

## Substitute for HOUSE BILL No. 2689

By Committee on Federal and State Affairs

3-7

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1 AN ACT concerning alcoholic beverages; amending K.S.A. 41-2612, 79-  
2 41a01 and 79-41a04 and K.S.A. 2011 Supp. 41-2601 and repealing the  
3 existing sections.  
4

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

6 Section 1. K.S.A. 2011 Supp. 41-2601 is hereby amended to read as  
7 follows: 41-2601. As used in the club and drinking establishment act:

8 (a) The following terms shall have the meanings provided by K.S.A.  
9 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3)  
10 "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

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

14 (c) "Caterer" means an individual, partnership or corporation which  
15 sells alcoholic liquor by the individual drink, and provides services related  
16 to the serving thereof, on unlicensed premises which may be open to the  
17 public, but does not include a holder of a temporary permit, selling  
18 alcoholic liquor in accordance with the terms of such permit.

19 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-  
20 2701, and amendments thereto.

21 (e) "Class A club" means a premises which is owned or leased by a  
22 corporation, partnership, business trust or association and which is  
23 operated thereby as a *bona fide* nonprofit social, fraternal or war veterans'  
24 club, as determined by the director, for the exclusive use of the corporate  
25 stockholders, partners, trust beneficiaries or associates (hereinafter referred  
26 to as members) and their families and guests accompanying them.

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

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

32 (h) "Minibar" means a closed cabinet, whether nonrefrigerated or  
33 wholly or partially refrigerated, access to the interior of which is restricted  
34 by means of a locking device which requires the use of a key, magnetic  
35 card or similar device.

36 (i) "Drinking establishment" means premises which may be open to

1 the general public, where alcoholic liquor by the individual drink is sold.

2 *Drinking establishment includes a railway car.*

3 (j) "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 (k) "Food service establishment" has the meaning provided by K.S.A.  
7 36-501, and amendments thereto.

8 (l) "Hotel" has the meaning provided by K.S.A. 36-501, and  
9 amendments thereto.

10 (m) "Minor" means a person under 21 years of age.

11 (n) "Morals charge" means a charge involving prostitution; procuring  
12 any person; soliciting of a child under 18 years of age for any immoral act  
13 involving sex; possession or sale of narcotics, marijuana, amphetamines or  
14 barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy;  
15 or a crime against nature.

16 (o) "Municipal corporation" means the governing body of any county  
17 or city.

18 (p) *"Railway car" means a locomotive drawn conveyance used for*  
19 *the transportation and accommodation of human passengers that is*  
20 *confined to a fixed rail route and which derives from sales of food for*  
21 *consumption on the railway car not less than 30% of its gross receipts*  
22 *from all sales of food and beverages in a 12-month period.*

23 ~~(q)~~ (q) "Restaurant" means:

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

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

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

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

41 ~~(s)~~ (s) "Secretary" means the secretary of revenue.

42 ~~(t)~~ (t) "Temporary permit" means a temporary permit issued pursuant  
43 to K.S.A. 41-2645, and amendments thereto.

1       Sec. 2. K.S.A. 41-2612 is hereby amended to read as follows: 41-  
2 2612. Every holder of a license for a club or drinking establishment shall  
3 cause such license to be framed and hung in plain view in a conspicuous  
4 place on the licensed premises. *In the case of a railway car, the license*  
5 *shall be posted at its main office which shall be stated in the application.*

6       Sec. 3. K.S.A. 79-41a01 is hereby amended to read as follows: 79-  
7 41a01. As used in K.S.A. 79-41a01 through 79-41a09, and amendments  
8 thereto:

9       (a) "Alcoholic liquor" means alcoholic liquor, as defined by K.S.A.  
10 41-102, and amendments thereto, and cereal malt beverage, as defined by  
11 K.S.A. 41-2701, and amendments thereto.

12       (b) "Caterer," "club," "drinking establishment," "*railway car*" and  
13 "temporary permit" have the meanings provided by K.S.A. 41-2601, and  
14 amendments thereto.

15       (c) "Gross receipts derived from the sale of alcoholic liquor" means  
16 the amount charged the consumer for a drink containing alcoholic liquor,  
17 including any portion of that amount attributable to the cost of any  
18 ingredient mixed with or added to the alcoholic liquor contained in such  
19 drink.

20       Sec. 4. K.S.A. 79-41a04 is hereby amended to read as follows: 79-  
21 41a04. (a) There is hereby created, in the state treasury, the local alcoholic  
22 liquor fund. Moneys credited to such fund pursuant to this act or any other  
23 law shall be expended only for the purpose and in the manner provided by  
24 this act.

25       (b) *Except as provided in subsection (b)(4)*, all moneys credited to the  
26 local alcoholic liquor fund shall be allocated to the several cities and  
27 counties of the state as follows:

28       (1) Each city that has a population of more than 6,000 shall receive  
29 70% of the amount which is collected pursuant to this act from clubs or  
30 drinking establishments located in such city, from caterers whose principal  
31 places of business are so located or from temporary permit holders whose  
32 permitted events are so located and which is paid into the state treasury  
33 during the period for which the allocation is made.

34       (2) Each city that has a population of 6,000 or less shall receive 46  
35  $\frac{2}{3}$ % of the amount which is collected pursuant to this act from clubs or  
36 drinking establishments located in such city, from caterers whose principal  
37 places of business are so located or from temporary permit holders whose  
38 permitted events are so located and which is paid into the state treasury  
39 during the period for which the allocation is made.

40       (3) Each county shall receive: (A) 70% of the amount which is  
41 collected pursuant to this act from clubs or drinking establishments located  
42 in such county and outside the corporate limits of any city, from caterers  
43 whose principal places of business are so located or from temporary permit

1 holders whose permitted events are so located and which is paid into the  
2 state treasury during the period for which the allocation is made; and (B)  
3 23  $\frac{1}{3}$ % of the amount which is collected pursuant to this act from clubs or  
4 drinking establishments located in the county and within a city that has a  
5 population of 6,000 or less, from caterers whose principal places of  
6 business are so located or from temporary permit holders whose permitted  
7 events are so located and which is paid into the state treasury during the  
8 period for which the allocation is made.

9 *(4) From the amount collected from drinking establishments which*  
10 *are railway cars, counties shall receive 70% which shall be divided*  
11 *equally among the counties through which the railway car passes or in*  
12 *which the railway car operates, provided such county is a county where*  
13 *the qualified electors of the county:*

14 *(A) (i) Approved by a majority vote of those voting thereon, the*  
15 *proposition to amend section 10 of article 15 of the constitution of the*  
16 *state of Kansas at the general election in November 1986; or (ii) have*  
17 *approved a proposition to allow sales of alcoholic liquor by the individual*  
18 *drink in public places within the county at an election pursuant to K.S.A.*  
19 *41-2646, and amendments thereto; and*

20 *(B) have not approved a proposition to prohibit such sales of*  
21 *alcoholic liquor in such places at a subsequent election pursuant to K.S.A.*  
22 *41-2646, and amendments thereto.*

23 (c) The state treasurer shall make distributions from the local  
24 alcoholic liquor fund in accordance with the allocation formula prescribed  
25 by subsection (b) on March 15, June 15, September 15 and December 15  
26 of each year. The director of accounts and reports shall draw warrants on  
27 the state treasurer in favor of the several county treasurers and city  
28 treasurers on the dates and in the amounts determined under this section.  
29 Such distributions shall be paid directly to the several county treasurers  
30 and city treasurers.

31 (d) Except as otherwise provided by this subsection, each city  
32 treasurer of a city that has a population of more than 6,000, upon receipt of  
33 any moneys distributed under this section, shall deposit the full amount in  
34 the city treasury and shall credit  $\frac{1}{3}$  of the deposit to the general fund of the  
35 city,  $\frac{1}{3}$  to a special parks and recreation fund in the city treasury and  $\frac{1}{3}$  to  
36 a special alcohol and drug programs fund in the city treasury. Each city  
37 treasurer of a city that has a population of 6,000 or less, upon receipt of  
38 any moneys distributed under this section, shall deposit the full amount in  
39 the city treasury and shall credit  $\frac{1}{2}$  of the deposit to the general fund of the  
40 city and  $\frac{1}{2}$  to a special parks and recreation fund in the city treasury.  
41 Moneys in such special funds shall be under the direction and control of  
42 the governing body of the city. Moneys in the special parks and recreation  
43 fund may be expended only for the purchase, establishment, maintenance

1 or expansion of park and recreational services, programs and facilities.  
2 One-half of the moneys distributed under this section to cities located in  
3 Butler county shall be deposited in a special community support program  
4 and parks and recreation fund in the city treasury. Moneys in the special  
5 community support program and parks and recreation fund may be  
6 expended only for (1) the establishment and operation of a domestic  
7 violence program operated by a not-for-profit organization or (2) the  
8 purchase, establishment, maintenance or expansion of park and  
9 recreational services, programs and facilities. Moneys in the special  
10 alcohol and drug programs fund shall be expended only for the purchase,  
11 establishment, maintenance or expansion of services or programs whose  
12 principal purpose is alcoholism and drug abuse prevention and education,  
13 alcohol and drug detoxification, intervention in alcohol and drug abuse or  
14 treatment of persons who are alcoholics or drug abusers or are in danger of  
15 becoming alcoholics or drug abusers.

16 (e) Except as otherwise provided by this subsection, each county  
17 treasurer, upon receipt of any moneys distributed under this section, shall  
18 deposit the full amount in the county treasury and shall credit to a special  
19 alcohol and drug programs fund in the county treasury 23  $\frac{1}{3}$ % of the  
20 amount which is collected pursuant to this act from clubs or drinking  
21 establishments located in the county and within a city that has a population  
22 of 6,000 or less, from caterers whose principal place of business is so  
23 located or from temporary permit holders whose permitted events are so  
24 located and which is paid into the state treasury during the period for  
25 which the allocation is made; of the remainder, the treasurer shall credit  $\frac{1}{3}$   
26 to the general fund of the county,  $\frac{1}{3}$  to a special parks and recreation fund  
27 in the county treasury and  $\frac{1}{3}$  to the special alcohol and drug programs  
28 fund. Moneys in such special funds shall be under the direction and control  
29 of the board of county commissioners. Moneys in the special parks and  
30 recreation fund may be expended only for the purchase, establishment,  
31 maintenance or expansion of park and recreational services, programs and  
32 facilities. One-third of the moneys distributed under this section to Butler  
33 county shall be deposited in a special community support program and  
34 parks and recreation fund in the county treasury. Moneys in the special  
35 community support program and parks and recreation fund may be  
36 expended only for (1) the establishment and operation of a domestic  
37 violence program operated by a not-for-profit organization or (2) the  
38 purchase, establishment, maintenance or expansion of park and  
39 recreational services, programs and facilities. Moneys in the special  
40 alcohol and drug programs fund shall be expended only for the purchase,  
41 establishment, maintenance or expansion of services or programs whose  
42 principal purpose is alcoholism and drug abuse prevention and education,  
43 alcohol and drug detoxification, intervention in alcohol and drug abuse or

1 treatment of persons who are alcoholics or drug abusers or are in danger of  
2 becoming alcoholics or drug abusers. In any county in which there has  
3 been organized an alcohol and drug advisory committee, the board of  
4 county commissioners shall request and obtain, prior to making any  
5 expenditures from the special alcohol and drug programs fund, the  
6 recommendations of the advisory committee concerning such  
7 expenditures. The board of county commissioners shall adopt the  
8 recommendations of the advisory committee concerning such expenditures  
9 unless the board, by unanimous vote of all commissioners, adopts a  
10 different plan for such expenditures.

11 (f) Each year, the county treasurer shall estimate the amount of  
12 money the county and each city in the county will receive from the local  
13 alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05,  
14 and amendments thereto. The state treasurer shall advise each county  
15 treasurer, prior to June 1 of each year of the amount in the local alcoholic  
16 liquor fund that the state treasurer estimates, using the most recent  
17 available information, will be allocated to such county in the following  
18 year. The county treasurer shall, before June 15 of each year, notify the  
19 treasurer of each city of the estimated amount in dollars of the distribution  
20 to be made from the local alcoholic liquor fund and pursuant to K.S.A. 79-  
21 41a05, and amendments thereto.

22 Sec. 5. K.S.A. 41-2612, 79-41a01 and 79-41a04 and K.S.A. 2011  
23 Supp. 41-2601 are hereby repealed.

24 Sec. 6. This act shall take effect and be in force from and after its  
25 publication in the Kansas register.

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