

Session of 2023

SENATE BILL No. 253

By Committee on Federal and State Affairs

2-15

1 AN ACT concerning alcoholic beverages; authorizing the delivery of
2 alcoholic liquor and cereal malt beverage by licensed retailers, licensed
3 clubs, drinking establishments and restaurants and third-party delivery
4 services to patrons; amending K.S.A. 41-327, 41-2601, 41-2701 and
5 41-2728 and K.S.A. 2022 Supp. 41-102 and repealing the existing
6 sections.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) A third-party delivery service permit shall allow
10 the permit holder to deliver alcoholic liquor or cereal malt beverage on
11 behalf of a retailer, a cereal malt beverage retailer as defined in K.S.A. 41-
12 2701, and amendments thereto, or a club and drinking establishment act
13 licensee as defined in section 3, and amendments thereto, in accordance
14 with the provisions of sections 2, 3 and 4, and amendments thereto, except
15 that such deliveries shall only occur within this state.

16 (b) An application for a third-party delivery service permit shall be
17 submitted in such form and manner as prescribed by the director and shall
18 include payment of the delivery service permit fee in the amount of
19 \$1,500. Each application shall contain an affirmation by the applicant that
20 the applicant is registered to do business in this state and that all of the
21 following is true for each individual conducting deliveries on behalf of the
22 applicant:

23 (1) The individual is at least 21 years of age and holds a valid driver's
24 license;

25 (2) the individual will maintain or otherwise be covered by primary
26 automobile insurance that meets the minimum coverage requirements in
27 K.S.A. 40-284 and 40-3107, and amendments thereto; and

28 (3) the individual will comply with the provisions of sections 2, 3 and
29 4, and amendments thereto, in conducting deliveries of alcoholic liquor
30 and cereal malt beverage.

31 (c) A third-party delivery service permit shall commence on the date
32 specified on the permit and expire one year after such date.

33 (d) A delivery service permit holder shall be liable for violations of
34 K.S.A. 41-715, and amendments thereto, and sections 2, 3 and 4, and
35 amendments thereto, that are committed by any individual conducting
36 deliveries on behalf of such third-party delivery service permit holder.

(1)

(2) An individual conducting deliveries on behalf of a third-party delivery service shall be liable for violations of K.S.A. 41-715, and amendments thereto, and sections 2, 3 and 4, and amendments thereto.

1 (e) The secretary shall adopt rules and regulations necessary to
2 implement the provisions of this section.

3 (f) Personal data collected solely to comply with the requirements of
4 this section shall be limited to what is adequate, relevant and reasonably
5 necessary in relation to the purposes for which such data is processed, as
6 disclosed to the consumer. A retailer, licensee or third-party delivery
7 service permit holder shall implement and maintain reasonable security
8 procedures and practices, including administrative, physical and technical
9 safeguards appropriate to the nature of the data and the purposes for which
10 the data will be used to protect the data collected from the unauthorized
11 use, disclosure, access, destruction or modification to comply with the
12 requirements of this section.

Data shall not be sold or used for any purpose
beyond compliance with this section.

, and such security practices and procedures shall be made
available to the director upon reasonable request

13 (g) Nothing in sections 2, 3 and 4, and amendments thereto, shall be
14 construed to require a company that only provides technology services to a
15 retailer or licensee to obtain a third-party delivery service permit if the
16 company does not employ or contract with delivery drivers but only
17 provides software or an application that connects consumers and licensed
18 retailers.

19 (h) The provisions of this section shall be a part of and supplemental
20 to the Kansas liquor control act.

21 (i) At the time of application and for any changes at renewal, a third-
22 party delivery service shall submit an outline of internal or external
23 training for individuals engaged in delivery that addresses topics such as
24 identifying underage persons, intoxicated persons and fake or altered
25 identification.

26 (j) Individuals engaged in a delivery service shall use an
27 identification scanning software technology or an alternative approved by
28 the director, to verify the age of the consumer upon delivery.

29 New Sec. 2. (a) In addition to the rights of a retailer under the Kansas
30 liquor control act, a retailer license shall allow the retailer to deliver
31 alcoholic liquor and cereal malt beverage in the original unopened
32 container that is sold by such retailer to a patron at an address designated
33 by such patron for consumption off the licensed premises and not for
34 resale. Such delivery must occur within this state.

35 (b) Prior to any alcoholic liquor or cereal malt beverage being
36 removed from a retailer's licensed premises for delivery under this section,
37 such retailer shall finalize all payments for such alcoholic liquor or cereal
38 malt beverage made by the purchasing patron or obtain a debit or credit
39 card authorization for the total amount charged for such alcoholic liquor or
40 cereal malt beverage, including any additional fees to be charged in
41 connection with the delivery. All alcoholic liquor and cereal malt beverage
42 shall be assembled, packaged and fulfilled for delivery at such retailer's
43 licensed premises and from the retailer's inventory located at such

;
(2) have completed an approved delivery service training course as provided in
subsection (i) and received a certificate of completion issued by the delivery service
licensee; and
(3) have in the individual's possession a copy of the certificate of completion when
making deliveries pursuant to a delivery service permit. A copy of the certificate of
completion may be either a paper or electronic copy.
(k) The responsibilities of any retailer as defined in sections 2, 3 and 4, and
amendments thereto, regarding delivery of an alcoholic liquor to an ultimate
consumer are considered satisfied at the time the retailer transfers possession of an
alcoholic beverage to the delivery service or the individual employed by, contracted
with or acting on behalf of the holder of a delivery service permit.
(l) An action by a delivery service permittee or by an individual engaged in delivery
activity is not attributable to the retailer with regard to:
(1) Providing, selling or serving alcohol to a minor or to an intoxicated individual;
(2) the delivery of alcohol in a dry or otherwise illegal area, unless the retailer has
contractually agreed to retain responsibility for ensuring that deliveries are not
directed to a dry or otherwise illegal area; or
(3) any other provision of this act.
(m) A retailer:
(1) Is not required to verify that the delivery service permittee or the individual
engaged in delivery has received required training under subsections (i) and (j); and
(2) may not be held responsible for any reason under statutory or common law for
the actions of a delivery service permittee or an individual acting on behalf of a
delivery service permittee

(k) The provisions of this section shall be part of and
supplemental to the Kansas liquor act.

1 premises.

2 (c) (1) A retailer may authorize deliveries on such retailer's behalf
3 through a contractual agreement with a third-party delivery service. A
4 third-party delivery service shall hold a valid delivery permit prior to
5 entering into any such contractual agreement with a retailer.

6 (2) A third-party delivery service may offer to conduct deliveries on
7 behalf of a retailer pursuant to this section if the retailer expressly agrees
8 in writing to allow the third-party delivery service to offer the delivery of
9 orders on behalf of such retailer.

10 (3) Any provision in an agreement between a third-party delivery
11 service and a retailer that is contrary to this subsection is void and
12 unenforceable.

13 (d) (1) A retailer may authorize a third-party delivery service to
14 conduct other delivery-related services. A third-party delivery service that
15 has contracted with a retailer for such services may use electronic means,
16 including, but not limited to, websites and mobile device applications, to
17 market, receive and process orders placed by patrons for alcoholic liquor
18 and cereal malt beverage if:

19 (A) The retailer retains sole discretion to determine whether to accept
20 an order and to complete a sale transaction;

21 (B) the sale transaction is between the patron placing the order and
22 the retailer that accepts such order, and the retailer appears as the merchant
23 of record at all times, including at the time of purchase and acceptance of
24 the delivery; and

25 (C) the retailer receives full payment from the patron placing the
26 order for all alcoholic liquor and cereal malt beverage included in such
27 order, and all moneys collected from such patron are automatically paid or
28 otherwise credited to such retailer.

29 (2) A third-party delivery service conducting deliveries or other
30 delivery-related services on behalf of a retailer shall not:

31 (A) Use a retailer's likeness to falsely suggest sponsorship or
32 endorsement of such third-party delivery service by such retailer;

33 (B) inflate or alter a retailer's pricing, but may assess other charges to
34 the patron if such charges are separately itemized on the receipt provided
35 to the patron; or

36 (C) charge the retailer any fee or other expense unless such fee or
37 other expense is clearly identified in a written agreement executed by both
38 parties.

39 (3) A third-party delivery service shall remove a retailer from such
40 third-party delivery service's delivery and delivery-related services within
41 10 days after receiving a request for such removal from such retailer.

42 (e) (1) All alcoholic liquor and cereal malt beverage that is removed
43 from a retailer's licensed premises for delivery pursuant to this section

1 shall remain in the possession of such retailer or the third-party delivery
2 service. Such alcoholic liquor and cereal malt beverage shall not be
3 transferred to any other person until delivered to the address designated by
4 the patron or, if delivery cannot be completed, returned to the licensed
5 premises of the retailer.

6 (2) Alcoholic liquor and cereal malt beverage shall only be delivered
7 by an individual who:

8 (A) Is at least 21 years of age;

9 (B) holds a valid driver's license;

10 (C) is covered as the driver of a vehicle by primary automobile
11 insurance that meets the minimum coverage requirements in K.S.A. 40-
12 284 and 40-3107, and amendments thereto; and

13 (D) completes a training and certification program for individuals
14 delivering alcoholic liquor and cereal malt beverage pursuant to this
15 section that is reviewed and approved by the director and includes, but is
16 not limited to, identifying individuals who are less than 21 years of age or
17 intoxicated and recognizing false or altered forms of identification.

18 (f) (1) All alcoholic liquor and cereal malt beverage delivered
19 pursuant to this section shall only be delivered to a location in a county
20 where the qualified electors of the county approved, by a majority vote of
21 those voting therein, the proposition to amend section 10 of article 15 of
22 the constitution of the state of Kansas at the general election in November
23 1986, or have approved a proposition to allow sales of alcoholic liquor by
24 the individual drink in public places within the county at an election
25 pursuant to K.S.A. 41-2646, and amendments thereto, and to an individual
26 who is at least 21 years of age and who presents valid government-issued
27 photographic identification verifying the age of such individual. The
28 identity and age of the individual accepting delivery of any alcoholic
29 liquor or cereal malt beverage shall be verified, and such individual shall
30 execute a written or electronic acknowledgment of receipt of such
31 alcoholic liquor or cereal malt beverage and certification of such
32 individual's age. A delivery shall be deemed completed upon proper
33 acceptance of the alcoholic liquor or cereal malt beverage. All completed
34 deliveries shall be final.

35 (2) No delivery of alcoholic liquor or cereal malt beverage shall be
36 completed if:

37 (A) There is no individual physically present at the address
38 designated by the patron placing the order who is available to accept
39 delivery;

40 (B) the individual attempting to accept delivery is:

41 (i) Less than 21 years of age;

42 (ii) unable to provide valid government-issued photographic
43 identification; or

- 1 (iii) noticeably intoxicated; or
2 (C) the address designated by the patron placing the order is:
3 (i) Part of any locker, mailbox, package shipping location or similar
4 service or storage facility business;
5 (ii) any place of worship;
6 (iii) any daycare;
7 (iv) any elementary or secondary school;
8 (v) any public or private postsecondary educational institution; or
9 (vi) any place of business that is licensed under the Kansas liquor
10 control act, Kansas cereal malt beverages act or the club and drinking
11 establishment act to manufacture, distribute or sell alcoholic liquor, except
12 that such deliveries may be made to a guest of a hotel for personal
13 consumption and not for resale.
- 14 (3) Deliveries of alcoholic liquor or cereal malt beverage shall only
15 be made:
- 16 (A) On the same calendar day that such alcoholic liquor or cereal
17 malt beverage is removed from the retailer's license premises for delivery;
18 (B) during those times when it is lawful for the retailer to sell
19 alcoholic liquor or cereal malt beverage for consumption off the licensed
20 premises; and
21 (C) to a Kansas address that is located within a 25-mile radius from
22 the licensed premises of the retailer that sold such alcoholic liquor or
23 cereal malt beverage.
- 24 (g) Each retailer delivering alcoholic liquor or cereal malt beverage
25 pursuant to this section and each third-party delivery service shall submit
26 to the director an outline of a training and certification program for
27 individuals delivering alcoholic liquor and cereal malt beverage pursuant
28 to this section that includes, but is not limited to, identifying individuals
29 who are less than 21 years of age or intoxicated and recognizing false or
30 altered forms of identification. The director shall review and approve or
31 deny all submitted program outlines. The director shall provide the
32 specific reason for the denial of any program outline along with notice to
33 the retailer or third-party delivery service that such program outline is
34 denied.
- 35 (h) In addition to the powers and duties of the director provided in
36 K.S.A. 41-201, and amendments thereto, the director and any employees
37 or agents thereof shall have the authority to conduct an audit of any
38 retailer's or third-party delivery service's records to determine if any
39 provision of this section or any rule or regulation adopted by the secretary
40 has been violated or to secure evidence of any such violation. Retailers or
41 third-party delivery service permit holders shall maintain records of
42 alcoholic liquor sales delivered for a period of three years.
- 43 (i) In addition to or in lieu of any other civil or criminal penalty

1 provided by law, the director, upon a finding that a retailer or third-party
 2 delivery service has violated any provision of this section, may impose a
 3 civil fine not to exceed \$1,000 for each violation. The director may enforce
 4 the requirements of this section against a retailer or a third-party delivery
 5 service for any violations committed by a retailer or third-party delivery
 6 service contracting with such retailer. The director may impose a civil fine
 7 on a retailer or a third-party delivery service for the same violation.
 8 Nothing in this section shall be construed to limit the jurisdictional
 9 authority of the director in pursuing violations of this section against a
 10 retailer or third-party delivery service.

or individual conducting deliveries

or individual conducting deliveries

or individual conducting deliveries

or individual conducting deliveries

11 (j) A retailer aggrieved by a third-party delivery service that violates
 12 the provisions of this section may bring an action to enjoin such violation
 13 and may seek damages resulting from such violation, including all profits
 14 derived from such violation. A retailer may seek punitive damages in an
 15 amount not to exceed three times the amount of profits and damages if the
 16 defendant knowingly committed the violation or the violation was
 17 committed in bad faith. The prevailing party in any such action may
 18 recover reasonable attorney fees and court costs.

19 (k) A retailer may contract with another retailer as a third-party
 20 delivery service to conduct deliveries and other delivery-related services
 21 on behalf of such other retailer in accordance with the provisions of this
 22 section. Such retailer shall hold a valid delivery permit prior to entering
 23 into any such contractual agreement with such other retailer.

24 (l) The secretary shall adopt rules and regulations necessary to
 25 implement and enforce the provisions of this section.

26 (m) The provisions of this section shall be a part of and supplemental
 27 to the Kansas liquor control act.

28 New Sec. 3. (a) In addition to the rights of a licensee under the club
 29 and drinking establishment act, such license shall allow the licensee to
 30 deliver alcoholic liquor and cereal malt beverage in accordance with the
 31 container limitation provisions of K.S.A. 41-2653, and amendments
 32 thereto, that is sold by such licensee to a patron at an address designated
 33 by such patron for consumption off the licensed premises and not for
 34 resale. Such delivery must occur within this state.

35 (b) Prior to any alcoholic liquor or cereal malt beverage being
 36 removed from a licensee's premises for delivery under this section, such
 37 licensee shall finalize all payments for such alcoholic liquor or cereal malt
 38 beverage made by the purchasing patron or obtain a debit or credit card
 39 authorization for the total amount charged for such alcoholic liquor or
 40 cereal malt beverage, including any additional fees to be charged in
 41 connection with the delivery. All alcoholic liquor and cereal malt beverage
 42 shall be assembled, packaged and fulfilled for delivery at such licensee's
 43 premises and from such inventory located at such premises.

1 (c) (1) A licensee may authorize deliveries on such licensee's behalf
2 through a contractual agreement with a third-party delivery service. A
3 third-party delivery service shall hold a valid delivery permit prior to
4 entering into any such contractual agreement with a licensee.

5 (2) A third-party delivery service may offer to conduct deliveries on
6 behalf of a licensee pursuant to this section if the licensee expressly agrees
7 in writing to allow the third-party delivery service to offer the delivery of
8 orders on behalf of such licensee.

9 (3) Any provision in an agreement between a third-party delivery
10 service and a licensee that is contrary to this subsection is void and
11 unenforceable.

12 (d) (1) A licensee may authorize a third-party delivery service to
13 conduct other delivery-related services. A third-party delivery service that
14 has contracted with a licensee for such services may use electronic means,
15 including, but not limited to, websites and mobile device applications, to
16 market, receive and process orders placed by patrons for alcoholic liquor
17 and cereal malt beverage if:

18 (A) The licensee retains sole discretion to determine whether to
19 accept an order and to complete a sale transaction;

20 (B) the sale transaction is between the patron placing the order and
21 the licensee that accepts such order, and the licensee appears as the
22 merchant of record at all times, including at the time of purchase and
23 acceptance of the delivery; and

24 (C) the licensee receives full payment from the patron placing the
25 order for all alcoholic liquor and cereal malt beverage included in such
26 order, and all moneys collected from such patron are automatically paid or
27 otherwise credited to such licensee.

28 (2) A third-party delivery service conducting deliveries or other
29 delivery-related services on behalf of a licensee shall not:

30 (A) Use a licensee's likeness to falsely suggest sponsorship or
31 endorsement of such third-party delivery service by such licensee;

32 (B) inflate or alter a licensee's pricing, but may assess other charges
33 to the patron if such charges are separately itemized on the receipt
34 provided to the patron; or

35 (C) charge the licensee any fee or other expense unless such fee or
36 other expense is clearly identified in a written agreement executed by both
37 parties.

38 (3) A third-party delivery service shall remove a licensee from such
39 third-party delivery service's delivery and delivery-related services within
40 10 days after receiving a request for such removal from such licensee.

41 (e) (1) All alcoholic liquor and cereal malt beverage that is removed
42 from a licensee's premises for delivery pursuant to this section shall
43 remain in the possession of such licensee or the third-party delivery

1 service. Such alcoholic liquor and cereal malt beverage shall not be
2 transferred to any other person until delivered to the address designated by
3 the patron or, if delivery cannot be completed, returned to the premises of
4 the licensee.

5 (2) Alcoholic liquor and cereal malt beverage shall only be delivered
6 by an individual who:

7 (A) Is at least 21 years of age;

8 (B) holds a valid driver's license;

9 (C) is covered as the driver of a vehicle by primary automobile
10 insurance that meets the minimum coverage requirements in K.S.A. 40-
11 284 and 40-3107, and amendments thereto; and

12 (D) completes a training and certification program for individuals
13 delivering alcoholic liquor and cereal malt beverage pursuant to this
14 section that is reviewed and approved by the director and includes, but is
15 not limited to, identifying individuals who are less than 21 years of age or
16 intoxicated and recognizing false or altered forms of identification.

17 (f) (1) All alcoholic liquor and cereal malt beverage delivered
18 pursuant to this section shall only be delivered to a location in a county
19 where the qualified electors of the county approved, by a majority vote of
20 those voting therein, the proposition to amend section 10 of article 15 of
21 the constitution of the state of Kansas at the general election in November
22 1986, or have approved a proposition to allow sales of alcoholic liquor by
23 the individual drink in public places within the county at an election
24 pursuant to K.S.A. 41-2646, and amendments thereto, and to an individual
25 who is at least 21 years of age and who presents valid government-issued
26 photographic identification verifying the age of such individual. The
27 identity and age of the individual accepting delivery of any alcoholic
28 liquor or cereal malt beverage shall be verified, and such individual shall
29 execute a written or electronic acknowledgment of receipt of such
30 alcoholic liquor or cereal malt beverage and certification of such
31 individual's age. A delivery shall be deemed completed upon proper
32 acceptance of the alcoholic liquor or cereal malt beverage. All completed
33 deliveries shall be final.

34 (2) No delivery of alcoholic liquor or cereal malt beverage shall be
35 completed if:

36 (A) There is no individual physically present at the address
37 designated by the patron placing the order who is available to accept
38 delivery;

39 (B) the individual attempting to accept delivery is:

40 (i) Less than 21 years of age;

41 (ii) unable to provide valid government-issued photographic
42 identification; or

43 (iii) noticeably intoxicated; or

1 (C) the address designated by the patron placing the order is:

2 (i) Part of any locker, mailbox, package shipping location or similar
3 service or storage facility business;

4 (ii) any place of worship;

5 (iii) any daycare;

6 (iv) any elementary or secondary school;

7 (v) any public or private postsecondary educational institution; or

8 (vi) any place of business that is licensed under the Kansas liquor
9 control act, Kansas cereal malt beverages act or the club and drinking
10 establishment act to manufacture, distribute or sell alcoholic liquor, except
11 that such deliveries may be made to a guest of a hotel for personal
12 consumption and not for resale.

13 (3) Deliveries of alcoholic liquor or cereal malt beverage shall only
14 be made:

15 (A) On the same calendar day that such alcoholic liquor or cereal
16 malt beverage is removed from the licensee's premises for delivery;

17 (B) during those times when it is lawful for the licensee to sell
18 alcoholic liquor or cereal malt beverage for consumption on the licensed
19 premises; and

20 (C) to a Kansas address that is located within a 25-mile radius from
21 the licensed premises of the licensee that sold such alcoholic liquor or
22 cereal malt beverage.

23 (g) Each licensee delivering alcoholic liquor or cereal malt beverage
24 pursuant to this section and each third-party delivery service shall submit
25 to the director an outline of a training and certification program for
26 individuals delivering alcoholic liquor and cereal malt beverage pursuant
27 to this section that includes, but is not limited to, identifying individuals
28 who are less than 21 years of age or intoxicated and recognizing false or
29 altered forms of identification. The director shall review and approve or
30 deny all submitted program outlines. The director shall provide the
31 specific reason for the denial of any program outline along with notice to
32 the licensee or third-party delivery service that such program outline is
33 denied.

34 (h) In addition to the powers and duties of the director provided in
35 K.S.A. 41-201, and amendments thereto, the director and any employees
36 or agents thereof shall have the authority to conduct an audit of any
37 licensee's or third-party delivery service's records to determine if any
38 provision of this section or any rule or regulation adopted by the secretary
39 has been violated or to secure evidence of any such violation. Licensees or
40 third-party delivery service permit holders shall maintain records of
41 alcoholic liquor sales delivered for a period of three years.

42 (i) In addition to or in lieu of any other civil or criminal penalty
43 provided by law, the director, upon a finding that a licensee or third-party

1 delivery service ~~has violated any provision of this section, may impose a~~
 2 civil fine not to exceed \$1,000 for each violation. The director may enforce
 3 the requirements of this section against a licensee or a third-party delivery
 4 service ~~for any violations committed by a licensee or third-party delivery~~
 5 service ~~contracting with such licensee.~~ The director may impose a civil
 6 fine on a licensee or a third-party delivery service ~~for the same violation.~~
 7 Nothing in this section shall be construed to limit the jurisdictional
 8 authority of the director in pursuing violations of this section against a
 9 licensee or third-party delivery service.

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10 (j) A licensee aggrieved by a third-party delivery service that violates
 11 the provisions of this section may bring an action to enjoin such violation
 12 and may seek damages resulting from such violation, including all profits
 13 derived from such violation. A licensee may seek punitive damages in an
 14 amount not to exceed three times the amount of profits and damages if the
 15 defendant knowingly committed the violation or the violation was
 16 committed in bad faith. The prevailing party in any such action may
 17 recover reasonable attorney fees and court costs.

18 (k) A licensee may contract with another licensee as a third-party
 19 delivery service to conduct deliveries and other delivery-related services
 20 on behalf of such other licensee in accordance with the provisions of this
 21 section. Such licensee shall hold a valid delivery permit prior to entering
 22 into any such contractual agreement with such other licensee.

23 (l) The secretary shall adopt rules and regulations necessary to
 24 implement and enforce the provisions of this section.

25 (m) "Licensee" means a club, drinking establishment and restaurant
 26 as those terms are defined in K.S.A. 41-1601, and amendments thereto, the
 27 club and drinking establishment act.

41-2601

28 (n) The provisions of this section shall be a part of and supplemental
 29 to the club and drinking establishment act.

30 New Sec. 4. (a) In addition to the rights of a retailer under the Kansas
 31 cereal malt beverage act, a retailer license shall allow the retailer to deliver
 32 cereal malt beverage and beer containing not more than 6% alcohol by
 33 volume in the original unopened container that is sold by such retailer to a
 34 patron at an address designated by such patron for consumption off the
 35 licensed premises and not for resale, provided that such delivery occurs
 36 within the state.

37 (b) Prior to any cereal malt beverage and beer containing not more
 38 than 6% alcohol by volume being removed from a retailer's licensed
 39 premises for delivery under this section, such retailer shall finalize all
 40 payments for such cereal malt beverage and beer containing not more than
 41 6% alcohol by volume made by the purchasing patron or obtain a debit or
 42 credit card authorization for the total amount charged for such cereal malt
 43 beverage and beer containing not more than 6% alcohol by volume,

1 including any additional fees to be charged in connection with the delivery.
2 All cereal malt beverage and beer containing not more than 6% alcohol by
3 volume shall be assembled, packaged and fulfilled for delivery at such
4 retailer's licensed premises and from the retailer's inventory located at such
5 premises.

6 (c) (1) A retailer may authorize deliveries on such retailer's behalf
7 through a contractual agreement with a third-party delivery service. A
8 third-party delivery service shall hold a valid delivery permit prior to
9 entering into any such contractual agreement with a retailer.

10 (2) A third-party delivery service may offer to conduct deliveries on
11 behalf of a retailer pursuant to this section if the retailer expressly agrees
12 in writing to allow the third-party delivery service to offer the delivery of
13 orders on behalf of such retailer. Any provision in an agreement between a
14 third-party delivery service and a retailer that is contrary to this subsection
15 is void and unenforceable.

16 (d) (1) A retailer may authorize a third-party delivery service to
17 conduct other delivery-related services. A third-party delivery service that
18 has contracted with a retailer for such services may use electronic means,
19 including, but not limited to, websites and mobile device applications, to
20 market, receive and process orders placed by patrons for cereal malt
21 beverage and beer containing not more than 6% alcohol by volume if:

22 (A) The retailer retains sole discretion to determine whether to accept
23 an order and to complete a sale transaction;

24 (B) the sale transaction is between the patron placing the order and
25 the retailer that accepts such order, and the retailer appears as the merchant
26 of record at all times, including at the time of purchase and acceptance of
27 the delivery; and

28 (C) the retailer receives full payment from the patron placing the
29 order for all cereal malt beverage and beer containing not more than 6%
30 alcohol by volume included in such order, and all moneys collected from
31 such patron are automatically paid or otherwise credited to such retailer.

32 (2) A third-party delivery service conducting deliveries or other
33 delivery-related services on behalf of a retailer shall not:

34 (A) Use a retailer's likeness to falsely suggest sponsorship or
35 endorsement of such third-party delivery service by such retailer;

36 (B) inflate or alter a retailer's pricing, but may assess other charges to
37 the patron if such charges are separately itemized on the receipt provided
38 to the patron; or

39 (C) charge the retailer any fee or other expense unless such fee or
40 other expense is clearly identified in a written agreement executed by both
41 parties.

42 (3) A third-party delivery service shall remove a retailer from such
43 third-party delivery service's delivery and delivery-related services within

1 10 days after receiving a request for such removal from such retailer.

2 (e) (1) All cereal malt beverage and beer containing not more than
3 6% alcohol by volume that is removed from a retailer's licensed premises
4 for delivery pursuant to this section shall remain in the possession of such
5 retailer or the third-party delivery service conducting the delivery on
6 behalf of such retailer. Such cereal malt beverage and beer containing not
7 more than 6% alcohol by volume shall not be transferred to any other
8 person until delivered to the address designated by the patron, or if
9 delivery cannot be completed, returned to the licensed premises of the
10 retailer.

11 (2) Cereal malt beverage and beer containing not more than 6%
12 alcohol by volume shall only be delivered by an individual who:

13 (A) Is at least 21 years of age;

14 (B) holds a valid driver's license;

15 (C) is covered as the driver of a vehicle by primary automobile
16 insurance that meets the minimum coverage requirements in K.S.A. 40-
17 284 and 40-3107, and amendments thereto; and

18 (D) completes a training and certification program for individuals
19 delivering cereal malt beverage and beer containing not more than 6%
20 alcohol by volume pursuant to this section that is reviewed and approved
21 by the director and includes, but is not limited to, identifying individuals
22 who are less than 21 years of age or intoxicated and recognizing false or
23 altered forms of identification.

24 (f) (1) All cereal malt beverage and beer containing not more than 6%
25 alcohol by volume delivered pursuant to this section shall only be
26 delivered to an individual who is at least 21 years of age and who presents
27 valid government-issued photographic identification verifying the age of
28 such individual. The identity and age of the individual accepting delivery
29 of any cereal malt beverage and beer containing not more than 6% alcohol
30 by volume shall be verified, and such individual shall execute a written or
31 electronic acknowledgment of receipt of such cereal malt beverage and
32 beer containing not more than 6% alcohol by volume and certification of
33 such individual's age. A delivery shall be deemed completed upon proper
34 acceptance of the cereal malt beverage and beer containing not more than
35 6% alcohol by volume. All completed deliveries shall be final.

36 (2) No delivery of cereal malt beverage and beer containing not more
37 than 6% alcohol by volume shall be completed if:

38 (A) There is no individual physically present at the address
39 designated by the patron placing the order who is available to accept
40 delivery;

41 (B) the individual attempting to accept delivery is:

42 (i) Less than 21 years of age;

43 (ii) unable to provide valid government-issued photographic

1 identification; or
2 (iii) noticeably intoxicated; or
3 (C) the address designated by the patron placing the order is:
4 (i) Part of any locker, mailbox, package shipping location or similar
5 service or storage facility business;
6 (ii) any place of worship;
7 (iii) any daycare;
8 (iv) any elementary or secondary school;
9 (v) any public or private postsecondary educational institution; or
10 (vi) any place of business that is licensed under the Kansas liquor
11 control act, Kansas cereal malt beverages act or the club and drinking
12 establishment act to manufacture, distribute or sell alcoholic liquor, except
13 that such deliveries may be made to a guest of a hotel for personal
14 consumption and not for resale.
15 (3) Deliveries of cereal malt beverage and beer containing not more
16 than 6% alcohol by volume shall only be made:
17 (A) On the same calendar day that such cereal malt beverage and beer
18 containing not more than 6% alcohol by volume is removed from the
19 retailer's license premises for delivery;
20 (B) during those times when it is lawful for the retailer to sell cereal
21 malt beverage and beer containing not more than 6% alcohol by volume
22 for consumption off the licensed premises; and
23 (C) to a Kansas address that is located within a 25-mile radius from
24 the licensed premises of the retailer that sold such cereal malt beverage
25 and beer containing not more than 6% alcohol by volume.
26 (g) Each retailer delivering cereal malt beverage and beer containing
27 not more than 6% alcohol by volume pursuant to this section and each
28 third-party delivery service shall submit to the director an outline of a
29 training and certification program for individuals delivering cereal malt
30 beverage and beer containing not more than 6% alcohol by volume
31 pursuant to this section that includes, but is not limited to, identifying
32 individuals who are less than 21 years of age or intoxicated and
33 recognizing false or altered forms of identification. The director shall
34 review and approve or deny all submitted program outlines. The director
35 shall provide the specific reason for the denial of any program outline
36 along with notice to the retailer or third-party delivery service that such
37 program outline is denied.
38 (h) In addition to the powers and duties of the director provided in
39 K.S.A. 41-201, and amendments thereto, the director and any employees
40 or agents thereof shall have the authority to conduct an audit of any
41 retailer's or third-party delivery service's records to determine if any
42 provision of this section or any rule or regulation adopted by the secretary
43 has been violated or to secure evidence of any such violation. A retailer or

1 third-party delivery service shall maintain records of cereal malt beverage
2 and beer sales delivered for a period of three years.

3 (i) In addition to or in lieu of any other civil or criminal penalty
4 provided by law, the director, upon a finding that a retailer or third-party
5 delivery service has violated any provision of this section, may impose a
6 civil fine not to exceed \$1,000 for each violation. The director may enforce
7 the requirements of this section against a retailer or a third-party delivery
8 service for any violations committed by such retailer or third-party
9 delivery service contracting with such retailer or third-party delivery
10 service. The director may impose a civil fine on a retailer or a third-party
11 delivery service for the same violation. Nothing in this section shall be
12 construed to limit the jurisdictional authority of the director in pursuing
13 violations of this section against any retailer or third-party delivery
14 service.

or individual conducting deliveries

or individual conducting deliveries

or individual conducting deliveries

or individual conducting deliveries

15 (j) A retailer aggrieved by a third-party delivery service that violates
16 the provisions of this section may bring an action to enjoin such violation
17 and may seek damages resulting from such violation, including all profits
18 derived from such violation. A retailer may seek punitive damages in an
19 amount not to exceed three times the amount of profits and damages if the
20 defendant knowingly committed the violation or the violation was
21 committed in bad faith. The prevailing party in any such action may
22 recover reasonable attorney fees and court costs.

23 (k) A retailer may contract with another retailer as a third-party
24 delivery service to conduct deliveries and other delivery-related services
25 on behalf of such other retailer in accordance with the provisions of this
26 section. Such retailer shall hold a valid delivery permit prior to entering
27 into any such contractual agreement with such other retailer.

28 (l) The secretary shall adopt rules and regulations necessary to
29 implement and enforce the provisions of this section.

30 (m) The provisions of this section shall be a part of and supplemental
31 to the Kansas cereal malt beverage act.

32 Sec. 5. K.S.A. 2022 Supp. 41-102 is hereby amended to read as
33 follows: 41-102. As used in this act, unless the context clearly requires
34 otherwise:

35 (a) "Alcohol" means the product of distillation of any fermented
36 liquid, whether rectified or diluted, whatever its origin, and includes
37 synthetic ethyl alcohol but does not include denatured alcohol or wood
38 alcohol.

39 (b) "Alcoholic candy" means:

40 (1) For purposes of manufacturing, any candy or other confectionery
41 product with an alcohol content greater than 0.5% alcohol by volume; and

42 (2) for purposes of sale at retail, any candy or other confectionery
43 product with an alcohol content greater than 1% alcohol by volume.

1 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, alcoholic
2 candy and every liquid or solid, patented or not, containing alcohol, spirits,
3 wine or beer and capable of being consumed by a human being, but shall
4 not include any cereal malt beverage.

5 (d) "Beer" means a beverage, containing more than 3.2% alcohol by
6 weight, obtained by alcoholic fermentation of an infusion or concoction of
7 barley, or other grain, malt and hops in water and includes beer, ale, stout,
8 lager beer, porter and similar beverages having such alcoholic content.

9 (e) "Caterer" means the same as defined by K.S.A. 41-2601, and
10 amendments thereto.

11 (f) "Cereal malt beverage" means the same as defined by K.S.A. 41-
12 2701, and amendments thereto.

13 (g) "Club" means the same as defined by K.S.A. 41-2601, and
14 amendments thereto.

15 (h) "Director" means the director of alcoholic beverage control of the
16 department of revenue.

17 (i) "Distributor" means the person importing or causing to be
18 imported into the state, or purchasing or causing to be purchased within
19 the state, alcoholic liquor for sale or resale to retailers licensed under this
20 act or cereal malt beverage for sale or resale to retailers licensed under
21 K.S.A. 41-2702, and amendments thereto.

22 (j) "Domestic beer" means beer which contains not more than 15%
23 alcohol by weight and which is manufactured in this state.

24 (k) "Domestic fortified wine" means wine which contains more than
25 16%, but not more than 20% alcohol by volume and which is
26 manufactured in this state.

27 (l) "Domestic table wine" means wine which contains not more than
28 16% alcohol by volume and which is manufactured without rectification or
29 fortification in this state.

30 (m) "Drinking establishment" means the same as defined by K.S.A.
31 41-2601, and amendments thereto.

32 (n) "Farm winery" means a winery licensed by the director to
33 manufacture, store and sell domestic table wine and domestic fortified
34 wine.

35 (o) "Fulfillment house" means any location or facility for any in-state
36 or out-of-state entity that handles logistics, including warehousing,
37 packaging, order fulfillment or shipping services on behalf of the holder of
38 a special order shipping license issued pursuant to K.S.A. 41-350, and
39 amendments thereto.

40 (p) "Hard cider" means any alcoholic beverage that:

41 (1) Contains less than 8.5% alcohol by volume;

42 (2) has a carbonation level that does not exceed 6.4 grams per liter;

43 and

1 (3) is obtained by the normal alcoholic fermentation of the juice of
2 sound, ripe apples or pears, including such beverages containing sugar
3 added for the purpose of correcting natural deficiencies.

4 (q) "Manufacture" means to distill, rectify, ferment, brew, make, mix,
5 concoct, process, blend, bottle or fill an original package with any
6 alcoholic liquor, beer or cereal malt beverage.

7 (r) (1) "Manufacturer" means every brewer, fermenter, distiller,
8 rectifier, wine maker, blender, processor, bottler or person who fills or
9 refills an original package and others engaged in brewing, fermenting,
10 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
11 beverage.

12 (2) "Manufacturer" does not include a microbrewery, microdistillery
13 or a farm winery.

14 (s) "Microbrewery" means a brewery licensed by the director to
15 manufacture, store and sell domestic beer and hard cider.

16 (t) "Microdistillery" means a facility which produces spirits from any
17 source or substance that is licensed by the director to manufacture, store
18 and sell spirits.

19 (u) "Minor" means any person under 21 years of age.

20 (v) "Nonbeverage user" means any manufacturer of any of the
21 products set forth and described in K.S.A. 41-501, and amendments
22 thereto, when the products contain alcohol or wine, and all laboratories
23 using alcohol for nonbeverage purposes.

24 (w) "Original package" means any bottle, flask, jug, can, cask, barrel,
25 keg, hogshead or other receptacle or container whatsoever, used, corked or
26 capped, sealed and labeled by the manufacturer of alcoholic liquor, to
27 contain and to convey any alcoholic liquor. Original container does not
28 include a sleeve.

29 (x) "Person" means any natural person, corporation, partnership, trust
30 or association.

31 (y) *"Personal data" means any information that is linked or*
32 *reasonably linkable to an identified natural person. "Personal data" does*
33 *not include aggregate data or publicly available information.*

34 (z) "Powdered alcohol" means alcohol that is prepared in a powdered
35 or crystal form for either direct use or for reconstitution in a nonalcoholic
36 liquid.

37 ~~(z)~~(aa) "Primary American source of supply" means the
38 manufacturer, the owner of alcoholic liquor at the time it becomes a
39 marketable product or the manufacturer's or owner's exclusive agent who,
40 if the alcoholic liquor cannot be secured directly from such manufacturer
41 or owner by American wholesalers, is the source closest to such
42 manufacturer or owner in the channel of commerce from which the
43 product can be secured by American wholesalers.

1 ~~(aa)~~(bb) (1) "Retailer" means a person who is licensed under the
2 Kansas liquor control act and sells at retail, or offers for sale at retail,
3 alcoholic liquors or cereal malt beverages.

4 (2) "Retailer" does not include a microbrewery, microdistillery or a
5 farm winery.

6 ~~(bb)~~(cc) "Sale" means any transfer, exchange or barter in any manner
7 or by any means whatsoever for a consideration and includes all sales
8 made by any person, whether principal, proprietor, agent, servant or
9 employee.

10 ~~(ee)~~(dd) "Salesperson" means any natural person who:

11 (1) Procures or seeks to procure an order, bargain, contract or
12 agreement for the sale of alcoholic liquor or cereal malt beverage; or

13 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
14 beverage, or in promoting the business of any person, firm or corporation
15 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
16 beverage, whether the seller resides within the state of Kansas and sells to
17 licensed buyers within the state of Kansas, or whether the seller resides
18 without the state of Kansas and sells to licensed buyers within the state of
19 Kansas.

20 ~~(dd)~~(ee) "Sample" means a serving of alcoholic liquor that contains
21 not more than: (1) One-half ounce of distilled spirits; (2) one ounce of
22 wine; or (3) two ounces of beer or cereal malt beverage. A "sample" of a
23 mixed alcoholic beverage shall contain not more than ½ ounce of distilled
24 spirits.

25 ~~(ee)~~(ff) "Secretary" means the secretary of revenue.

26 ~~(ff)~~(gg) (1) "Sell at retail" and "sale at retail" refer to and mean sales
27 for use or consumption and not for resale in any form and sales to clubs,
28 licensed drinking establishments, licensed caterers or holders of temporary
29 permits.

30 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by
31 a distributor, a microbrewery, a farm winery, a licensed club, a licensed
32 drinking establishment, a licensed caterer or a holder of a temporary
33 permit.

34 ~~(gg)~~(hh) "To sell" includes to solicit or receive an order for, to keep or
35 expose for sale and to keep with intent to sell.

36 ~~(hh)~~(ii) "Sleeve" means a package of two or more 50-milliliter or 3.2-
37 fluid-ounce containers of spirits.

38 ~~(ii)~~(jj) "Spirits" means any beverage which contains alcohol obtained
39 by distillation, mixed with water or other substance in solution, and
40 includes brandy, rum, whiskey, gin or other spirituous liquors, and such
41 liquors when rectified, blended or otherwise mixed with alcohol or other
42 substances.

43 ~~(jj)~~(kk) "Supplier" means a manufacturer of alcoholic liquor or cereal

1 malt beverage or an agent of such manufacturer, other than a salesperson.
2 ~~(kk)(ll)~~ "Temporary permit" means the same as defined by K.S.A. 41-
3 2601, and amendments thereto.
4 *(mm) "Third-party delivery service" means any person, including any*
5 *limited liability company or other legally recognized entity, that:*
6 *(1) Is registered to do business in this state;*
7 *(2) does not hold any license, other than a retailer's license, issued*
8 *under the Kansas liquor control act, the Kansas cereal malt beverage act*
9 *or the Kansas club and drinking establishment act;*
10 *(3) is not affiliated with any licensed manufacturer;*
11 *(4) holds a delivery permit issued pursuant to section 1, and*
12 *amendments thereto; and*
13 *(5) uses employees or independent contractors to deliver.*
14 ~~(H)(nn)~~ "Wine" means any alcoholic beverage obtained by the normal
15 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or
16 other agricultural products, including such beverages containing added
17 alcohol or spirits or containing sugar added for the purpose of correcting
18 natural deficiencies. "Wine" includes hard cider and any other product that
19 is commonly known as a subset of wine.
20 Sec. 6. K.S.A. 41-327 is hereby amended to read as follows: 41-327.
21 Any licensee *or permittee* may renew ~~his~~ *such* license at the expiration
22 thereof ~~if he~~ *such licensee* is then qualified to receive a license *or permit*
23 and the premises for which such renewal license is sought are suitable for
24 such purpose.
25 Sec. 7. K.S.A. 41-2601 is hereby amended to read as follows: 41-
26 2601. As used in the club and drinking establishment act:
27 (a) The following terms mean the same as ~~provided by~~ *defined in*
28 K.S.A. 41-102, and amendments thereto:
29 (1) "Alcoholic liquor";
30 (2) "director";
31 (3) "original package";
32 (4) "person";
33 (5) "sale"; and
34 (6) "to sell."
35 (b) "Beneficial interest" shall not include any interest a person may
36 have as owner, operator, lessee or franchise holder of a licensed hotel or
37 motel on the premises of which a club or drinking establishment is located.
38 (c) "Caterer" means an individual, partnership or corporation that
39 sells alcoholic liquor or cereal malt beverage by the individual drink, and
40 provides services related to the serving thereof, on unlicensed premises
41 that may be open to the public, but does not include a holder of a
42 temporary permit, selling alcoholic liquor or cereal malt beverage in
43 accordance with the terms of such permit.

1 (d) "Cereal malt beverage" means the same as provided by K.S.A. 41-
2 2701, and amendments thereto.

3 (e) "Class A club" means a premises that is owned or leased by a
4 corporation, partnership, business trust or association and that is operated
5 thereby as a bona fide nonprofit social, fraternal or war veterans' club, as
6 determined by the director, for the exclusive use of the corporate
7 stockholders, partners, trust beneficiaries or associates, hereinafter referred
8 to as members, and their families and guests accompanying them, as
9 provided in K.S.A. 41-2637, and amendments thereto.

10 (f) "Class B club" means a premises operated for profit by a
11 corporation, partnership or individual, to which members of such club may
12 resort for the consumption of food or alcoholic beverages and for
13 entertainment.

14 (g) "Club" means a class A or class B club.

15 (h) "Drinking establishment" means premises that may be open to the
16 general public, where alcoholic liquor or cereal malt beverage by the
17 individual drink is sold. The term "Drinking establishment" includes a
18 railway car.

19 (i) "Food" means any raw, cooked or processed edible substance or
20 ingredient, other than alcoholic liquor or cereal malt beverage, used or
21 intended for use or for sale, in whole or in part, for human consumption.

22 (j) "Food service establishment" means the same as provided by
23 K.S.A. 36-501, and amendments thereto.

24 (k) "Hotel" means the same as provided by K.S.A. 36-501, and
25 amendments thereto.

26 (l) "Individual drink" means a beverage containing alcoholic liquor or
27 cereal malt beverage served to an individual for consumption by such
28 individual or another individual, but which is not intended to be consumed
29 by two or more individuals. The term "individual drink" includes
30 beverages containing not more than:

31 (1) Eight ounces of wine;

32 (2) ~~thirty-two~~³² ounces of beer or cereal malt beverage; or

33 (3) four ounces of a single spirit or a combination of spirits.

34 (m) "Minibar" means a closed cabinet, whether nonrefrigerated or
35 wholly or partially refrigerated, access to the interior of which is restricted
36 by means of a locking device that requires the use of a key, magnetic card
37 or similar device.

38 (n) "Minor" means a person under 21 years of age.

39 (o) "Morals charge" means a charge involving the sale of sexual
40 relations; procuring any person; soliciting of a child under 18 years of age
41 for any immoral act involving sex; possession or sale of narcotics,
42 marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal
43 cohabitation; adultery; bigamy; or a crime against nature.

- 1 (p) "Municipal corporation" means the governing body of any county
2 or city.
- 3 (q) "Public venue" means an arena, stadium, hall or theater, used
4 primarily for athletic or sporting events, live concerts, live theatrical
5 productions or similar seasonal entertainment events, not operated on a
6 daily basis, and containing:
- 7 (1) Not fewer than 4,000 permanent seats; and
8 (2) not fewer than two private suites that are enclosed or semi-
9 enclosed seating areas, having controlled access and separated from the
10 general admission areas by a permanent barrier.
- 11 (r) "Railway car" means a locomotive drawn conveyance used for the
12 transportation and accommodation of human passengers that is confined to
13 a fixed rail route and which derives from sales of food for consumption on
14 the railway car not less than 30% of its gross receipts from all sales of food
15 and beverages in a 12-month period.
- 16 (s) "Restaurant" means:
- 17 (1) In the case of a club, a licensed food service establishment that, as
18 determined by the director, derives from sales of food for consumption on
19 the licensed club premises not less than 50% of its gross receipts from all
20 sales of food and beverages on such premises in a 12-month period;
- 21 (2) in the case of a drinking establishment subject to a food sales
22 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
23 food service establishment that, as determined by the director, derives
24 from sales of food for consumption on the licensed drinking establishment
25 premises not less than 30% of its gross receipts from all sales of food and
26 beverages on such premises in a 12-month period; and
- 27 (3) in the case of a drinking establishment subject to no food sales
28 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
29 food service establishment.
- 30 (t) "RV resort" means premises where a place to park recreational
31 vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered
32 for pay, primarily to transient guests, for overnight or longer use while
33 such recreational vehicles are used as sleeping or living accommodations.
- 34 (u) "Sample" means a serving of alcoholic liquor or cereal malt
35 beverage that contains not more than:
- 36 (1) One-half ounce of distilled spirits;
37 (2) one ounce of wine; or
38 (3) two ounces of beer or cereal malt beverage.
- 39 A sample of a mixed alcoholic beverage shall contain not more than ½
40 ounce of distilled spirits.
- 41 (v) "Secretary" means the secretary of revenue.
- 42 (w) "Temporary permit" means a temporary permit issued pursuant to
43 K.S.A. 41-1201, and amendments thereto.

1 (x) *"Third-party delivery service" means the same as defined in*
2 *K.S.A. 41-102, and amendments thereto.*

3 Sec. 8. K.S.A. 41-2701 is hereby amended to read as follows: 41-
4 2701. As used in this act unless the context otherwise requires:

5 (a) "Cereal malt beverage" means any fermented but undistilled
6 liquor brewed or made from malt or from a mixture of malt or malt
7 substitute or any flavored malt beverage, as defined in K.S.A. 41-2729,
8 and amendments thereto, but does not include any such liquor which is
9 more than 3.2% alcohol by weight.

10 (b) "Director" means the director of alcoholic beverage control of the
11 department of revenue.

12 (c) "Manufacturer" means a manufacturer as defined by K.S.A. 41-
13 102, and amendments thereto.

14 (d) "Person" means any individual, firm, partnership, corporation or
15 association.

16 (e) "Retailer" means any person who is licensed under the Kansas
17 cereal malt beverage act and who sells or offers for sale any cereal malt
18 beverage or beer containing not more than 6% alcohol by volume for use
19 or consumption and not for resale in any form.

20 (f) "Place of business" means any place at which cereal malt
21 beverages or beer containing not more than 6% alcohol by volume are
22 sold.

23 (g) "Distributor" means a beer distributor licensed pursuant to the
24 Kansas liquor control act.

25 (h) "Legal age for consumption of cereal malt beverage" means 21
26 years of age, except that "legal age for consumption of cereal malt
27 beverage" shall mean 18 years of age if at any time the provisions of P.L.
28 98-363 penalizing states for permitting persons under 21 years of age to
29 consume cereal malt beverage are repealed or otherwise invalidated or
30 nullified.

31 (i) *"Third-party delivery service" means the same as defined in K.S.A.*
32 *41-102, and amendments thereto.*

33 Sec. 9. K.S.A. 41-2728 is hereby amended to read as follows: 41-
34 2728. ~~From and after November 15, 2005:~~

35 (a) K.S.A. 41-2701 through 41-2727, *and amendments thereto*, and
36 section ~~14~~ 3, and amendments thereto, shall be known and may be cited as
37 the Kansas cereal malt beverage act.

38 (b) Except as specifically provided in the Kansas cereal malt
39 beverage act, the power to regulate all phases of the manufacture,
40 distribution, sale, possession, transportation and traffic in cereal malt
41 beverages is vested exclusively in the state and shall be exercised as
42 provided in the Kansas cereal malt beverage act. No city or county shall
43 enact any ordinance or resolution ~~which~~ *that* is in conflict with the

1 provisions of the Kansas cereal malt beverage act and any such ordinance
2 or resolution shall be null and void.

3 (c) The provisions of this act are severable. If any provision of this
4 act is held to be invalid or unconstitutional, it shall be presumed
5 conclusively that the legislature would have enacted the remainder of this
6 act without such invalid or unconstitutional provision.

7 Sec. 10. K.S.A. 41-327, 41-2601, 41-2701 and 41-2728 and K.S.A.
8 2022 Supp. 41-102 are hereby repealed.

9 Sec. 11. This act shall take effect and be in force from and after its
10 publication in the statute book.