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Alcohol, Drugs, and Gaming

B-3 Liquor Laws

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

State and Local Regulatory Authority

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

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

The Liquor Control Act

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

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

The Cereal Malt Beverage Act

Local governments have additional authority under the Cereal Malt Beverage Act. According to statute, applications for cereal malt beverage licenses are made either to the city or county government, depending on where the business is located.

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

The Cereal Malt Beverage Act also allows local governments some discretion in revoking licenses and actually requires such action by local governments in specific situations.

The Club and Drinking Establishment Act

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

The board of county commissioners may submit a proposition to voters to: (1) prohibit the sale of individual alcoholic drinks in the country, (2) permit the sale of individual alcoholic drinks only if an establishment receives 30 percent of its gross receipts from food sales, or (3) permit the sale of individual alcoholic drinks only if an establishment receives some portion of gross receipts from food sales. If a majority of voters in the county vote in favor of the proposition, the ABC Director must respect the local results when issuing or denying licenses in that county.

Additionally, the county commissioners are required to submit a proposition to the voters upon

receiving a petition if the petition is signed by at least 10 percent of voters who voted in the election for the Secretary of State the last time that office was on the ballot in a general election. The petition must contain the language required in KSA 41-2646(3)(b), and the petition must be filed with the county election officer.

The Nonalcoholic Malt Beverages Act

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

The Flavored Malt Beverage Act

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

The Beer and Cereal Malt Beverage Keg Registration Act

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

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

Liquor Taxes

Currently, Kansas imposes three levels of liquor taxes. For more information, see article R-3, Liquor Taxes.

2015 Changes to Liquor Laws—HB 2223

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

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

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

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

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

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

Alcohol Consumption on Unlicensed Premises.

The legislation provided that patrons and guests of unlicensed businesses will be allowed to consume alcoholic liquor and cereal malt beverages on the premises of unlicensed business property if the following conditions are met:

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

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

Notification Requirements. The legislation changed the notice caterers must give to ABC before an event to electronic notification 48 hours before an event. Previously, the law required a caterer to provide notice to ABC 10 days before any event and provide notice to the Chief of Police or Sheriff where the event was to occur.

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

Vineyard Permits. The legislation allowed any person engaged in business as a Kansas vineyard with more than 100 vines to apply for an annual permit. The permit authorizes the following on the premises specified in the permit:

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

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

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

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

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