

Law Enforcement Summary of Enacted Alcohol Law Amendments from 2019 Session

SB70: Temporary Sales Permits; Samples (Effective May 2, 2019; 2019 SL Ch. 57)

[Link to bill](#)

[Link to Summary](#)

HB2035: Violations of law; copy of citation; notice of reported violation (Effective April 4, 2019; 2019 SL Ch. 18 §1)

[Link to bill](#)

[Link to Summary](#)

UPDATED LIQUOR LAWS ARE AVAILABLE AT: <http://kansasleo.com/statutes.htm#Ch41>

Terminology:

- Alcoholic Liquor means “alcohol, spirits, wine, beer, alcoholic candy and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being, but shall not include any cereal malt beverage.” [KSA 41-102(c)]

Temporary Sales Permits

What is required

The boundaries of the premises stated in the license must be “clearly marked by signs, posted maps or other means.” [KSA 41-1201(f)(1) {(e)(1) in the bill}; 41-1202(f); 41-719(a)(4); 41-2648(g)]

All alcoholic liquor sold at an event must be dispensed from the original container. [KSA 41-1203(a)]

What is allowed

The holder of a Temporary Sales Permit is allowed to sell alcoholic liquor for consumption within the location listed in the permit. The permit also allows sale of alcoholic liquor at charitable auctions, including sales of limited issue porcelain containers containing alcoholic liquor for on-site or off-site consumption. [KSA 41-1201(a)]

Alcoholic liquor may be consumed on a city, county or township sidewalk, street, alley, or highway provided the city, county or township passes an ordinance or resolution approving the area for public consumption and to close the area to vehicle traffic during the event. [KSA 41-1201(f)(1) {(e)(1) in the bill}]

A cover charge is allowed for entry into the premises covered by a Temporary Sales Permit. [KSA 41-1201(b)]

A person may bring alcoholic liquor in the original container onto event premises, but only with permission of the temporary permit holder. If allowed the container cannot be stored on the premises by the permit holder and the person bringing it onto the premises must remove it when they leave the premises. [KSA 41-1203(b)]

The keg registration is not required for retail sales of kegs to the holder of a temporary sales permit. [KSA 41-1205]

What is not allowed

Alcoholic liquor may not be sold for removal from the event premises or for consumption off-premises, except for alcoholic liquor sold in a charitable auction or in a limited issue porcelain

container. This does not restrict removal of alcoholic liquor from a drinking establishment into the temporary event premises. [KSA 41-1202(e)]

Alcoholic Liquor sold by licensees in the Temporary Sale Permit premises may not be removed beyond the boundaries stated in the license, except for charitable auction events. [KSA 41-719(a)(4)]

Alcoholic liquor may not be consumed in a vehicle at any time, even within the premises of a temporary sales permit. [KSA 41-719(a)(3)]

The permit holder may not employ or use the services of 1) a person under age 18 to serve alcohol; 2) a person under age 21 to mix or dispense drinks; 3) a person under age 21 for any other task unless supervised by the permit holder or a person age 21 or older; 4) a person who has been convicted of a felony or of any crime involving a morals charge to dispense, mix or serve alcoholic liquor; or 5) a person who has been convicted in the past two years of a violation of any intoxicating liquor law. [KSA 41-1201(k) {(j) in the bill}]

Enforcement of violations

Operation under sections 1-5, Temporary Sales Permits, is subject to enforcement under the Liquor Control Act and the Club and Drinking Establishment Act and the regulations under those acts. [KSA 41-1206(a)]

All participating licensees who have extended their premises into the temporary event area are liable for violations of laws governing the sale and consumption of alcoholic liquor. [KSA 41-1201(f)(3) {(e)(3) in the bill}]

Each temporary permit holder selling alcoholic liquor for consumption on the permit premises shall be liable for all violations of laws governing the sale and consumption of alcoholic liquor that occur in areas covered by multiple temporary permits. [KSA 41-1201(f)(4) {(e)(4) in the bill}]

The holder of a temporary sales permit is responsible for violations of the Club and Drinking Establishment Act by 1) any employee or contractor the holder has providing services or food in connection with the event; or 2) any person dispensing, mixing, or serving alcoholic liquor at the event. [KSA 41-1202(d)]

What is a criminal violation

Any violation of KSA 41-719 (See Subsection (j) for penalty provision) is an A misdemeanor, including, among other violations:

- Removing alcoholic liquor from:
 - the properly marked boundary of premises designated in a temporary permit [KSA 41-719(a)(4)],
 - the boundaries of a catered event area designated by a county, city or township extended premises permit or from the extended licensed premises of a public venue, hotel, hotel caterer, drinking establishment caterer or drinking establishment [KSA 41-719(a)(4)], or
 - a common consumption area [KSA 41-719(b)] is an unclassified misdemeanor [KSA 41-719(k)].
- Consumption of alcoholic liquor within a vehicle on public streets, alleys, roads or highway at any location. [KSA 41-719]
- Consumption of alcoholic liquor on public streets, alleys, roads or highway not included in a common consumption area or temporary permit area. [KSA 41-719]

Permit Process

The ABC issues Temporary Sales Permits. Permits may be issued to multiple organizations. [KSA 41-1201(c)]

The application must be submitted at least 14 days in advance. The ABC may waive the 14-day requirement for good cause. [KSA 41-1201(d) {1st (d) in the bill}]

The permit application must include the exact location of the premises of the event and a diagram of the included premises and all exits, entrances and boundaries must all be marked on the diagram. [KSA 41-1201 (e) {2nd d in the bill}]

Before the ABC can issue a permit a city, county or township must approve by ordinance or resolution 1) the event; 2) the closing of any street, alley, road, sidewalk or highway included in the designated premises to vehicle traffic. The proposed use must meet city, county or township zoning requirements. A permit cannot be issued for an event in a county which has not approved liquor by the drink. [KSA 41-1201(e) and (f) {2nd (d)) and (e) in the bill}]

Temporary Permits generally cannot be for more than three days; however, the ABC can waive that and issue a permit for the entire duration of an event of up to 30 days. [KSA 41-1201(g)(1) and (3) {(f)(10 and (3) in the bill}]

Extended premises

Licensees of an establishment within or adjacent to the site of a temporary sales permit area may have their licensed premises extended into the premises a city, county or township has approved for the temporary event, provided the public way is closed to vehicular traffic; and the extension is approved by the city, county or township. [KSA 41-1201(f)(2) {(e)(2) in the bill}; KSA 41-719(a)(2)(C); SB70, KSA 41-2608(c)]

Common Consumption Areas

One or more licensees may participate in a common consumption area in which they may all sell and serve alcoholic liquor from one non-contiguous service area within the common consumption area as approved by the common consumption area permit holder. The licensee is required to display a copy of the drinking establishment license and the approval of the common consumption area permit holder at the non-contiguous service area. [KSA 41-2659(e)(2)]

Other provisions of Common Consumption areas remain unchanged as provided in KSA 41-2659 and KSA 41-719.

Samples

Samples of wine, beer or distilled spirits are allowed to be served by a temporary sales permit holder regardless of whether a cover charge is required, but on any other licensed premises samples may only be served if no cover charge is being collected. [SB70, Section 4(a) and (b); KSA 41-719(j)(1)(D); 41-2637(a); 41-2641; 41-2642]

A sample size is limited to no more than 1) ½ ounce of distilled spirits; 2) 1 ounce of wine; or 3) 2 ounces of beer or CMB. [KSA 41-102(bb); KSA 41-2601(u)]

There can be no charge for any sample. [KSA 41-1204(c); KSA 41-2637(a); KSA 41-2641(a); KSA 41-2642(c)]

There can be no cover charge to enter or remain where samples are being served, except for temporary sales permit areas. [KSA 41-2637(a); KSA 41-2641(a); KSA 41-2642(c)]

There is no limit on the number of samples a single person may be served. [SB70, Section 4(d)]
Previous limitations on the number of samples served to a person by licensees is stricken in various statutes. [KSA 41-2637(a); KSA 41-2641(a); KSA 41-2642(c)]

Samples may not be served to a minor (under age 21). [SB70, Section 4(d); SB70, KSA 41-2637(a); KSA 41-2641(a); 41-2642(c)]

Samples may not be removed from the premises designated in the Temporary Sales Permit. [KSA 41-1204(d); KSA 41-2637(a); KSA 41-2642(c)]

There is no requirement for a Department of Agriculture Food Service Dealer License to serve samples. [KSA 41-1204(d)]

Reporting Any Liquor Control or CMB Act Violation to ABC

Violations of any ABC alcoholic liquor laws or regulations observed by law enforcement must be reported to the ABC as provided in KSA 41-106, which requires law enforcement to issue a written notice to the person in charge of the licensed premises at the time the violation is discovered, prior to submitting a report to the ABC. [KSA 41-106]

Producer License

A producer license may be issued to certain vineyards and authorizes the sale of wine in the original, unopened container, the serving by the drink of wine, and to conduct wine tastings on the premises specified in the license. [KSA 41-355(c)]

The holder of a producer license may also sell other alcoholic liquor if they are also licensed as a club or drinking establishment; or may sell cereal malt beverage or veer up to 6% alcohol by volume if also licensed to sell a CMB. [KSA 41-355(e)]

State Fair Special Provisions

Special provisions are provided for the State Fair. [KSA 41-1201(g)(2) {(f)(2) in the bill}; KSA 41-308a(e); KSA 41-719 (d)(4) and (5)]

NOTE: There is an error in subsection numbering in Section 1 of SB70. There are two subsection (d)s. We believe the revisor will re-designate the subsections correctly when the statute is published in the fall. So the references to KSA 41-1201 with subsection (d) or beyond, carry a note showing what we believe will be published but showing the actual bill subsection in {brackets}.