



KANSAS

LIQUOR DRINK TAX ACT AND REGULATIONS

K.S.A. Chapter 79, Article 41a
Last amended in 2013

K.A.R. Agency 92, Article 24
Last amended in March 2010

Without Annotations - For Public Distribution

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Kansas Statutes

79-41a01.

Definitions. As used in K.S.A. 79-41a01 through 79-41a09, and amendments thereto:

(a) "Alcoholic liquor" means alcoholic liquor, as defined by K.S.A. 41-102 and amendments thereto, and cereal malt beverage, as defined by K.S.A. 41-2701 and amendments thereto.

(b) "Caterer," "club," "drinking establishment" "public venue", "railway car" and "temporary permit" have the meanings provided by K.S.A. 41-2601 and amendments thereto.

(c) "Gross receipts derived from the sale of alcoholic liquor" means the amount charged the consumer for a drink containing alcoholic liquor, including any portion of that amount attributable to the cost of any ingredient mixed with or added to the alcoholic liquor contained in such drink.

History: L. 1979, ch. 152, § 11; L. 1985, ch. 171, § 12; L. 1987, ch. 182, § 117; L. 1990, ch. 179, § 9; L. 2012, ch. 144, § 49; July 1.

79-41a02.

Imposition and rate of tax; paid by consumer and collected by seller. (a) There is hereby imposed, for the privilege of selling alcoholic liquor, a tax at the rate of 10% upon the gross receipts derived from the sale of alcoholic liquor by any club, caterer, drinking establishment, public venue or temporary permit holder, and upon the acquisition costs of any alcoholic liquor served as samples by clubs and drinking establishments.

(b) The tax imposed by this section shall be paid by the consumer to the club, caterer, drinking establishment, public venue or temporary permit holder and it shall be the duty of each and every club, caterer, drinking establishment, public venue or temporary permit holder subject to this section to collect from the consumer the full amount of such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each club, caterer, drinking establishment, public venue or temporary permit holder collecting the tax imposed hereunder shall be responsible for paying over the same to the state department of revenue in the manner prescribed by K.S.A. 79-41a03 and amendments thereto and the state department of revenue shall administer and enforce the collection of such tax.

(c) Any club or drinking establishment that serves free samples of alcoholic liquor shall remit the tax imposed by subsection (a) in the manner prescribed by K.S.A. 79-41a03, and amendments thereto, and the state department of revenue shall administer and enforce the payment of such tax.

History: L. 1979, ch. 152, § 12; L. 1987, ch. 182, § 118; L. 1990, ch. 179, § 10; L. 2012, ch. 144, § 50; L. 2013, ch. 130, § 14; July 1.

79-41a03.

Payment and collection of tax; bond; disposition of revenue. (a) The tax levied and collected pursuant to K.S.A. 79-41a02, and amendments thereto, shall become due and payable by the club, caterer, drinking establishment, public venue or temporary permit holder monthly, or on or before the 25th day of the month immediately succeeding the month in which it is collected, but any club, caterer, drinking establishment, public venue or temporary permit holder filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time the club, caterer, drinking establishment, public venue or temporary permit holder pays such retailers' sales tax. Each club, caterer, drinking establishment, public venue or temporary permit holder shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross receipts derived from the sale of alcoholic liquor by the club,

caterer, drinking establishment, public venue or temporary permit holder for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross receipts derived from the sale of alcoholic liquor shall be kept separate and apart from the records of other retail sales made by a club, caterer, drinking establishment, public venue or temporary permit holder in order to facilitate the examination of books and records as provided herein.

(b) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a club, caterer, drinking establishment, public venue or temporary permit holder as may be necessary to determine the accuracy of such reports required hereunder.

(c) The secretary of revenue is hereby authorized to administer and collect the tax imposed hereunder and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any club, caterer, drinking establishment, public venue or temporary permit holder liable to pay the tax imposed hereunder refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617, and amendments thereto.

(d) The secretary of revenue shall remit all revenue collected under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Subject to the maintenance requirements of the local alcoholic liquor refund fund created under K.S.A. 79-41a09, and amendments thereto, 25% of the remittance shall be credited to the state general fund, 5% shall be credited to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and the balance shall be credited to the local alcoholic liquor fund created by K.S.A. 79-41a04, and amendments thereto.

(e) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of any tax, penalties or interest due, or to become due, under the provisions of this act, the secretary may require any person subject to such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

(f) The amount of tax imposed by this act shall be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall be begun after the expiration of such period except in the cases of fraud. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may be begun at any time, within two years from the discovery of such fraud. No refund or credit shall be allowed by the director after three years from the date of payment of the tax as provided in this act unless before the expiration of such period a claim therefor is filed by the taxpayer, and no suit or action to recover on any claim for refund shall be commenced until after the expiration of six months from the date of filing a claim therefor with the director. Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for refund, the director is hereby authorized to enter into an agreement in writing with the taxpayer consenting to the extension of the periods of limitations for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the periods of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

History: L. 1979, ch. 152, § 13; L. 1982, ch. 424, § 1; L. 1983, ch. 315, § 3; L. 1984, ch. 351, § 24; L. 1985, ch. 171, § 13; L. 1987, ch. 182, § 119; L. 1990, ch. 179, § 11; L. 1992, ch. 295, § 3; L. 2001, ch. 62, § 1; L. 2001, ch. 167, § 14; L. 2012, ch. 144, § 51; July 1.

79-41a03a.

Interest and penalties for failure to pay or untimely payment of gross receipts tax on club liquor sales. (a) If any taxpayer fails to pay the tax levied pursuant to K.S.A. 79-41a02, and amendments thereto, at the time required by or under the provisions of K.S.A. 79-41a03, and amendments thereto, there shall be added to the unpaid balance of the tax, interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid.

(b) For all taxable years ending prior to January 1, 2002, if any taxpayer due to negligence or intentional disregard fails to file a return or pay the tax due at the time required by or under the provisions of K.S.A. 79-41a03, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of tax due.

(c) For all taxable years ending prior to January 1, 2002, if any person fails to make a return, or to pay any tax, within six months from the date the return or tax was due, except in the case of an extension of time granted by the secretary of revenue or the secretary's designee, there shall be added to the tax due a penalty equal to 25% of the unpaid balance of such tax due.

(d) For all taxable years ending after December 31, 2001, if any taxpayer fails to file a return or pay the tax if one is due, at the time required by or under the provisions of this act, there shall be added to the tax an additional amount equal to 1% of the unpaid balance of the tax due for each month or fraction thereof during which such failure continues, not exceeding 24% in the aggregate, plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid. Notwithstanding the foregoing, in the event an assessment is issued following a field audit for any period for which a return was filed by the taxpayer and all of the tax was paid pursuant to such return, a penalty shall be imposed for the period included in the assessment in an amount of 1% per month not exceeding 10% of the unpaid balance of tax due shown in the notice of assessment. If after review of a return for any period included in the assessment, the secretary or secretary's designee determines that the underpayment of tax was due to the failure of the taxpayer to make a reasonable attempt to comply with the provisions of this act, such penalty shall be imposed for the period included in the assessment in the amount of 25% of the unpaid balance of tax due.

(e) If any taxpayer, with fraudulent intent, fails to pay any tax or make, render or sign any return, or to supply any information, within the time required by or under the provisions of K.S.A. 79-41a03, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of tax due.

(f) Penalty or interest applied under the provisions of subsections (a) and (d) shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections (b) and (c) shall be mutually exclusive of each other.

(g) Whenever the secretary of revenue or the secretary's designee determines that the failure of the taxpayer to comply with the provisions of subsections (b) and (c) was due to reasonable causes, the secretary or the secretary's designee may waive or reduce any of the penalties and may reduce the interest rate to the underpayment rate prescribed and determined for the applicable period under section 6621 of the federal internal revenue code as in effect on January 1, 1994, upon making a record of the reasons therefor.

(h) In addition to all other penalties provided by this section, any person who willfully fails to make a return or to pay any tax imposed under K.S.A. 79-41a02, and amendments thereto, or who makes a false or fraudulent return, or fails to keep any books or records necessary to determine the accuracy of the person's reports, or who willfully violates any regulations of the secretary of revenue, for the enforcement and administration of the provisions of K.S.A. 79-41a01 to 79-41a09, inclusive, and amendments thereto, or who aids and abets another in attempting to evade the payment of any tax imposed by K.S.A. 79-41a02, and amendments thereto, or who violates any other provision of K.S.A. 79-41a01 to 79-41a09, inclusive, and amendments thereto, shall, upon conviction thereof, be fined not

less than \$100 nor more than \$1,000, or be imprisoned in the county jail not less than one month nor more than six months, or be both so fined and imprisoned, in the discretion of the court.

History: L. 1984, ch. 351, § 25; L. 1988, ch. 390, § 3; L. 1989, ch. 291, § 8; L. 1994, ch. 95, § 8; L. 2000, ch. 184, § 21; July 1.

79-41a04.

Local alcoholic liquor fund; distribution of moneys. (a) There is hereby created, in the state treasury, the local alcoholic liquor fund. Moneys credited to such fund pursuant to this act or any other law shall be expended only for the purpose and in the manner provided by this act.

(b) Except as provided in subsection (b)(4), all moneys credited to the local alcoholic liquor fund shall be allocated to the several cities and counties of the state as follows:

(1) Each city that has a population of more than 6,000 shall receive 70% of the amount which is collected pursuant to this act from clubs, public venues or drinking establishments located in such city, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made.

(2) Each city that has a population of 6,000 or less shall receive 46 2/3% of the amount which is collected pursuant to this act from clubs, public venues or drinking establishments located in such city, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made.

(3) Each county shall receive: (A) 70% of the amount which is collected pursuant to this act from clubs, public venues or drinking establishments located in such county and outside the corporate limits of any city, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made; and (B) 23 1/3% of the amount which is collected pursuant to this act from clubs, public venues or drinking establishments located in the county and within a city that has a population of 6,000 or less, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made.

(4) From the amount collected from drinking establishments which are railway cars, counties shall receive 70% which shall be divided equally among the counties through which the railway car passes or in which the railway car operates, provided such county is a county where the qualified electors of the county:

(A) (i) Approved by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November 1986; or (ii) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(B) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(c) The state treasurer shall make distributions from the local alcoholic liquor fund in accordance with the allocation formula prescribed by subsection (b) on March 15, June 15, September 15 and December 15 of each year. The director of accounts and reports shall draw warrants on the state treasurer in favor of the several county treasurers and city treasurers on the dates and in the amounts determined under this section. Such distributions shall be paid directly to the several county treasurers and city treasurers.

(d) Except as otherwise provided by this subsection, each city treasurer of a city that has a population

of more than 6,000, upon receipt of any moneys distributed under this section, shall deposit the full amount in the city treasury and shall credit 1/3 of the deposit to the general fund of the city, 1/3 to a special parks and recreation fund in the city treasury and 1/3 to a special alcohol and drug programs fund in the city treasury. Each city treasurer of a city that has a population of 6,000 or less, upon receipt of any moneys distributed under this section, shall deposit the full amount in the city treasury and shall credit 1/2 of the deposit to the general fund of the city and 1/2 to a special parks and recreation fund in the city treasury. Moneys in such special funds shall be under the direction and control of the governing body of the city. Moneys in the special parks and recreation fund may be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. One-half of the moneys distributed under this section to cities located in Butler County shall be deposited in a special community support program and parks and recreation fund in the city treasury. Moneys in the special community support program and parks and recreation fund may be expended only for

(1) the establishment and operation of a domestic violence program operated by a not-for-profit organization or

(2) the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers.

(e) Except as otherwise provided by this subsection, each county treasurer, upon receipt of any moneys distributed under this section, shall deposit the full amount in the county treasury and shall credit to a special alcohol and drug programs fund in the county treasury 23 1/3% of the amount which is collected pursuant to this act from clubs or drinking establishments located in the county and within a city that has a population of 6,000 or less, from caterers whose principal place of business is so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made; of the remainder, the treasurer shall credit 1/3 to the general fund of the county, 1/3 to a special parks and recreation fund in the county treasury and 1/3 to the special alcohol and drug programs fund. Moneys in such special funds shall be under the direction and control of the board of county commissioners. Moneys in the special parks and recreation fund may be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. One-third of the moneys distributed under this section to Butler county shall be deposited in a special community support program and parks and recreation fund in the county treasury. Moneys in the special community support program and parks and recreation fund may be expended only for (1) the establishment and operation of a domestic violence program operated by a not-for-profit organization or (2) the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers. In any county in which there has been organized an alcohol and drug advisory committee, the board of county commissioners shall request and obtain, prior to making any expenditures from the special alcohol and drug programs fund, the recommendations of the advisory committee concerning such expenditures. The board of county commissioners shall adopt the recommendations of the advisory committee concerning such expenditures unless the board, by unanimous vote of all commissioners, adopts a different plan for such expenditures.

(f) Each year, the county treasurer shall estimate the amount of money the county and each city in

the county will receive from the local alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05 and amendments thereto. The state treasurer shall advise each county treasurer, prior to June 1 of each year of the amount in the local alcoholic liquor fund that the state treasurer estimates, using the most recent available information, will be allocated to such county in the following year. The county treasurer shall, before June 15 of each year, notify the treasurer of each city of the estimated amount in dollars of the distribution to be made from the local alcoholic liquor fund and pursuant to K.S.A. 79-41a05 and amendments thereto.

History: L. 1979, ch. 152, § 14; L. 1982, ch. 424, § 5; L. 1985, ch. 171, § 14; L. 1986, ch. 185, § 3; L. 1987, ch. 182, § 120; L. 1990, ch. 179, § 12; L. 1991, ch. 281, § 3; L. 2012, ch. 144, § 52; July 1.

79-41a04a.

[Repealed in 1991]

79-41a05.

Same; additional payments to local units, when. (a) After the end of each calendar year, the state treasurer shall determine whether the aggregate amount of moneys distributed during the preceding calendar year to cities and counties pursuant to K.S.A. 79-41a04 and amendments thereto is less than the aggregate amount of moneys distributed during calendar year 1981 to cities and counties pursuant to that statute. If the aggregate amount distributed during the preceding calendar year is less, a sum equal to the difference in the aggregate amounts distributed in calendar year 1981 and in the preceding calendar year shall be transferred by the state treasurer from the state general fund to the local alcoholic liquor equalization fund which is hereby created in the state treasury. All moneys credited to the fund under this section shall be allocated to the several cities and counties of the state. The allocation from the fund to each city or county shall be in an amount that bears the same ratio to the total sum distributed under this section as the ratio that the amount distributed during the preceding calendar year to the city or county pursuant to K.S.A. 79-41a04 and amendments thereto bears to the aggregate amount distributed during the preceding calendar year to cities and counties pursuant to that statute.

(b) The state treasurer shall make distributions pursuant to this section on March 15 of each year. The director of accounts and reports shall draw warrants on the state treasurer in favor of the several county treasurers and city treasurers on that date in the amounts determined under this section. The distributions shall be paid directly by mail to the several county treasurers and city treasurers.

(c) Each city and county treasurer, upon receipt of any moneys distributed pursuant to this section, shall deposit the full amount in the treasurer's respective city or county treasury and shall credit the deposit to the same funds and in the same proportions as deposits in the respective city or county treasury from distributions made on the same date pursuant to K.S.A. 79-41a04 and amendments thereto.

History: L. 1982, ch. 424, § 6; July 1.

79-41a06.

Registration certificate required for seller. No club, drinking establishment, caterer, public venue or temporary permit holder shall sell any alcoholic liquor without a registration certificate from the secretary of revenue. Application for such certificate shall be made to the secretary upon forms provided by the secretary and shall contain such information as the secretary deems necessary for the purposes of administering the provisions of this act. The registration certificate shall be conspicuously displayed in the licensed premises or permitted for which it is issued.

Upon violation of any of the provisions of K.S.A. 79-41a01 *et seq.*, and amendments thereto, or any of the terms of this act, and upon due notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the secretary may revoke such registration certificate.

History: L. 1982, ch. 424, § 2; L. 1987, ch. 182, § 121; L. 1988, ch. 356, § 345; L. 1990, ch. 179, §

13; L. 2012, ch. 144, § 53; July 1.

79-41a07.

Violations by seller; remedies. (a) The director of taxation or the director of alcoholic beverage control may enjoin any person from engaging in business as a club, drinking establishment, caterer, public venue or temporary permit holder when the club, drinking establishment, caterer, public venue or temporary permit holder is in violation of any of the provisions of K.S.A. 79-41a01 *et seq.*, and amendments thereto, or any of the terms of this act and shall be entitled in any proceeding brought for that purpose to have an order restraining the person from engaging in business as a club, drinking establishment, caterer, public venue or temporary permit holder. No bond shall be required for any such restraining order or for any temporary or permanent injunction issued in that proceeding.

(b) If a club, drinking establishment, public venue or caterer licensed by the director of alcoholic beverage control or a temporary permit holder violates any of the provisions of K.S.A. 79-41a01 *et seq.*, and amendments thereto, or any of the terms of this act, the director of alcoholic beverage control may suspend or revoke the license of such club, drinking establishment, public venue or caterer in accordance with K.S.A. 41-2609 and amendments thereto or may impose a civil fine on the licensee or permit holder in the manner provided by K.S.A. 41-2633a and amendments thereto.

History: L. 1982, ch. 424, § 3; L. 1987, ch. 182, § 122; L. 1990, ch. 179, § 14; L. 2012, ch. 144, § 54; July 1.

79-41a08.

Tax constitutes lien on seller's property. The tax imposed by this act shall be a lien upon the business and any property of the club, drinking establishment, caterer, public venue or permit holder which may be sold. The person acquiring such business or property shall withhold a sufficient amount of the purchase price thereof to cover the amount of any taxes due and unpaid by the seller, until the seller shall furnish the purchaser with a receipt from the secretary of revenue, as herein provided, showing that such taxes have been paid. The purchaser shall be personally liable for the payment of any unpaid taxes of the seller, to the extent of the value of the business or property received by the purchaser, and if a receipt is not furnished by such seller within 20 days from the date of sale of such business or property, the purchaser shall remit the amount of such unpaid taxes to the secretary on or before the 20th day of the month succeeding that in which such purchaser acquired such business or property.

History: L. 1982, ch. 424, § 4; L. 1987, ch. 182, § 123; L. 1990, ch. 179, § 15; L. 2012, ch. 144, § 55; July 1.

79-41a09.

Same; refund fund established; amount maintained. There is hereby established in the state treasury the local alcoholic liquor refund fund. The local alcoholic liquor refund fund shall be held by the state treasurer for prompt refunding of all overpayments of the tax levied and collected pursuant to article 41a of chapter 79 of the Kansas Statutes Annotated. The local alcoholic liquor refund fund shall be maintained in an amount determined by the secretary of revenue as necessary to meet current refunding requirements, but such amount shall not exceed \$10,000.

History: L. 1983, ch. 315, § 4; April 14.

Kansas Administrative Regulations

92-24-1 to 92-24-8

(Authorized by K.S.A. 1979 Supp. 79-41a01, 79-41a02, 79-41a03; effective, E-80-26, Dec. 12, 1979; effective May 1, 1980; revoked, T-83-30, Oct. 25, 1982; revoked May 1, 1983.)

92-24-9.

Definitions. As used in this article, these terms shall have the following meanings.

(a) „„Licensee““ means a holder of a class A or class B license, drinking establishment license, temporary permit holder, or caterer license issued by the director of alcoholic beverage control.

(b) „„Liquor drink tax““ means the tax imposed by K.S.A. 79-41a02, and amendments thereto.

(c) „„Secretary““ means the secretary of revenue or the secretary’s authorized representative.

(d) „„Source record““ means any of the following:

(1) A dated customer service check or ticket;

(2) a dated cash register tape, if coded to reflect the required information; or

(3) an equivalent of the check, ticket, or tape in a form approved by the secretary. (Authorized by and implementing K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988; amended March 22, 2002.)

92-24-10.

Registration certificates; application; display; revocation. (a) (1) Application for a liquor drink tax registration certificate shall be made upon a form furnished by the secretary. The application shall state the name of the applicant as specified on the applicant’s license and the address at which the applicant proposes to engage in business. For a caterer, the address shall be where the principal place of business is located.

(2) Each application for a liquor drink tax registration certificate shall be accompanied by a copy of the applicant’s license. If the applicant owes any liquor drink tax, penalty, or interest at the time of making application, payment shall be made before issuance of the liquor drink tax registration certificate.

(b) A separate liquor drink tax registration certificate shall be required for each license, and the licensee shall conspicuously display the liquor drink tax registration certificate on the premises. The licensee shall immediately report any change of location, name, or form of ownership of the licensed establishment to the director.

(c) The liquor drink tax registration certificate of any licensee may be revoked by the secretary for any violation of the provisions of this article or the provisions of K.S.A. 79-41a01 *et seq.* and amendments thereto, after providing due notice and an opportunity for a hearing. (Authorized by K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; implementing K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14, 79-41a06; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec 16, 1987; amended May 1, 1988; amended March 22, 2002.)

92-24-11.

Application of tax.

(a) The liquor drink tax shall apply to the gross receipts derived from the sale of any ingredients for drinks containing alcoholic liquor, whether mixed by the licensee or sold separately. The tax shall also apply to charges that are incidental to charges for drinks containing alcoholic liquor, which shall include the following:

- (1) Service, corkage, cooling, and serving charges;
- (2) fees or charges for the use of equipment owned by the licensee incidental to the serving of drinks containing alcoholic liquor; and
- (3) gratuities, except gratuities that are voluntarily given by the consumer or are separately stated on a source record and are entirely distributed to employees of the licensee in a form other than wages, salaries, or other compensation.

(b) If a single fee or charge is made for alcoholic liquor provided by a licensee in connection with room rental, soft drinks, water, and ice, the entire fee or charge, less the amount normally charged for the room rental, shall be taxable. (Authorized by K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; implementing K.S.A. 79-41a01, 79-41a02; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec 16, 1987; amended May 1, 1988; amended March 22, 2002.)

92-24-12.

Sales tax inapplicable. Items of tangible personal property subject to the liquor drink tax shall not be subject to retailers' sales tax. (Authorized by K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; implementing K.S.A. 79-41a02, 79-41a03, as amended by L. 2001, Ch. 167, § 14; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended March 22, 2002.)

92-24-13.

Assumption of tax by licensee prohibited. (a) A licensee shall not advertise, hold out, or state to the public or to any consumer, directly or indirectly, any of the following:

- (1) The liquor drink tax, or any part of the tax, will be assumed or absorbed by the licensee.
- (2) The tax will not be considered as an element in the price charged to the consumer.
- (3) The tax, or any part of the tax, will be refunded if it is added to the price charged to the consumer.

(b) The tax may be included in the stated drink price if the licensee conspicuously posts on the premises a sign provided by the secretary stating that drink prices include the liquor drink tax. (Authorized by K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; implementing K.S.A. 79-41a02; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988; amended March 22, 2002.)

92-24-14.

Time for returns and payment of tax; forms. On or before the last day of each calendar month, each club, caterer, and drinking establishment licensed in this state shall submit a tax return to the secretary upon forms furnished by the secretary. The name and address of the licensee, the total amount of gross receipts from sales of alcoholic liquor sold during the preceding calendar month, and any other information that the secretary deems necessary shall be stated on the form. The amount of tax due, as shown on the return, shall be paid to the secretary at the time the return is submitted. (Authorized by K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; implementing K.S.A. 79-41a02, 79-41a03, as amended by L. 2001, Ch. 167, § 14; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended March 22, 2002.)

92-24-15.

Records required. (a) Each licensee shall keep records and books of all sales subject to the liquor drink tax, together with invoices, bills of lading, sales records, copies of bills of sale, source records, daily summaries, and other pertinent papers and documents. The records shall show the following:

(1) The amount charged consumers for drinks containing alcoholic liquor and the amount charged consumers for all other items;

(2) invoices detailing the purchase of alcoholic liquor;

(3) a detailed description of breakage, spillage, and mistakes; and

(4) a detailed description of liquor removed from inventory for the following purposes:

(A) Use in preparation of food; and

(B) consumption by the licensee or the licensee's employees.

(b) Each licensee shall make the books, records, other papers and documents available for inspection by the secretary of revenue or the secretary's authorized representative for a period of three years from the last day of the calendar year or of the fiscal year of the licensee, whichever comes later, to which they pertain. The licensee shall maintain the books, records, and other documents on the licensed premises for a period of 90 days. However, the licensee may maintain the books, records, and other documents after 90 days at another location. (Authorized by and implementing K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988; amended March 22, 2002.)

92-24-16.

Source record requirements. (a) Each licensee shall record on a source record the following information:

(1) Each individual serving of a drink containing alcoholic liquor, or the unit of serving used if the drink is not served as an individual separate serving, and the price charged for the drink;

(2) identification of each individual separate serving or other unit served as to the kind of drink; and

(3) the date of the transaction.

The licensee shall record the information in a clear manner. The licensee may use a system of

symbols or code, if the meaning is printed on the source record or on another document maintained on the licensed premises.

(b) For the purpose of subsection (a)(3), drinks containing alcoholic liquor sold after 12:00 midnight and before 2:00 a.m. shall be deemed to have been sold on the preceding day.

(c) Source records shall be maintained in sequence by date. (Authorized by K.S.A. Supp. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

92-24-17.

Daily summary. Each licensee shall prepare a daily summary of all information required to be recorded on source records, including the sale or service of drinks containing alcoholic liquor. The daily summary shall also show the number of servings, and the kind of drink. Proper identifying symbols or codes may be used in preparing the daily summary. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

92-24-18.

Licensee's inventory; sales slips. A licensee shall not possess in inventory on the licensed premises any alcoholic liquor not covered by a sales slip provided by the retailer or wholesaler. Each sales slip shall be maintained by the licensee for the period pre-scribed by K.A.R. 92-24-15 and shall be available and subject to inspection in accordance with the provisions of K.A.R. 92-24-15. (Authorized by K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; implementing K.S.A. 79-41a02, 79-41a03, as amended by L. 2001, Ch. 167, § 14; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988; amended March 22, 2002.)

92-24-19.

Price Listing statements. Each licensee shall keep a price listing statement listing the current, normal retail selling price charged for each drink containing alcoholic liquor served by the licensee. The statement shall list the price for each individual serving and for any other unit of serving served by the licensee. Whenever any price listing statement is updated by the licensee, the outdated price listing statement shall have recorded on it the period of time for which it was effective. The licensee shall maintain the outdated price listing statement for the period prescribed by K.A.R. 92-24-15 and amendments thereto, and the price listing statement shall be available and subject to inspection in accordance with the provisions of K.A.R. 92-24-15 and amendments thereto. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

92-24-20.

(Authorized by K.S.A. 1982 Supp. 79-41a03; implementing K.S.A. 1982 Supp. 79-41a02, 79-41a03; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; revoked, T-88-58, Dec. 16, 1987; revoked May 1, 1988.)

92-24-21.

Report of alcoholic liquor lost through theft or disaster. Each licensee shall prepare a written report for the director setting out the number and size of containers and the brand, proof, age and category of alcoholic liquor lost through theft or disaster. A theft of alcoholic liquor shall be reported to the proper police or sheriff's department and shall be substantiated by the report of the police or sheriff's department. A disaster causing a loss of alcoholic liquor shall be reported to the director and shall be substantiated by an affidavit of an investigative employee of the department of revenue. (Authorized by K.S.A. 79-

41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

92-24-22.

Determination of tax liability; presumption of taxable disposition. (a) The correct amount of liquor drink tax shall be determined by the secretary when examining the tax account of any licensee, on the basis of returns filed with the secretary, or any records or information that is available or is obtained from the licensee or any retailer or wholesaler who furnished alcoholic liquor to the licensee.

(b) If the secretary finds that the licensee has failed to maintain or make available adequate records required by K.A.R. 92-24-15 through K.A.R. 92-24-21, or by K.S.A. 41-2601 *et seq.* and amendments thereto, the correct amount of the tax may be determined from any available source or records. The tax liability of the licensee may be estimated by using any available record for any period for which the licensee has failed to maintain records or file a return.

(c) In determining the tax liability of any licensee, it shall be presumed that the disposition of all alcoholic liquor purchased by the licensee is taxable unless the contrary is established. The burden of proving the contrary shall be upon the licensee and shall be established through authentic records.

(d) If the liquor drink tax is not separately specified upon the source records of the licensee, tax liability shall be determined upon the total gross receipts derived from the sale of alcoholic liquor. Deductions for tax included within stated drink prices shall not be allowed unless the licensee has posted a sign in compliance with the provisions of K.A.R. 92-24-13. (Authorized by K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; implementing K.S.A. 79-41a02, 79-41a03, as amended by L. 2001, Ch. 167, § 14; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988; amended March 22, 2002.)

92-24-23. Bond.

(a) Each applicant or licensee submitting an application for a new license or for renewal of an existing license shall post or have posted with the department of revenue a bond in an amount equal to three months' average liquor drink tax liability or \$1000, whichever is greater, at the time of the application. Any new applicant who has no previous tax experience may estimate that person's expected liquor drink tax liability projected over a 12-month period and submit a bond in an amount equal to 25% of the projected tax liability or \$1000, whichever is greater. A certificate of liquor drink tax registration shall not be issued until the bond requirement is satisfied.

(b) Bond requirements may be satisfied through surety bonds purchased from a corporate surety, escrow bond agreements, or the posting of cash bonds.

(c) An additional bond may be required by the secretary of revenue at any time if the existing bond is not sufficient to satisfy the three months' average liability of the licensee.

(d) The existing liquor drink tax bond requirement for any licensee may be waived by the secretary of revenue if the relief is requested in writing and the licensee has remained compliant with K.S.A. 79-41a01 et seq., and amendments thereto, for at least 24 consecutive months before the date of the request for bond relief. If, after the bond is released, the licensee becomes delinquent in filing and remitting the liquor drink tax, a bond shall be required for any subsequent renewal of the license.

(Authorized by and implementing K.S.A. 2009 Supp. 79-41a03; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988; amended Jan 4, 2002; amended Nov. 29, 2010.)

92-24-24.

Duty of licensees discontinuing business. Each licensee discontinuing business shall notify the secretary, return its liquor drink tax registration certificate for cancellation, and preserve all business records within this state for three years. A receipt shall be issued by the secretary upon the payment of taxes reported. (Authorized by and implementing K.S.A. 79-41a03, as amended by L. 2001, Ch. 167, § 14; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988; amended March 22, 2002.)