is hereby amended to read as follows: 41-
10 2601. As used in the club and drinking establishment act:

11 (a) The following terms mean the same as ~~provided by~~ *defined in*
12 K.S.A. 41-102, and amendments thereto:

- 13 (1) "Alcoholic liquor";
- 14 (2) "director";
- 15 (3) "original package";
- 16 (4) "person";
- 17 (5) "sale"; and
- 18 (6) "to sell."

19 (b) "Beneficial interest" shall not include any interest a person may
20 have as owner, operator, lessee or franchise holder of a licensed hotel or
21 motel on the premises of which a club or drinking establishment is located.

22 (c) "Caterer" means an individual, partnership or corporation that
23 sells alcoholic liquor or cereal malt beverage by the individual drink, and
24 provides services related to the serving thereof, on unlicensed premises
25 that may be open to the public, but does not include a holder of a
26 temporary permit, selling alcoholic liquor or cereal malt beverage in
27 accordance with the terms of such permit.

28 (d) "Cereal malt beverage" means the same as provided by K.S.A. 41-
29 2701, and amendments thereto.

30 (e) "Class A club" means a premises that is owned or leased by a
31 corporation, partnership, business trust or association and that is operated
32 thereby as a bona fide nonprofit social, fraternal or war veterans' club, as
33 determined by the director, for the exclusive use of the corporate
34 stockholders, partners, trust beneficiaries or associates, hereinafter referred
35 to as members, and their families and guests accompanying them, as
36 provided in K.S.A. 41-2637, and amendments thereto.

37 (f) "Class B club" means a premises operated for profit by a
38 corporation, partnership or individual, to which members of such club may
39 resort for the consumption of food or alcoholic beverages and for
40 entertainment.

41 (g) "Club" means a class A or class B club.

42 (h) "Drinking establishment" means premises that may be open to the
43 general public, where alcoholic liquor or cereal malt beverage by the

1 individual drink is sold. ~~The term~~ "Drinking establishment" includes a
2 railway car *or vessel*.

3 (i) "Food" means any raw, cooked or processed edible substance or
4 ingredient, other than alcoholic liquor or cereal malt beverage, used or
5 intended for use or for sale, in whole or in part, for human consumption.

6 (j) "Food service establishment" means the same as provided by
7 K.S.A. 36-501, and amendments thereto.

8 (k) "Hotel" means the same as provided by K.S.A. 36-501, and
9 amendments thereto.

10 (l) "Individual drink" means a beverage containing alcoholic liquor or
11 cereal malt beverage served to an individual for consumption by such
12 individual or another individual, but ~~which~~ *that* is not intended to be
13 consumed by two or more individuals. The term "individual drink"
14 includes beverages containing not more than:

15 (1) Eight ounces of wine;

16 (2) ~~thirty-two~~³² ounces of beer or cereal malt beverage; or

17 (3) four ounces of a single spirit or a combination of spirits.

18 (m) "Minibar" means a closed cabinet, whether nonrefrigerated or
19 wholly or partially refrigerated, access to the interior of which is restricted
20 by means of a locking device that requires the use of a key, magnetic card
21 or similar device.

22 (n) "Minor" means a person under 21 years of age.

23 (o) "Morals charge" means a charge involving the sale of sexual
24 relations; procuring any person; soliciting of a child under 18 years of age
25 for any immoral act involving sex; possession or sale of narcotics,
26 marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal
27 cohabitation; adultery; bigamy; or a crime against nature.

28 (p) "Municipal corporation" means the governing body of any county
29 or city.

30 (q) "Public venue" means an arena, stadium, hall or theater, used
31 primarily for athletic or sporting events, live concerts, live theatrical
32 productions or similar seasonal entertainment events, not operated on a
33 daily basis, and containing:

34 (1) Not fewer than 4,000 permanent seats; and

35 (2) not fewer than two private suites that are enclosed or semi-
36 enclosed seating areas, having controlled access and separated from the
37 general admission areas by a permanent barrier.

38 (r) "Railway car" means a locomotive drawn conveyance used for the
39 transportation and accommodation of human passengers that is confined to
40 a fixed rail route and ~~which~~ derives from sales of food for consumption on
41 the railway car not less than 30% of its gross receipts from all sales of food
42 and beverages in a 12-month period.

43 (s) "Restaurant" means:

1 (1) In the case of a club, a licensed food service establishment that, as
2 determined by the director, derives from sales of food for consumption on
3 the licensed club premises not less than 50% of its gross receipts from all
4 sales of food and beverages on such premises in a 12-month period;

5 (2) in the case of a drinking establishment subject to a food sales
6 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
7 food service establishment that, as determined by the director, derives
8 from sales of food for consumption on the licensed drinking establishment
9 premises not less than 30% of its gross receipts from all sales of food and
10 beverages on such premises in a 12-month period; and

11 (3) in the case of a drinking establishment subject to no food sales
12 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
13 food service establishment.

14 (t) "RV resort" means premises where a place to park recreational
15 vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered
16 for pay, primarily to transient guests, for overnight or longer use while
17 such recreational vehicles are used as sleeping or living accommodations.

18 (u) "Sample" means a serving of alcoholic liquor or cereal malt
19 beverage that contains not more than:

20 (1) One-half ounce of distilled spirits;

21 (2) one ounce of wine; or

22 (3) two ounces of beer or cereal malt beverage.

23 A sample of a mixed alcoholic beverage shall contain not more than ½
24 ounce of distilled spirits.

25 (v) "Secretary" means the secretary of revenue.

26 (w) "Temporary permit" means a temporary permit issued pursuant to
27 K.S.A. 41-1201, and amendments thereto.

28 (x) "*Vessel*" means any watercraft designed to be propelled by
29 machinery, oars, paddles or wind action upon a sail for navigation on the
30 water.

31 Sec. 3. K.S.A. 2022 Supp. 41-2608 is hereby amended to read as
32 follows: 41-2608. (a) Any public venue, club or drinking establishment
33 license issued pursuant to this act shall be for one particular premises that
34 shall be stated in the application and in the license. Not more than one
35 premises licensed under the club and drinking establishment act shall exist
36 at a single legal address.

37 (b) No license shall be issued for a public venue, club or drinking
38 establishment unless the city, township or county zoning code allows a
39 club or drinking establishment at that location, *except as otherwise*
40 *provided under subsections (d) and (e).*

41 (c) The licensed premises of a license may be extend into a city,
42 county or township street, alley, road, sidewalk or highway if:

43 (1) Such street, alley, road, sidewalk or highway is closed to motor

1 vehicle traffic by the governing body of such city, county or township at
2 any time during which alcoholic liquor or cereal malt beverage is to be
3 sold or consumed; and

4 (2) such extension has been approved by the city, county or township
5 by ordinance or resolution that specifies the exact times during which
6 alcoholic liquor or cereal malt beverage may be sold or consumed on the
7 street, alley, road, sidewalk or highway.

8 (d) Notwithstanding the provisions of this section, a license under this
9 act shall be issued to a farm winery or producer licensee who meets the
10 requirements for a license under this act and who is a registered
11 agritourism operator as defined in K.S.A. 32-1432, and amendments
12 thereto. Such license shall not be denied on the basis of any zoning
13 regulation or other regulation, ordinance or resolution of any city or
14 county.

15 (e) *Notwithstanding any other provision of law, rule or regulation*
16 *adopted by the secretary of wildlife and parks or any zoning regulation or*
17 *other regulation, ordinance or resolution of a city, township or county, a*
18 *vessel that operates upon the waters of the Perry reservoir may be*
19 *licensed as a club or drinking establishment pursuant to this act.*

20 Sec. 4. K.S.A. 41-2612 is hereby amended to read as follows: 41-
21 2612. Every holder of a license for a club or drinking establishment shall
22 cause such license to be framed and hung in plain view in a conspicuous
23 place on the licensed premises. In the case of a railway car *or vessel*, the
24 license shall be posted at its main office which shall be stated in the
25 application.

26 Sec. 5. K.S.A. 41-2702 is hereby amended to read as follows: 41-
27 2702. (a) No retailer shall sell any cereal malt beverage or beer containing
28 not more than 6% alcohol by volume without having first secured a license
29 for each place of business as herein provided. In case such place of
30 business is located within the corporate limits of a city, the application for
31 license shall be made to the governing body of such city. In all other cases,
32 the application for license shall be made to the board of county
33 commissioners in the county in which such place of business is to be
34 located, except that the application for license to sell on railway cars *or*
35 *vessels* shall be made to the director as hereinafter provided.

36 (b) A board of county commissioners shall not issue or renew a
37 retailer's license without giving the clerk of the township where the place
38 of business is to be located written notice by registered mail of the filing of
39 the application for licensure or renewal. The township board may within
40 10 days file advisory recommendations as to the granting of such license
41 or renewal and such advisory recommendations shall be considered by the
42 board of county commissioners before such license is issued. If an original
43 license is granted and issued, the board of county commissioners shall

1 grant and issue renewals thereof upon application of the license holder, if
2 the license holder is qualified to receive the same and the license has not
3 been revoked as provided by law.

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

6 (1) The name and residence of the applicant;

7 (2) the length of time that the applicant has resided within the state of
8 Kansas;

9 (3) the particular place of business for which a license is desired;

10 (4) the name of the owner of the premises upon which the place of
11 business is located; and

12 (5) a statement that the applicant is a citizen of the United States and
13 not less than 21 years of age and that the applicant has not within two
14 years immediately preceding the date of making application been
15 convicted of a felony, any crime involving moral turpitude, drunkenness,
16 driving a motor vehicle while under the influence of intoxicating liquor or
17 violation of any other intoxicating liquor law of any state or of the United
18 States.

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

22 (1) For licensure of a place of business other than a railway car *or*
23 *vessel*, a fee of not less than \$25 nor more than \$200, as prescribed by the
24 board of county commissioners or the governing body of the city, as the
25 case may be; and

26 (2) for licensure to sell on railway cars *or vessels*, a fee of \$100.

27 (e) Each applicant for a retailer's license or renewal of such a license
28 shall submit to the director a copy of the completed application for such
29 license or license renewal, together with a fee of \$25. Upon receipt of such
30 application, the director shall authorize a state stamp to be affixed to the
31 license. No such stamp shall be affixed to any license except such stamps
32 as provided by the director and no retailer's license shall be issued or
33 renewed unless such stamp has first been affixed thereto. The director may
34 refuse to issue a stamp if the applicant or licensee is not current in the
35 payment of any fines imposed by the director relating to such license or a
36 license previously issued pursuant to this section, the Kansas liquor control
37 act or the club and drinking establishment act.

38 (f) The director shall remit all fees collected by the director to the
39 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
40 amendments thereto. Upon receipt of each such remittance, the state
41 treasurer shall deposit the entire amount in the state treasury to the credit
42 of the state general fund, except that the director may provide for the
43 deposit in the cereal malt beverage tax refund fund of such amounts as

1 necessary for the refund of any license fees collected hereunder.

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

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

11 Sec. 6. K.S.A. 41-2601, 41-2612 and 41-2702 and K.S.A. 2022 Supp.
12 41-719 and 41-2608 are hereby repealed.

13 Sec. 7. This act shall take effect and be in force from and after its
14 publication in the statute book.