

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

State and Local Regulatory Authority

The Division of Alcoholic Beverage Control (ABC) and the Director of ABC within the 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 CMB 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 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.

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.

CMB Act

Local governments have additional authority under the CMB Act. According to law, applications for CMB 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 CMB 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 CMB Act govern the sale of CMBs. Counties and cities also may establish zoning requirements that regulate establishments selling CMBs and that may limit them to certain locations.

The CMB Act also allows local governments some discretion in revoking licenses and requires such action by local governments in specific situations.

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 county, (2) permit the sale of individual alcoholic drinks only if an establishment receives 30.0 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 Director of ABC 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 10.0 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.

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 CMB Act, depending on which act the retailer is licensed under for selling or providing the nonalcoholic malt beverage.

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 FMB regulation and penalties associated with FMBs in the state. Because FMBs are CMBs, they are regulated under the CMB Act.

Beer and Cereal Malt Beverage Keg Registration Act

Retailers selling kegs are regulated under the Liquor Control Act or the CMB Act, depending on the type of

alcoholic beverage(s) the retailer is selling. Although local governments have delegated authority under the CMB Act, city and county ordinances that conflict with the Beer and Cereal Malt Beverage Keg Registration Act are void.

Liquor Taxes

Currently, Kansas imposes three levels of liquor taxes. Gallonage, Drink 10% and Retailer Excise 8%

Changes to Liquor Laws—2020 Special Session

HB 2016The bill, among other things, amends the statute governing removal of unconsumed alcoholic liquor from premises of a club or drinking establishment to allow legal patrons to remove from the licensed premises one or more containers of alcoholic liquor not in the original container, subject to the following conditions: ●It must be legal for the licensee to sell the alcoholic liquor; ●Each container of alcoholic liquor must have been purchased by a patron on the licensed premises; ●The licensee or the licensee’s employee must provide the patron with a dated receipt for the alcoholic liquor; and ●Before the container of alcoholic liquor is removed from the licensed premises, the licensee or the licensee’s employee must place the container in a transparent bag that is sealed in a manner that makes it visibly apparent

if the bag is subsequently tampered with or opened. These provisions expire on January 26, 2021. *Ed note: now March 31, 2021 per SB14 (2021)*

2019 Changes to Liquor Laws—

SB 70 and HB 2035SB 70

Temporary permit holders. The bill allows a temporary permit holder to serve alcohol for consumption on licensed or unlicensed premises, or on premises subject to a separate temporary permit.

Common consumption areas. The bill allows a drinking establishment licensee, public venue, hotel, hotel caterer, or drinking establishment caterer to extend its licensed premises into a city, county, or township street, alley, road, sidewalk, or highway under certain circumstances. Delivery of liquor. The bill requires every express company or other common carrier that delivers alcohol from outside the state to consumers within the state to prepare a monthly report of shipments.

Sale of farm wine by producer licensees. The bill allows producers of certain fermentative products to sell wine made at a farm winery with certain minimum Kansas content requirements.

HB 2035The bill, among other things, makes notice and procedural requirements for violations of the

CMB Act the same as for violations of the Liquor Control Act and the Club and Drinking Establishment Act and places violations of the CMB Act under the authority of the ABC. The bill makes the enforcement authority for violations involving beer with up to 6.0 percent alcohol by volume uniform across state liquor laws. The bill also clarifies all retail sales of liquor, CMB, and nonalcoholic malt beverage are subject to the liquor enforcement tax described in KSA 79-4101.

2018 Changes to Liquor Laws—

HB 2362 Microbreweries production and packaging. The bill allows microbreweries in Kansas to contract with other microbreweries for production and packaging of beer and hard cider. The contracting Kansas microbrewery will be held to all applicable state and federal laws concerning manufacturing, packaging, and labeling and will be responsible for payment of all state and federal taxes on the beer or hard cider. Production of beer or hard cider will count toward production limits in current law for both the microbreweries involved in such a contract. The bill allows the beer or hard cider to be transferred to the microbrewery on whose behalf the beer or hard cider was produced, after production and packaging. Sale of alcoholic candy. The bill defines “alcoholic candy” and includes the term in the existing definition of “alcoholic liquor.” Alcoholic candy is

subject to regulation by the ABC, and a retailer is required to have a liquor license to sell such products.

Sale of domestic beer in refillable containers. The bill allows a microbrewery licensee to sell beer manufactured by the licensee in refillable and sealable containers to consumers for off-premises consumption. Such containers may not contain less than 32 fluid ounces or more than 64 fluid ounces of beer. Licensees are required to affix labels, which include the licensee’s name and the name and type of beer in the container, to all containers sold.

Hours of sale and service for alcohol. The bill increases the length of time that certain businesses may serve or sell alcohol: ● Establishments licensed to serve alcohol may begin serving alcohol at 6:00 a.m.; and ● Farm wineries, microbreweries, and microdistilleries are allowed to sell their respective alcoholic products in their original containers between 6:00 a.m. and 12:00 a.m. on any day. Self-service beer from automated devices. The bill allows licensed public venues, clubs, and drinking establishments to provide self-service beer to customers from automated devices in the same manner as is permitted for wine under continuing law, so long as the licensee monitors the dispensing of beer and can control such dispensing. The bill requires any licensee offering self-service beer or wine from any

automated device to provide constant video monitoring of the automated devices at all times the licensee is open to the public and maintain the footage for at least 60 days.

The bill also sets out requirements for prepaid access cards that contain a fixed monetary amount that can be directly exchanged for beer or wine from an automated device.