

KANSAS LIQUOR LAWS

How Has Kansas Policy Regarding Regulation of Alcohol Evolved?

Some major events in the evolution of liquor policy in Kansas are listed below.

1880 Voters approved (92,302 to 84,304) an amendment to the *Kansas Constitution* prohibiting the manufacture and sale of intoxicating liquors (Article 15, §10).

1934 Voters rejected (347,644 to 436,688) a proposed constitutional amendment to authorize the Legislature to regulate and tax liquor.

1937 The Legislature enacted the law that categorizes beer with an alcohol content of 3.2 percent or less alcohol by weight as cereal malt beverage (CMB) which was excluded from the definition of intoxicating liquor. The law authorized sale of CMB for both on- and off-premise consumption throughout the state.

1948 Voters approved (422,294 to 358,310) an amendment to the *Kansas Constitution* that authorized the Legislature to "... regulate, license and tax the manufacture and sale of intoxicating liquor ... regulate the possession and transportation of intoxicating liquor." (Art.15, § 10) The amendment also "forever prohibited" the open saloon. The amendment meant that package liquor sales could be authorized and regulated, but that sale of liquor by the drink in public places was prohibited.

1949 The Legislature enacted the Liquor Control Act. The Act authorized package sale of liquor in counties in which the 1948 amendment had been approved. The Act created a system of regulating, licensing, and taxing those package sales. The Division of Alcoholic Beverage Control (ABC) was created to enforce the Act.

1959 The Legislature enacted the "minimum price law" which required manufacturers to sell liquor to distributors in Kansas at the same price and without discrimination. Manufacturers' price lists were to be filed with the Director of ABC. Manufacturers also were required to file suggested wholesale and retail price lists with the Director. Distributors were required to file current price lists with the Director and were prohibited from selling liquor to retailers at any price other than that posted with the Director. The Director of ABC was authorized to promulgate rules and regulations prohibiting distributors and retailers from selling liquor below manufacturers' suggested case and bottle prices filed with the Director of ABC. Prior to enactment of statutes regulating liquor pricing, prices were controlled by regulation. The regulation was overturned by the courts in 1958.

1961 Amendment of the minimum price law established guidelines for the ABC Board of Review to use to set minimum wholesale and retail liquor prices.

1965 The Legislature enacted laws providing for licensure and regulation of liquor sales in private clubs. Such clubs were allowed under the constitutional prohibition because they were not open to the public.

1970 Blood alcohol level at which a driver was presumed to be under the influence of alcohol was lowered from 0.15 percent to 0.1 percent. Proposition to remove "open saloon" prohibition from *Constitution* rejected by voters 335,094 to 346,423.

1978 Restaurants were authorized to sell liquor if they derived at least 50 percent of gross receipts from the sale of food and are located in counties that approved such sales at the 1978 general election. These establishments were not subject to the ten-day waiting period and membership dues requirements of the private club law. (Law struck down by court.)

1979 Private clubs were statutorily authorized to sell liquor by the drink to members and guests. The law eliminated "liquor pools" and permitted class B clubs that derived a minimum of 50 percent of their gross receipts from the sale of food to establish reciprocal relationships with other similar clubs. Those agreements provided members of one participating club with access to all participating clubs. Class A clubs also were authorized to enter into reciprocal agreements. The 10 percent "drink tax" was imposed in lieu of the retail sales tax on sales of liquor by clubs. Revenue from the tax was credited to the Local Alcoholic Liquor Fund from which allocations were made to cities and counties based on the amount collected from clubs located in that jurisdiction. A city or county receiving an allocation must credit moneys as follows:

- one-third to the general fund
- one-third to a special parks and recreation fund
- one-third to a special alcohol programs fund

I- An exclusive territorial franchise system for liquor wholesalers was established. Under the system, each liquor wholesaler was required to file with the ABC the territory agreed upon by the wholesaler and the manufacturer, within which the wholesaler will sell the manufacturer's products to retailers. A manufacturer cannot grant a franchise for a particular territory to more than one wholesaler.

Minimum wholesale prices were no longer established by the state. Minimum price mark-ups for retailers were to be determined by the ABC Board of Review.

1982 Private clubs were authorized to sell CMB for on-premise consumption only at any time liquor is sold (prior law provided for different hours of sale for liquor and CMB at clubs). Authority for clubs to sell CMB for off-premise consumption was repealed. Blood alcohol content of 0.1 percent becomes *prima facie* evidence that a driver is under the influence of alcohol to a degree that renders the person incapable of driving safely. One-fourth of receipts from "drink tax" to be allocated to the State General Fund.

1983 Farm wineries were permitted to manufacture and sell table wine containing 14 percent or less alcohol made from Kansas-grown products. Farm wineries were authorized to sell their products to wholesalers and to consumers for off-premise consumption. Liquor enforcement tax rate increased from 4 percent to 8 percent of the retail sales price of liquor sold for off-premise consumption.

1985 The minimum legal age for possession and consumption of CMS was raised to 21 for persons born after July 1, 1986. CMB sold in private clubs was subject to the 10 percent "drink tax." Five percent of "drink tax" receipts credited to the Community Alcoholism and Intoxication Programs Fund administered by SRS. The amendment reduced the amount allocated directly to cities and counties. "Happy hour ban" enacted. Certain promotional practices by clubs and CMB retailers were prohibited (see Table 5). Hotels were permitted to enter into agreements with class S clubs whereby hotel guests could be issued temporary memberships in the club. The Legislature approved the resolution proposing to amend the *Constitution* to permit the sale of liquor by the drink in public places. The Liquor Law Review Commission was appointed by Governor Callin to conduct a comprehensive review of Kansas' liquor laws and to make recommendations for amendments.

1986 Voters approved (489,646 to 325,505) the constitutional amendment permitting sale of liquor by the drink in establishments open to the public. The Liquor Law Review Commission issued its report with recommendations for changes statutes and rules and regulations.

1987 Drinking establishments were created as a category of licensee permitted to sell liquor by the drink. The bill also provided for sale of liquor by the drink on unlicensed premises by licensed caterers and by persons holding temporary permits. Liquor and beer wholesalers were permitted to sell bulk wine directly to caterers, clubs, and drinking establishments. Beer distributors were permitted to sell beer directly to caterers, clubs, and drinking establishments. Liquor retailers were permitted to deliver products to caterers, clubs, and drinking establishments located in the same or adjacent counties. The Attorney General issued an opinion that minimum price mark-ups are illegal. Retail sale of liquor at less than acquisition cost was prohibited by statute. Microbreweries were created as a category of licensee. Microbreweries manufacture beer with 8 percent or less alcohol content and have capacities of 5,000 or fewer barrels per year. The ABC Board of Review was abolished. Price and brand advertising of liquor was permitted. Sunday sale of CMB was permitted in restaurants that derive 30 percent or more of gross receipts from sale of food if they were located in a city or county that authorized such sales by ordinance or resolution. Boating under the influence of alcohol (blood alcohol content of 0.1 percent or greater) was made a misdemeanor.

1988 Farm wineries were permitted to sell directly to clubs, drinking establishments, and retailers. 1990 The 10 percent "drink tax" was imposed on sale of liquor by the drink by persons holding temporary permits. The Nonalcoholic Malt Beverages Act authorized distribution, sale, and taxation of malt beverages containing less than one-half of 1 percent alcohol. Those beverages may be sold by liquor retailers, clubs, drinking establishments, and CMB retailers. Nonalcoholic malt beverages (NAMB) were subject to the same taxes as CMB.

1991 Required periodic price posting by suppliers and wholesalers was replaced by registration.

1992 Farm wineries were permitted to operate a maximum of two licensed outlets for off-premise sale of domestic wine and for wine tasting if the outlet is located in a county where liquor can be sold by the drink. Microbrewery licensees were authorized to obtain caterer licenses. Liquor retailers were authorized to sell nonalcohol items produced by manufacturers in packages of liquor. Retailers also were authorized to distribute free advertising specialties.

1993 The blood alcohol content at which a person is found to be driving or operating a boat under the influence of alcohol was lowered from 0.1 percent to 0.08 percent. Minimum liquor container size law was repealed. 1994 Election day sales of liquor and CMB for off-premise consumption legalized. On-premise consumption of CMB in taverns on election days legalized. Class A clubs and Class B clubs that are restaurants permitted to enter into reciprocal agreements.

1995 The maximum number of barrels of beer that can be produced by a microbrewery increased from 5,000 to 15,000. State residency requirement for a beer distributor's license reduced from five years to one year. Distributors prohibited from selling CMB at a discount for multiple case lots. ABC authorized to issue temporary permits to charitable organizations to sell liquor at auction. ABC authorized to issue temporary permits to individuals to sell limited issue porcelain containers of alcohol. Consumption of CMB in or on the grounds of the Capitol Building prohibited. CMB retailers permitted to employ persons to sell, serve, or dispense CMB who become convicted of a felony or violation of liquor laws more than two years prior to employment. Hotels licensed as drinking establishments or caterers authorized to have minibars in guest rooms. Liquor and CMB retailers, microbreweries, and farm wineries authorized to accept certain credit cards for the sale of alcoholic beverages.

1996 Liquor, wine, and beer distributors authorized to use the warehouses of another licensed distributor for storage and delivery of liquor to retailers. Liquor, wine, and beer distributors authorized to use products from their inventories as samples in the course of business or at industry seminars. The spouse of a retail liquor license permitted to have a license for a separate retail liquor establishment. Beer manufacturers in Kansas prohibited from selling beer directly to liquor retailers. Price or service discrimination between av1B retailers by av1B wholesalers prohibited. Off-premise CMS retailers prohibited from selling CMB at less than acquisition cost.

1998 City residents authorized to vote on the question of whether to allow retail liquor stores to operate in the city limits at any regular general city election (every two years). Prior law allowed such a vote only once every four years. Licensed farm wineries allowed to produce and sell "domestic fortified wine" (which contains between 14 percent and 20 percent alcohol by volume) under the same conditions as they sell domestic table wine. The Hiram Price Dillon House and surrounding property exempted from the general prohibition against consuming liquor on public property. Policies regarding the consumption of liquor in the Dillon House will be established by the Legislative Coordinating Council. Consumption of alcoholic beverages at lake resorts at state parks allowed, should any such lake resorts be developed.

1999 Consumption of alcoholic liquor authorized: (1) at the Kansas National Guard Regional Training Center in Salina pursuant to rules and regulations adopted by the Adjutant General; (2) in the State Capitol Building and on the Capitol grounds on 12-31-99 and 1-1-2000 under policies adopted by the Secretary of Administration; and (3) at the Sternberg Museum at Fort Hays State University under policies adopted by the Kansas Board of Regents. The Attorney General is required to appoint a Statewide Drug Abuse Resistance Education (DARE) coordinator. Boating Under the Influence (BUI) laws amended to be more consistent with the Driving Under the Influence (DUI) laws.