

HOUSE BILL No. 2379

By Committee on Federal and State Affairs

2-19

1 AN ACT concerning alcoholic beverages; relating to microbreweries and
2 microdistilleries; exemption from enforcement tax levy; amending
3 K.S.A. 2018 Supp. 41-308b and 41-354 and repealing the existing
4 sections.

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

7 New Section 1. Nothing in K.S.A. 79-4101 through 79-4108, and
8 amendments thereto, shall be construed to require a microbrewery or a
9 microdistillery licensed under the Kansas liquor control act to collect or
10 pay the tax imposed under K.S.A. 79-4101, and amendments thereto, on
11 alcoholic liquor manufactured by such microbrewery or microdistillery
12 that is directly transferred to a licensed club or drinking establishment for
13 subsequent sale and consumption on the licensed premises of such club or
14 drinking establishment as authorized by K.S.A. 41-308b(a)(7), and
15 amendments thereto, in the case of a microbrewery, or K.S.A. 2018 Supp.
16 41-354(a)(5), and amendments thereto, in the case of a microdistillery.

17 Sec. 2. K.S.A. 2018 Supp. 41-308b is hereby amended to read as
18 follows: 41-308b. (a) A microbrewery license shall allow:

19 (1) The manufacture of not less than 100 nor more than 60,000
20 barrels of domestic beer during the calendar year and the storage thereof,
21 if, however, the licensee holds a 10% or greater ownership interest in one
22 or more entities that also hold a microbrewery license, then the aggregate
23 number of barrels of domestic beer manufactured by all such licensees
24 with such common ownership shall not exceed the 60,000 barrel limit;

25 (2) the manufacture in the aggregate of not more than 100,000 gallons
26 of hard cider during the calendar year and the storage thereof;

27 (3) the sale to beer distributors of beer and the sale to wine
28 distributors of hard cider, manufactured by the licensee;

29 (4) the sale, on the licensed premises in the original unopened
30 container to consumers for consumption off the licensed premises, of beer
31 and hard cider manufactured by the licensee;

32 (5) the sale, on the licensed premises in refillable and sealable
33 containers to consumers for consumption off the licensed premises, of beer
34 manufactured by the licensee, subject to the following conditions:

35 (A) Containers described in this paragraph shall contain not less than
36 32 fluid ounces and not more than 64 fluid ounces of beer; and

1 (B) the licensee shall affix a label to all containers sold pursuant to
2 this paragraph clearly indicating the licensee's name and the name and type
3 of beer contained in such container;

4 (6) the serving free of charge on the licensed premises and at special
5 events, monitored and regulated by the division of alcoholic beverage
6 control, of samples of beer and hard cider manufactured by the licensee, if
7 the premises are located in a county where the sale of alcoholic liquor is
8 permitted by law in licensed drinking establishments;

9 (7) if the premises is also licensed as a club or drinking
10 establishment, ~~the sale and~~ transfer of domestic beer to such club or
11 drinking establishment and the sale of *such* domestic beer and other
12 alcoholic liquor for consumption on the licensed premises as authorized by
13 the club and drinking establishment act;

14 (8) if the premises is also licensed as a caterer, the sale of domestic
15 beer and other alcoholic liquor for consumption on unlicensed premises as
16 authorized by the club and drinking establishment act;

17 (9) if the licensee holds a 10% or greater ownership interest in one or
18 more entities that also hold a microbrewery license, the domestic beer may
19 be manufactured and transferred for sale or storage among such
20 microbrewery licensees with such common ownership; and

21 (10) the transfer of beer and hard cider manufactured by the licensee
22 pursuant to a contract entered into in accordance with subsection (b) to the
23 contracting microbrewery.

24 (b) (1) A microbrewery may contract with one or more
25 microbreweries for the purpose of manufacturing beer or hard cider for
26 such other microbreweries. A microbrewery located in this state may
27 manufacture and package beer and hard cider for a microbrewery located
28 within or outside of Kansas.

29 (2) A microbrewery manufacturing beer or hard cider for another
30 microbrewery shall be responsible for complying with all federal and state
31 laws dealing with the manufacturing of beer and hard cider, including
32 labeling laws, and shall be responsible for the payment of all federal and
33 state taxes on the beer and hard cider.

34 (3) Each party engaged in a contract brewing agreement must count
35 the total amount of barrels and gallons manufactured as part of the
36 agreement and include that total amount as part of their allowed aggregate
37 total as provided in subsection (a).

38 (c) Not less than 30% of the products utilized in the manufacture of
39 hard cider by a microbrewery shall be grown in Kansas except when a
40 lesser proportion is authorized by the director based upon the director's
41 findings and judgment. The production requirement of this subsection shall
42 be determined based on the annual production of domestic hard cider.

43 (d) Upon application and payment of the fee prescribed by K.S.A. 41-

1 310, and amendments thereto, by a microbrewery licensee, the director
2 may issue not to exceed one microbrewery packaging and warehousing
3 facility license to the microbrewery licensee. A microbrewery packaging
4 and warehousing facility license shall allow:

5 (1) The transfer, from the licensed premises of the microbrewery to
6 the licensed premises of the microbrewery packaging and warehousing
7 facility, of beer and hard cider manufactured by the licensee, for the
8 purpose of packaging or storage, or both;

9 (2) the transfer, from the licensed premises of the microbrewery
10 packaging and warehousing facility to the licensed premises of any
11 microbrewery of such licensee, of beer manufactured by the licensee;

12 (3) the removal from the licensed premises of the microbrewery
13 packaging and warehousing facility of beer manufactured by the licensee
14 for the purpose of delivery to a licensed beer wholesaler; and

15 (4) the removal from the licensed premises of the microbrewery
16 packaging and warehousing facility of hard cider manufactured by the
17 licensee for the purpose of delivery to a licensed wine distributor.

18 (e) A microbrewery may sell domestic beer in the original unopened
19 container to consumers for consumption off the licensed premises at any
20 time between 6 a.m. and 12 midnight on any day. If authorized by
21 subsection (a), a microbrewery may serve samples of domestic beer and
22 serve and sell domestic beer and other alcoholic liquor for consumption on
23 the licensed premises at any time when a club or drinking establishment is
24 authorized to serve and sell alcoholic liquor.

25 (f) The director may issue to the Kansas state fair or any bona fide
26 group of brewers a permit to import into this state small quantities of beer.
27 Such beer shall be used only for bona fide educational and scientific
28 tasting programs and shall not be resold. Such beer shall not be subject to
29 the tax imposed by K.S.A. 41-501, and amendments thereto. The permit
30 shall identify specifically the brand and type of beer to be imported, the
31 quantity to be imported, the tasting programs for which the beer is to be
32 used and the times and locations of such programs. The secretary shall
33 adopt rules and regulations governing the importation of beer pursuant to
34 this subsection and the conduct of tasting programs for which such beer is
35 imported.

36 (g) A microbrewery license or microbrewery packaging and
37 warehousing facility license shall apply only to the premises described in
38 the application and in the license issued and only one location shall be
39 described in the license.

40 (h) No microbrewery shall:

41 (1) Employ any person under the age of 18 years in connection with
42 the manufacture, sale or serving of any alcoholic liquor;

43 (2) permit any employee of the licensee who is under the age of 21

1 years to work on the licensed premises at any time when not under the on-
 2 premises supervision of either the licensee or an employee of the licensee
 3 who is 21 years of age or over;

4 (3) employ any person under 21 years of age in connection with
 5 mixing or dispensing alcoholic liquor; or

6 (4) employ any person in connection with the manufacture or sale of
 7 alcoholic liquor if the person has been convicted of a felony.

8 (i) Whenever a microbrewery licensee is convicted of a violation of
 9 the Kansas liquor control act, the director may revoke the licensee's license
 10 and all fees paid for the license in accordance with the Kansas
 11 administrative procedure act.

12 Sec. 3. K.S.A. 2018 Supp. 41-354 is hereby amended to read as
 13 follows: 41-354. (a) A microdistillery license shall allow:

14 (1) The manufacture of not more than 50,000 gallons of spirits per
 15 year and the storage thereof;

16 (2) the sale to spirit distributors of spirits, manufactured by the
 17 licensee;

18 (3) the sale, on the licensed premises in the original unopened
 19 container to consumers for consumption off the licensed premises, of
 20 spirits manufactured by the licensee;

21 (4) the serving free of charge on the licensed premises and at special
 22 events, monitored and regulated by the division of alcoholic beverage
 23 control, of samples of spirits manufactured by the licensee, if the premises
 24 are located in a county where the sale of alcoholic liquor is permitted by
 25 law in licensed drinking establishments;

26 (5) if the licensee is also licensed as a club or drinking establishment,
 27 the *transfer of spirits to such club or drinking establishment and the sale*
 28 *of such spirits and other alcoholic liquor for consumption on the licensed*
 29 *premises as authorized by the club and drinking establishment act; and*

30 (6) if the licensee is also licensed as a caterer, the sale of spirits and
 31 other alcoholic liquor for consumption on unlicensed premises as
 32 authorized by the club and drinking establishment act.

33 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
 34 310, and amendments thereto, by a microdistillery licensee, the director
 35 may issue not to exceed one microdistillery packaging and warehousing
 36 facility license to the microdistillery licensee. A microdistillery packaging
 37 and warehousing facility license shall allow:

38 (1) The transfer, from the licensed premises of the microdistillery to
 39 the licensed premises of the microdistillery packaging and warehousing
 40 facility, of spirits manufactured by the licensee, for the purpose of
 41 packaging or storage, or both;

42 (2) the transfer, from the licensed premises of the microdistillery
 43 packaging and warehousing facility to the licensed premises of the

1 microdistillery, of spirits manufactured by the licensee; or

2 (3) the removal from the licensed premises of the microdistillery
3 packaging and warehousing facility of spirits manufactured by the licensee
4 for the purpose of delivery to a licensed spirits wholesaler.

5 (c) A microdistillery may sell spirits in the original unopened
6 container to consumers for consumption off the licensed premises at any
7 time between 6 a.m. and 12 midnight on any day. If authorized by
8 subsection (a), a microdistillery may serve samples of spirits and serve and
9 sell spirits and other alcoholic liquor for consumption on the licensed
10 premises at any time when a club or drinking establishment is authorized
11 to serve and sell alcoholic liquor.

12 (d) The director may issue to the Kansas state fair or any bona fide
13 group of distillers a permit to import into this state small quantities of
14 spirits. Such spirits shall be used only for bona fide educational and
15 scientific tasting programs and shall not be resold. Such spirits shall not be
16 subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The
17 permit shall identify specifically the brand and type of spirit to be
18 imported, the quantity to be imported, the tasting programs for which the
19 spirit is to be used and the times and locations of such programs. The
20 secretary shall adopt rules and regulations governing the importation of
21 spirits pursuant to this subsection and the conduct of tasting programs for
22 which such spirits are imported.

23 (e) A microdistillery license or microdistillery packaging and
24 warehousing facility license shall apply only to the premises described in
25 the application and in the license issued and only one location shall be
26 described in the license.

27 (f) No microdistillery shall:

28 (1) Employ any person under the age of 18 years in connection with
29 the manufacture, sale or serving of any alcoholic liquor;

30 (2) permit any employee of the licensee who is under the age of 21
31 years to work on the licensed premises at any time when not under the on-
32 premises supervision of either the licensee or an employee of the licensee
33 who is 21 years of age or over;

34 (3) employ any person under 21 years of age in connection with
35 mixing or dispensing alcoholic liquor; or

36 (4) employ any person in connection with the manufacture or sale of
37 alcoholic liquor if the person has been convicted of a felony.

38 (g) Whenever a microdistillery licensee is convicted of a violation of
39 the Kansas liquor control act, the director may revoke the licensee's license
40 and all fees paid for the license in accordance with the Kansas
41 administrative procedure act.

42 (h) The provisions of this section shall take effect and be in force
43 from and after July 1, 2012.

1 (i) All rules and regulations adopted on and after July 1, 2012, and
2 prior to July 1, 2013, to implement this section shall continue to be
3 effective and shall be deemed to be duly adopted rules and regulations of
4 the secretary until revised, amended, revoked or nullified pursuant to law.

5 (j) This section shall be a part of and supplemental to the Kansas
6 liquor control act.

7 Sec. 4. K.S.A. 2018 Supp. 41-308b and 41-354 are hereby repealed.

8 Sec. 5. This act shall take effect and be in force from and after its
9 publication in the statute book.