



LIQUOR LAW UPDATES 2008-2010

2008 Amendments to Kansas Liquor Laws effective July 1, 2008

The 2008 Kansas Legislature passed just one bill, House Bill 2908, which amends statutes within the Kansas Liquor Control Act and the Kansas Club and Drinking Establishment Act. This bill was signed by the governor and will become effective July 1, 2008.

The following are the changes made by House Bill 2908:

K.S.A. 41-308a was amended to allow farm wineries to sell bottles of wine to the holders of temporary permits issued under the club and drinking establishment act.

K.S.A. 41-2645 was amended to specifically authorize a temporary permit holder to sell unopened bottles of wine at the Kansas State Fair.

K.S.A. 41-102 was amended to change the definition of domestic beer and wine by removing the language that domestic beer and wine must contain agricultural products grown in Kansas.

K.S.A. 41-303 was amended to remove the 5,000 population requirement for issuance of a retail liquor store license in a township outside of a city.

K.S.A. 41-308b was amended to remove the requirement that beer manufactured by a Kansas microbrewery must contain at least 50% Kansas agricultural products.

K.S.A. 41-719 was amended to allow alcoholic beverages on the premises of all Kansas National Guard Armory's with the approval of the Adjutant General and the Military Review Board.

K.S.A. 41-346, 41-2615, 41-2905, 41-2906 and 21-3610 were amended to allow that the photo on a ID card presented reasonably appear to be the person presenting the ID this replaces prior language that the photo on the ID had to be of the person presenting the ID.

2009 Amendments to Kansas Liquor Laws

The 2009 Kansas Legislature passed just one bill, Senate Bill 212, which amends statutes within the Kansas Liquor Control Act and the Kansas Club and Drinking Establishment Act. This bill will become effective July 1, 2009. The following changes are made by Senate Bill 212:

Liquor Control Act (K.S.A. 41-101 et seq.)

New Section 1 allows a winery that possess a federal basic wine manufacturing permit and a Kansas special order shipping license to ship wine directly to consumers in Kansas.

New Section 2 allows a licensed Kansas farm winery which possesses a bona fide farmers' market sales permit to sell domestic table wine and domestic fortified wine in the original, unopened package at a farmers' market approved by the Director.

K.S.A. 41-305 was amended to allow the holder of a farm winery license to also hold a manufacturer's license.

K.S.A. 41-308a was amended to allow a farm winery outlet to manufacture and store domestic table wine and domestic fortified wine, if the total amount of wine produced by the farm winery, including all outlets, does not exceed 100,000 gallons per year.

K.S.A. 41-317 was amended to require a \$750 bond for a winery holding a special order shipping license, unless the winery is a licensed Kansas farm winery.

K.S.A. 41-719 was amended to allow the consumption of alcoholic liquor on public streets, alleys, roads, sidewalks, or highways when a temporary permit has been issued for a special event approved by the local governing body.

Club and Drinking Establishment Act (K.S.A. 41-2601 et seq.)

K.S.A. 41-2637, 41-2641, and 41-2642 were amended to allow a club or drinking establishment to store, on the licensed premises, wine sold to a consumer for consumption at a later date on the licensed premises. The wine may only be stored in its original, unopened container, and must be kept separate from all other alcohol stock, in a secure locked area, separated by customer. The wine may not be removed from the premises in its unopened condition.

K.S.A. 41-2645 was amended to allow the issuance of a temporary permit for a special event at which alcoholic liquor may be consumed on public streets, alleys, roads, sidewalks, or highways, when approved by the local governing body. It also allows any drinking establishment that is inside or adjacent to the event premises to temporarily extend its licensed premises into the

event area. The amendment makes each licensee selling alcoholic liquor for consumption on the event premises liable for any violation of the laws governing the sale and consumption of alcoholic liquor.

K.S.A. 41-2651 was amended to allow the governing body of any city or county to request a hearing before the Director to request the revocation or suspension of the liquor license of a club or drinking establishment at any time reasonable cause exists to support such revocation or suspension.

INDUSTRY UPDATE

Electronic Liquor Licensing

We are in the initial stages of designing our Electronic Liquor Licensing Web Application that will allow applicants to apply for a new liquor license; licensees to renew their current liquor license; and, payment of licensing and registration fees electronically. Please check the ABC website for future updates and information.

Website Update

The ABC website has been reorganized for easier navigation. We have added new pages for the Special Order Shipping License and the Farmers' Market Sales Permit as well as revised Handbooks for the other license types.

Licensing Update

The ABC discontinued the practice of sending renewal application packets to liquor licensees and permit holders in June 2009. Now, the ABC will send a bright yellow postcard notifying you that your license or permit is nearing expiration and it includes instructions to obtain your renewal packet from our web site. As a reminder, K.S.A. 41-319 allows the ABC 30 days to process your application (20 days if you are a manufacturer, distributor or non-beverage user). This time is required to complete the administrative tasks involved. Please keep this in mind when submitting your documents to renew your liquor license.

Owners which hold multiple licenses may consolidate all their licenses into the same license year by notifying the ABC licensing unit, in writing. At the next license renewal, the owner must file applications for all licenses and permits held by the entity. The ABC will arrange the issuance of the new licenses to coincide with the surrender of the un-expired licenses, and the owner will receive a refund for the unused portion of the license fee(s) upon written request to ABC.

Farm Winery Update

A farm winery may now receive a license as a manufacturer. Please be advised that, while the manufacturing facility may be shared between the two license types, no alcoholic liquor manufactured under the manufacturer's license may be displayed, sold or sampled on the farm winery premises, the premises of any farm winery outlet, at a farmers' market under a farmers' market sales permit, or shipped under a special order shipping permit.

Reminder about Salespersons Permits

Any person who acts as a sales person for the sale of, or taking or soliciting orders for the sale of, alcoholic liquor or cereal malt beverage in Kansas, except a retailer or employee of a retailer operating solely on the retailer's licensed premises, must have a salesperson's permit.

This includes: + Employees of suppliers, distributors, and manufacturers who solicit or take orders, either in person, over the phone, or electronically, for alcoholic liquor or cereal malt beverage from Kansas licensees, are required to obtain a salesperson permit prior to conducting any sales; + Employees of farm wineries and microbreweries; and + Retailers or employees of retailers who solicit or take orders for alcoholic liquor off the licensed premises of the retail liquor store. No person shall act as salesperson for more than one person, firm or corporation under one permit. Additional permits may be granted the same applicant for additional principals.

2010 AMENDMENTS TO KANSAS LIQUOR LAWS

Effective July 1, 2010

The 2010 legislature passed SB 452 which amends statutes in both the liquor control act and the club and drinking establishment act. The bill was signed by the governor and becomes effective July 1, 2010.

In brief, all licenses will become two-year licenses effective July 1, 2010, except drinking establishment licenses, which will become two-year licenses on July 1, 2011. The license fees have been adjusted accordingly. Most of the changes are related to this major amendment. Some other amendments were unrelated or minor, technical amendments.

Following are the changes made by SB 452:

K.S.A. 41-102 was amended to change the definition of "domestic fortified wine" to remove "without rectification". Domestic fortified wine may now be manufactured by adding spirits or liquid to adjust the alcohol content.

K.S.A. 41-308a was amended to reflect the special order shipping license rather than the winery shipping permit which was revoked in 2009.

K.S.A. 41-308b was amended to allow a microbrewery to serve, on the licensed premises, free samples of domestic beer manufactured by the licensee

K.S.A. 41-310 was amended to change the term of a license issued under the liquor control act from one year to two years. The license fees were adjusted to reflect the two-year license term. Also, any city or county occupation or license tax will now be a biennial tax. Any extension of the license term by the Director will automatically extend the due date for the local occupation or license tax for the same amount of time.

K.S.A. 41-311 was amended as follows:

- The requirement that the applicant have a valid lease for at least $\frac{3}{4}$ of the license term was removed. An applicant who leases its premises may qualify for licensure with a valid lease at the time of application.
- The residency requirement for an applicant for a farm winery or microbrewery license was reduced from four years to one year.
- The spouse of an applicant for a retailer's license may hold a license as a farm winery, microbrewery, or both.
- The spouse of an applicant for a farm winery license or microbrewery license may hold a retailer's license.

K.S.A. 41-317 and K.S.A. 41-2606 were amended to allow an applicant the option of paying the two-year license fee in two installments. If the applicant elects to pay the fee in installments, half is due at the time of application, and the second half, plus a fee of 10% of the remaining balance, is due one year from the date the license was issued. The license may be canceled immediately if the second installment is not timely paid. An applicant may avoid the additional 10% fee by paying the entire license fee at the time of application

K.S.A. 41-326, K.S.A. 41-2607 and K.S.A. 41-2629 were amended to allow refunds for $\frac{1}{2}$ of the license fee if the licensee pays the full amount of the fee at the time of application and subsequently fails to use any of the second year of the license term. Refunds are limited to $\frac{1}{2}$ of the total license fee. The ABC will be implementing regulations to establish requirements for requesting a refund.

K.S.A. 41-2607 was also amended to change the term of a class A club license from one year to two years. Any extension of the license term by the Director will automatically extend the due date for any local occupation or license tax for the same amount of time.

K.S.A. 41-350 was amended to change the license term for a special order shipping license from one year to two years. The fee for a special order shipping license was adjusted to reflect the longer license term.

K.S.A. 41-2601 was amended to define "municipal corporation" as the governing body of any city or county.

K.S.A. 41-2605 was amended to include a municipal corporation as an entity who may hold a license.

K.S.A. 41-2622 was amended to adjust the license fee for a class A club, class B club and caterer license to reflect the two-year license term. Effective July 1, 2011, the fee for drinking establishment licenses will be adjusted to reflect the two-year term as well. Also, any city or county occupation or license tax will now be a biennial tax.

K.S.A. 41-2623 was amended to change the lease requirement from at least $\frac{3}{4}$ of the license term to being a valid lease at the time of application. Also, if the premises is owned by a city or county, or is a stadium, arena, convention center, theater, museum, amphitheater or other similar premises, an applicant for a drinking establishment license may submit an executed agreement to provide alcoholic beverage service in lieu of a deed or lease.

K.S.A. 41-2629 was amended to change the license term for a class B club license or caterer's license from one year to two years effective July 1, 2010. Effective July 1, 2011, drinking establishment licenses will become two-year licenses. Any extension of the license term by the Director will automatically extend the due date for any local occupation or license tax for the same amount of time.

It was also amended to allow refunds for $\frac{1}{2}$ of the license fee if the licensee pays the full amount of the fee at the time of application and subsequently fails to use any of the second year of the license term. Refunds are limited to $\frac{1}{2}$ of the total license fee.