



# **KANSAS ADMINISTRATIVE**

## **REGULATIONS**

### **ARTICLE 13**

#### **Retail Liquor Stores**

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## Article 13 – RETAIL LIQUOR STORES

### 14-13-1. Definitions.

As used in this article of the division’s regulations, unless the context clearly requires otherwise, each of the following terms shall have the meaning specified in this regulation:

(a) “Adjacent premises” means an enclosed permanent structure that is contiguous to the licensed premises and may be located in front of, beside, behind, below, or above the licensed premises. Adjacent premises shall be under the direct or indirect control of the retailer. This term shall not include empty lots, parking lots, temporary structures, or enclosed structures not contiguous to the licensed premises.

(b) “Beneficial interest” means any ownership interest by a person or that person’s spouse in a business, corporation, partnership, trust, association, or other form of business organization.

(c) “Bulk wine” means wine that is sold to a club by either a retailer or a distributor in barrels, casks, or bulk containers that individually exceed 20 liters.

(d) “Cereal malt beverage” has the meaning specified in K.S.A. 41-2701, and amendments thereto.

(e) “Church” means a building that is owned or leased by a religious organization and is used exclusively as a place for religious worship and other activities ordinarily conducted by a religious organization.

(f) “Crime opposed to decency and morality” means a crime involving any of the following:

- (1) Prostitution;
- (2) solicitation of a child under 18 years of age for any immoral act involving sex;
- (3) possession or sale of narcotics, marijuana, amphetamines, or barbiturates;
- (4) rape;
- (5) incest;
- (6) gambling;
- (7) adultery;
- (8) bigamy; or

(9) procuring any person to be involved in the commission of any of the criminal acts specified in paragraphs (f) (1)-(8).

(g) “Licensed premises” means those areas described in an application for a retailer’s license that are under the control of the applicant and are intended as the area in which alcoholic liquor is to be sold for consumption off the licensed premises or stored for later sale.

(h) “Manager” means a person with the status, duties, and authority to have control over the licensee’s business operation, finances, or disbursement of business funds including any of the following:

- (1) The authority to make decisions concerning the day-to-day operations of the business;
- (2) the authority to hire or fire employees;
- (3) the authority to sign business checks;
- (4) the authority to direct payment of business funds; or
- (5) supervision of those employees responsible for any of these duties.

(i) “Mixer” means any liquid capable of being consumed by a human being that can be combined with alcoholic liquor for consumption.

(j) “Tasting event” means any time during which a retailer or supplier is serving free samples of alcoholic liquor on the retailer’s licensed premises or at adjacent premises monitored and regulated by the director.

(Authorized by K.S.A. 41-210 and K.S.A. 2017 Supp. 41-212; implementing K.S.A. 2017 Supp. 41-102; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992; amended, T-14-6-28-12, July 1, 2012; amended, T-14-10-25-12, Oct. 29, 2012; amended Feb. 22, 2013; amended June 7, 2018.)

**14-13-2. Application for retail liquor license; requirements, conditions, and restrictions on issuance of license.**

(a) A retailer's license shall be issued by the director to each applicant who is determined by the director to have met the requirements of the liquor control act.

(b) Each application for a retailer's license shall be submitted on forms prescribed by the director and include the following:

(1) A copy of any partnership agreement, operating agreement of a limited liability company, declaration of trust, or other documents specifying the aims and purposes of the trust, if applicable;

(2) a copy of a written lease or proof of ownership of the premises to be licensed;

(3) a certified statement from the applicant that the licensed premises are located in one of the following areas:

(A) An area where the zoning regulations of the city, township, or county allow the operation of a retail liquor store; or

(B) an area where no zoning regulations have been adopted;

(4) the proper license fee and registration fee;

(5) a bond, pursuant to K.S.A. 41-317 and amendments thereto;

(6) a diagram of the licensed premises, showing the area or areas in which alcoholic liquor will be stored and sold. Subject to the prior approval of the director, the licensed premises may include either of the following:

(A) Those areas outside the main sales area that are within 100 yards of the main sales area and located upon property that is subject to the applicant's legal control; or

(B) a detached storage area, located within 100 yards of the main sales area and used exclusively for storage of alcoholic liquor by the retailer; and

(7) all other information necessary to complete the application process.

(c) On and after April 1, 2020, in addition to the items specified in subsection (b), each application for a renewal of a retailer's license shall include a statement of gross receipts from the previous 12-month period showing that the sale of all goods and services other than cereal malt beverage and alcoholic liquor is not more than 20 percent of the retailer's total gross sales. For the purposes of this calculation, all fees derived from the sale of lottery tickets and cigarette and tobacco products shall be excluded.

(d) The initial application for any retailer's license, or any renewal application for a retailer's license, may be rejected by the director for any of the following reasons:

(1) The applicant does not provide all the information necessary for completion of the application process.

(2) The applicant does not include the proper license fee and registration fee.

(3) The applicant does not include the required bond.

(4) The applicant or its owners, officers, resident agent, or managers have violated a provision of the liquor control act or these regulations relating to the sales of alcoholic liquor that may have been grounds for license revocation.

(5) The applicant or its owners, officers, resident agent, or managers are currently delinquent in payment of any gallonage tax, liquor enforcement tax, liquor drink tax, license fees, or liquor-related fines to the state of Kansas.

(6) The applicant or its owners, officers, resident agent, or managers previously

held a license issued under the liquor control act or the club and drinking establishment act, and when that license expired or was surrendered, the licensee was delinquent in payment of any gallonage tax, liquor enforcement tax, liquor drink tax, license fees, or liquor-related fines to the state of Kansas.

(7) The applicant has had a liquor license revoked for cause in Kansas or another state.

(8) The applicant or its owners, officers, resident agent, or managers have been convicted of a crime opposed to decency and morality.

(9) For any renewal application received on or after April 1, 2020, the licensee has failed to demonstrate that the sale of all goods and services other than cereal malt beverage and alcoholic liquor is not more than 20 percent of the retailer's total gross sales pursuant to subsection (c).

(e) Each person who provides financing to or leases premises to a retailer upon terms that result in that person having a beneficial interest in the retailer's business shall be deemed to be a partner in the retailer's business. Each person who provides financing to a retailer shall be deemed to have a beneficial interest in the retailer's business if the terms for repayment are conditioned on the amount of the retailer's receipts or profits from the sale of alcoholic liquor. A lessor shall be deemed to have a beneficial interest in a retailer's business if the lessor receives as rent, in whole or in part, a percentage of the retailer's receipts or profits from the sale of alcoholic liquor.

(Authorized by K.S.A. 41-210 and K.S.A. 2017 Supp. 41-212; implementing K.S.A. 2017 Supp. 41-308, K.S.A. 2017 Supp. 41-310, K.S.A. 2017 Supp. 41-311, K.S.A. 41-315, and K.S.A. 2017 Supp. 41-317; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992; amended Feb. 22, 2013; amended June 7, 2018.)

### **14-13-3.**

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-211, 41-318, 41-327; effective May 1, 1988; revoked Feb. 22, 2013.)

### **14-13-4. Local occupation or license tax; display requirement.**

(a) If the retail premises are located in a city or county that imposes a local occupation or license tax, a retailer shall not sell or offer for sale any alcoholic liquor until the retailer has paid the occupation or license tax.

(b) Each retailer whose licensed premises is located in a city or county that requires a local occupation or license tax shall cause proof of payment of the occupation or license tax to be framed and hung in a conspicuous place on the retailer's licensed premises.

(Authorized by K.S.A. 41-210; implementing K.S.A. 2011 Supp. 41-310, as amended by L. 2012, ch. 144, sec. 13; effective May 1, 1988; amended Aug. 6, 1990; amended Feb. 22, 2013.)

### **14-13-5. Retailers; employees; roster; responsibility for conduct.**

(a) Each retailer shall be responsible for the conduct of the retailer's business and shall be directly responsible for violations of the liquor control act or these regulations by any employee engaged in and acting in the course of employment.

(b) Each retailer shall maintain, on the licensed premises, a roster of all employees, including unpaid volunteers, who are involved in the sale or service of alcoholic liquor. This roster shall be made available for inspection upon request by the director, any agent or employee of the director, or secretary. The roster required by this regulation shall contain each employee's first name, last name, middle initial, gender, and date of birth. (Authorized by K.S.A. 41-210; implementing K.S.A. 41-713 and K.S.A. 41-904;

effective May 1, 1988; amended July 1, 1991; amended Feb. 22, 2013.)

**14-13-6. Change of location of business.**

(a) Any retailer may change the location of the licensed premises only upon written permission of the director.

(b) At least 20 days before changing the location of the business, the retailer shall submit a written request, on forms prescribed by the director, to change the location of the business.

(c) Each request required by subsection (b) shall contain all of the following:

(1) The retailer's name and license number;

(2) the retailer's current business address;

(3) the retailer's new business address;

(4) a copy of a written lease or proof of ownership of the new premises sought to be licensed; and

(5) a certified statement, from the clerk of the city or county in which the premises sought to be licensed are located, that the premises are in one of the following areas:

(A) An area where the zoning regulations of the city, township, or county allow the operation of a retail liquor store; or

(B) an area where no zoning regulations have been adopted.

(d) Any request to change the location of a licensed business may be denied by the director for any of the following reasons:

(1) The new location is in an area where the zoning regulations of the city, township, or county do not allow the operation of a retail liquor store.

(2) The new location is within 200 feet of any school, college, or church.

(3) The new location has an inside entrance that connects with another place of business.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-315, K.S.A. 2011 Supp. 41-710, as amended by L. 2012, ch. 144, sec. 24, and K.S.A. 41-711; effective May 1, 1988; amended Feb. 22, 2013.)

**14-13-7. Licenses, loss or destruction of; duplicate license.**

(a) Whenever any license issued by the director is lost or destroyed before its expiration, the retailer to whom the license was issued may submit a written application to the director for a duplicate license.

(b) The application required by subsection (a) shall be submitted on forms prescribed by the director and shall contain the facts and circumstances concerning the loss or destruction of the license.

(c) The director may issue a duplicate license upon receipt of information that the license has been lost or destroyed.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-211; effective May 1, 1988; amended Feb. 22, 2013.)

**14-13-8. Transfer of retailer's stock of alcoholic liquor; application for permission; seizure and sale of abandoned alcoholic liquor.**

(a) When a retailer's license has expired or been surrendered or revoked, that retailer may apply to the director for permission to transfer the retailer's stock of alcoholic liquors to another licensee.

(b) The application to transfer the retailer's stock of alcoholic liquors shall be submitted on forms prescribed by the director and shall contain all of the following:

(1) The retailer's name and license number;

(2) the purchaser's name and license number;

(3) the gross sale price of the transferred alcoholic liquor; and

(4) the quantity, brand, and type of each container of alcoholic liquor to be transferred.

(c) No alcoholic liquor in the possession of a retailer shall be transferred under the provisions of subsection (a) unless the director has granted written permission.

(d) The director may deny an application to transfer alcoholic liquor under the provisions of subsection (a) if the retailer owes any gallonage tax, liquor enforcement tax, liquor drink tax, license fees, or liquor-related fines to the state of Kansas.

(e) The director or any employee or agent of the director may seize and sell any alcoholic liquor located on the premises subject to a retailer's license if the director determines that the alcoholic liquor has been abandoned by the licensee. The director may consider any of the following criteria in making a determination that the alcoholic liquor has been abandoned:

(1) The licensee has quit its occupation of the building, leaving alcoholic liquor in the building.

(2) The licensee has been evicted and has made no attempt to collect the alcoholic liquor.

(3) Attempts to contact the licensee to determine its plans for the alcoholic liquor have been unsuccessful.

(4) The presence of the alcoholic liquor in the building poses a threat to the public health, safety, and welfare or the orderly regulation of the market.

(f) Upon the director's determination that the alcoholic liquor has been abandoned, the director shall notify the retailer, in writing, of the director's intent to seize and sell the alcoholic liquor. If, within seven calendar days after the date of the director's notice, the retailer has not notified the director that the retailer intends to maintain possession of the alcoholic liquor, the director may seize and sell the alcoholic liquor.

(g) The proceeds from the sale of alcoholic liquor under subsection (e) shall be deposited into the state general fund.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-1102; effective May 1, 1988; amended Feb 22, 2013.)

#### **14-13-9. Transactions prohibited; deliveries by retailer for sale or resale off licensed premises.**

(a) Any retailer may sell and deliver alcoholic liquor to a club, drinking establishment, public venue, or caterer if all of the following conditions are met:

(1) All deliveries of alcoholic liquor are made to the licensed premises of a club, public venue, or drinking establishment and to the principal place of business of a caterer.

(2) All deliveries are made by an employee of the retailer.

(3) The retailer provides a sales slip or numbered invoice, purchase order, or sales ticket for each item delivered as required by K.A.R. 14-13-10.

(4) The retailer receives payment for all deliveries before or at the time of the deliveries.

(5) The retailer has first obtained a federal wholesale basic permit and displays a sign on the licensed premises stating that the retailer is a "Wholesale Liquor Dealer Under Federal Law."

(6) All deliveries of alcoholic liquor are made on those days and during those hours that a retailer may sell alcoholic liquor pursuant to K.S.A. 41-712, and amendments thereto.

(7) All deliveries originate from the licensed premises of the retailer.

(b) Any retailer may sell alcoholic liquor to a temporary permit holder if all of the following conditions are met:

(1) Sales are made only upon the licensed premises of the retailer.

(2) No deliveries are made to a temporary permit holder.

(3) The retailer provides a sales slip or numbered invoice, purchase order, or sales ticket as required by K.A.R. 14-13-10.

(c) No retailer shall sell or deliver any alcoholic liquor to any person with knowledge of, or with reasonable cause to believe, that the person to whom the liquor is sold or delivered has acquired the

alcoholic liquor for the purpose of peddling or reselling the alcoholic liquor in violation of this article, the Kansas liquor control act, or the club and drinking establishment act.

(d) All alcoholic liquor of a retail licensee shall be stored upon the licensed premises of the licensee. Alcoholic liquor shall not be stored upon the licensed premises after the sale.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-210, K.S.A. 41-308, as amended by L. 2012, ch. 144, sec. 10, and K.S.A. 41-717, as amended by L. 2012, ch. 144, sec. 26; effective May 1, 1988; amended Aug. 6, 1990; amended July 1, 1991; amended Nov. 21, 2003; amended Feb. 22, 2013.)

**14-13-10. Records of purchases and sales; retention of records; reports.**

(a) Each retailer purchasing alcoholic liquor from a licensed distributor shall obtain a numbered invoice, purchase order, or sales ticket that contains the following information:

- (1) The date of purchase;
- (2) the name, address, and license number of the retailer;
- (3) the name, address, and license number of the distributor;
- (4) the name of the individual making the purchase for the retailer;
- (5) the brand, size, and amount of each brand purchased;
- (6) the unit cost and total price for each brand and size; and
- (7) the subtotal of the cost of the alcoholic liquor purchased and the total cost of the order including delivery charge, if any.

(b) Each retailer engaged in sales to licensed clubs, drinking establishments, caterers, public venues, or temporary permit holders shall provide a numbered invoice, purchase order, or sales ticket in connection with all purchases, which shall include the following information:

- (1) The date of purchase;
- (2) the name, address, and license number of the retailer;
- (3) the name, address, and license number of the club, drinking establishment, caterer, public venue, or temporary permit holder;
- (4) the name of the individual making the purchase for the club, drinking establishment, caterer, public venue, or temporary permit holder and that individual's position with the club, drinking establishment, caterer, public venue, or temporary permit holder;
- (5) the brand, size, and amount of each brand purchased;
- (6) the unit cost and total price for each brand and size; and
- (7) the subtotal of the cost of the alcoholic liquor sold and the total cost of the order including enforcement tax and delivery charge, if any.

(c) Each retailer who holds a federal wholesale basic permit shall, between the first and the fifteenth day of each month, upon a form prescribed by the director, submit a certified report of all sales made to any licensed club, drinking establishment, caterer, public venue, or temporary permit holder during the preceding month. The report shall include the following information for each order placed by and sold to a club, drinking establishment, caterer, public venue, or temporary permit holder:

- (1) The date of the order;
- (2) the name, address, and license number of the club, drinking establishment, caterer, public venue, or temporary permit holder; and
- (3) the total price paid for each order.

(d) On and after April 1, 2019, each retailer shall keep all sales receipts from the sale to any customer of all alcoholic liquor, cereal malt beverage, and any other goods or services, excluding the sales of lottery tickets and cigarette and tobacco products.

(e) The retailer shall keep a copy of each invoice, purchase order, or sales ticket required by this regulation for at least three years from the date the alcoholic liquor was sold.

(f) The records required by this regulation shall be available for inspection by the director, any agent or employee of the director, or the secretary upon request.

(1) Each record required by this regulation shall be maintained on the retailer's licensed premises for at least 90 days after the sale. These records may be maintained in electronic format and shall be capable of being printed immediately upon request.

(2) After 90 days, all records required by this regulation may be stored and maintained off the licensed premises and shall be provided in electronic or paper format upon request.

(Authorized by K.S.A. 41-210 and K.S.A. 2017 Supp. 41-212; implementing K.S.A. 2017 Supp. 41-308, K.S.A. 41-407, K.S.A. 41-703, and K.S.A. 41-708; effective May 1, 1988; amended Feb. 22, 2013; amended June 7, 2018.)

#### **14-13-11.**

(Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-308; K.S.A. 41-715; effective May 1, 1988; amended Aug. 6, 1990; revoked Feb. 22, 2013.)

#### **14-13-12. Defective liquor containers; repurchase by retailer.**

(a) No retailer shall knowingly sell any liquor containers that leak, contain foreign matter in the bottle, are short-filled, have broken federal seals, have badly soiled or stained labels, or are otherwise not fit for resale to the general public.

(b) Any retailer may perform the following:

(1) Buy back from a customer any item of alcoholic liquor when required by the distributor to do so;

(2) buy back any item of alcoholic liquor from a club, drinking establishment, or caterer for which the club, drinking establishment, or caterer has obtained the approval of the director to close out;

(3) buy back or exchange, within 24 hours of delivery, any item of alcoholic liquor that is damaged, as described in subsection (a); and

(4) buy back, with written permission from the director and within three business days after the end of an event conducted under a temporary permit issued under K.S.A. 41-2645 and amendments thereto, any beer sold to the holder of the temporary permit.

(Authorized by and implementing K.S.A. 41-210 and K.S.A. 41-211; effective May 1, 1988; amended Aug. 5, 2011.)

#### **14-13-13. Prohibited conduct of retailer.**

(a) A retailer shall not permit gambling or the possession of any gambling or gaming device on the licensed premises. However, any retailer may sell, operate, possess, and offer to the public lottery tickets permitted by the Kansas lottery act if the retailer is authorized by the Kansas lottery commission to do so.

(b) A retailer shall not, as a condition for the sale or delivery of alcoholic liquor to a customer or to any other licensee who is licensed under the liquor control act or the club and drinking establishment act, require that the other licensee or customer purchase or contract to purchase alcoholic liquor of another form, quantity, or brand in addition to or partially in lieu of that specifically ordered or wanted by the licensee or customer.

(c) A retailer shall not sell or deliver alcoholic liquor of a particular form or brand to a customer or to any other licensee who is licensed under the liquor control act or the club and drinking establishment act under any arrangement, agreement, or understanding, direct or implied, such that the sale or delivery will be made only if the other licensee or customer also buys or accepts delivery of a quantity of alcoholic liquor of another form or brand.



(d) A retailer shall not refuse to permit the director or any agent or employee of the director to inspect the licensed premises and any alcoholic liquor in the retailer's possession or under the retailer's control upon the licensed premises or upon any other premises where the retailer has stored any alcoholic liquor.

(e) A retailer shall not make any false or misleading representations with respect to any alcoholic liquor product or any licensed premises or in connection with a sales transaction relating to brand, type, proof, or age of an alcoholic liquor or beer. A retailer shall not deceive or attempt to deceive a customer by removing or changing any label or sanitation cover from a container of alcoholic liquor.

(f) A retailer shall not sell or remove any alcoholic liquor from the licensed premises on any day other than a legal day for the sale of alcoholic liquor at retail, after the legal closing hour or before the legal opening hour.

(g) A retailer shall not, directly or indirectly, offer or furnish any gifts, prizes, premiums, rebates, or similar inducements with the sale of any alcoholic liquor, nor shall any retailer directly or indirectly offer, furnish, or sell any alcoholic liquor at less than its cost plus enforcement tax, except according to the following:

(1) Any retailer may include in the sale of alcoholic liquor any goods included by the manufacturer in packaging with the alcoholic liquor. Goods included by the manufacturer shall be packaged with one or more original packages of alcoholic liquor in such a manner as to be delivered to the consumer as a single unit. A retailer shall not sell or give away goods included by a manufacturer that are not packaged as a single unit with the original package of alcoholic liquor as shipped by the manufacturer.

(2) Any retailer may distribute consumer advertising specialty items, subject to the limitations imposed by this regulation. For the purposes of this regulation, consumer advertising specialty items shall be limited to the following: ashtrays, bottle or can openers, corkscrews, matches, printed recipes, informational pamphlets, cards and leaflets, blotters, postcards, posters, printed sports schedules, pens, pencils, and other items of minimal value as approved by the director. Each consumer advertising specialty item shall contain advertising material relating to a brand name of alcoholic liquor or to the operation of the retail liquor store distributing the consumer advertising specialty item. No charge may be made for any consumer advertising specialty item or any purchase required in order to receive any consumer advertising specialty item.

(h) A retailer shall not open or permit to be opened, on the licensed premises, any container or original package containing alcoholic liquor or cereal malt beverage, except as provided in K.A.R. 14-13-16 and K.A.R. 14-13-17.

(i) A retailer shall not permit the drinking of alcoholic liquors or cereal malt beverage on or about the licensed premises, except that any consumer who is at least 21 years of age may sample alcoholic liquor available for sale by the retailer, on the licensed premises and at adjacent premises monitored and regulated by the director, in accordance with K.A.R. 14-13-16 and K.A.R. 14-13-17.

(j) A retailer shall not allow an intoxicated person to frequent, loiter, or be employed upon the licensed premises. A retailer's manager or employee shall not be intoxicated while on duty for the licensee.

(k) A retailer shall not permit any other person to use the licensed premises for the purpose of carrying on any business activity other than the sale of alcoholic liquor.

(l) A retailer shall not accept or receive from any agent or employee of any licensed distributor any cash rebate or thing of value, or enter into or be a party to any agreement or transaction with any licensed distributor, directly or indirectly, that would result in, or have as its purpose, the purchase of any alcoholic liquor by the retailer at a price less than the listed price that has been filed by

the distributor in the office of the director.

(m) A retailer shall not sell, give, or deliver any intoxicating liquor to any person under the age of 21 years. A retailer shall not sell, give, or deliver any intoxicating liquor to any person if the retailer knows or has reason to know that the intoxicating liquor is being obtained for a person under 21 years of age.

(n) A retailer shall not purchase or sell any alcoholic liquor on credit. A retailer shall not enter into any transaction or scheme the purpose of which is to buy or sell alcoholic liquor on credit. The following transactions shall be considered to be buying or selling alcoholic liquor on credit:

(1) Taking or giving a postdated check;

(2) giving an insufficient funds check;

(3) taking a check with knowledge that there are insufficient funds to pay the check upon presentment;

(4) accepting delivery from a distributor without making payment for the alcoholic liquor when delivered or before delivery;

(5) making delivery to a club, drinking establishment, or caterer without receiving payment before or at the time of delivery; and

(6) allowing any alcoholic liquor to be removed from the licensed premises without receiving payment for the alcoholic liquor.

(o) A retailer shall not fail to make the reports or keep the records required by these regulations.

(p) A retailer who is authorized by the Kansas lottery commission to sell lottery tickets shall not commingle the proceeds from the sale of the lottery tickets with the proceeds from the sale of alcoholic liquor.

(q) A retailer shall not refill a package of alcoholic liquor and shall not sell alcoholic liquor in anything other than the original package.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-211, K.S.A. 2017 Supp. 41-308, K.S.A. 41-702, K.S.A. 41-703, K.S.A. 2017 Supp. 41-717, K.S.A. 2017 Supp. 41-718; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992; amended, T-14-6-28-12, July 1, 2012; amended, T-14-10-25-12, Oct. 29, 2012; amended Feb. 22, 2013; amended June 7, 2018.)

#### **14-13-14. Management of retail liquor store by any person or entity other than the owner or owners.**

(a) "Performance of management or operational services" shall mean the exercise of independent control by any person or entity, other than the owner or owners of a retail liquor store, over any of the following activities:

(1) Hiring, firing, or supervising the store's employees;

(2) determining the amount or type of inventory to be ordered or maintained by the store, ordering inventory for the store, or coordinating deliveries of inventory to the store;

(3) determining the advertising, marketing, or promotional programs that are enlisted, offered, or utilized by the store;

(4) negotiating, entering into, or executing contracts to which the store is a party;

(5) paying for or authorizing payment for services provided to or purchases made by the store; or

(6) performing any other task essential to the operation of or the ability to operate the store.

(b) An employee of a retail liquor store who meets both of the following criteria shall not be considered to be involved in the performance of management or operational services:

(1) Engages or participates in any of the activities specified in subsection (a) but does not exercise independent control in performing the activities; and

(2) is not an independent contractor.

(c) No retail liquor store owner shall authorize or allow the performance of management or operational services by any person or entity other than the owner or owners of the store, unless the owner or owners provide the following to the director:

(1) The terms by which any person or entity other than the owner or owners will perform the management or operational services, specifying the following:

(A) That the person or entity will be paid a fixed rate of compensation, not based on or derived from a percentage of the gross receipts from liquor sales; and

(B) that the compensation will not include payment of any business expenses in a way that effectively circumvents the terms of paragraph (c)(1)(A);

(2) the name, address, date of birth, social security number, and all other information required on forms provided by the director, for any person, or in the case of an entity, for any officer, manager, or director, or any stockholder owning in the aggregate more than five percent of the common or preferred stock in the entity, who will perform the management or operational services; and

(3) a disclosure of any interest or involvement in any other retail liquor store or business involving alcoholic liquor that is held by any person or entity performing management or operational services, submitted on forms provided by the director.

(d) Each retail liquor store owner shall be expressly prohibited from performing the following activities:

(1) Authorizing or allowing any person or entity that would not qualify to obtain and hold the store's retail liquor license to perform management or operational services for or on behalf of the owner or owners of the store;

(2) commingling any inventory between or among multiple retail liquor stores; and

(3) streamlining business processes with those of another retail liquor store or any other entity, or allowing the collective performance of management or operational services for the retail liquor store and any other store, in a manner suggesting to the public that multiple stores are part of a chain or are owned or operated by a corporation, including any of the following:

(A) Using a "d/b/a" or trade name in violation of K.A.R. 14-13-15;

(B) having employees wear uniforms or accessories identical to those worn by employees of another retail liquor store or corporate entity;

(C) delivering products in sacks or bags bearing the same trade name, logo, or other identifying mark that is used by any other retail liquor store or a corporate entity; or

(D) limiting access or offering discounts only to those persons who are members of, or possess membership or access credentials for, any corporate entity.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-104, 41-210, 41-211, and K.S.A. 2001 Supp. 41-311; effective July 5, 2002.)

#### **14-13-15. "Doing business as" names.**

(a) Each applicant for a retailer's license shall include in the license application the "doing business as" (d/b/a) name by which the applicant wishes to operate the store for which licensure is sought.

(b) An application with a d/b/a name that suggests to the public that multiple stores are part of a chain or are owned or operated by a corporation shall not be approved by the director.

(c) Each retailer shall post its d/b/a name within the store or on the exterior of the store.

(d) Each retailer wishing to change its approved d/b/a name shall submit, on a form prescribed by the director, a request for approval to change its d/b/a name. The request shall contain all of the following:

(1) The retailer's name and license number;

(2) the retailer's current d/b/a name; and

(3) the retailer's requested new d/b/a name.

(e) The director may deny a retailer's request to change its d/b/a name for any of the following reasons:

(1) The requested d/b/a name is currently in use in the same county where the retailer's premises is located.

(2) The requested d/b/a name misleads the public by indicating that the retail store is part of a chain.

(3) The requested d/b/a name misleads the public by indicating that the retail store is owned by a corporation.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-211 and K.S.A. 2011 Supp. 41-311, as amended by L. 2012, ch. 144, sec. 14; effective July 5, 2002; amended Feb. 22, 2013)

#### **14-13-16. Tasting events; requirements; prohibitions.**

Any retailer may provide free samples of alcoholic liquor offered for sale by the retailer to members of the general public on the retailer's licensed premises and at adjacent premises as approved by the director.

(a) No retailer shall receive payment from any person, either directly or indirectly, to conduct a tasting event.

(b)(1) Each container of alcoholic liquor to be sampled shall be removed from the retailer's inventory.

(2) The retailer shall clearly mark each container of alcoholic liquor removed from inventory for sampling as reserved for samples only. The marking shall not obscure the label of the alcoholic liquor container.

(c) No samples of alcoholic liquor may be served on a retailer's licensed premises or on adjacent premises at any time other than those hours and days during which the retailer may sell alcoholic liquor, pursuant to K.S.A. 41-712 and amendments thereto.

(d) Except as specifically allowed by this subsection, no employee of the retailer who is on duty may consume alcoholic liquor during the tasting event. The owner or manager of a retail premises may consume wine from an original container sufficient to verify that the wine has not deteriorated in quality or has otherwise become unfit for human consumption.

(e) The director, or any agent or employee of the director, shall be granted immediate entry to and inspection of any adjacent premises used for tasting events at any time the adjacent premises are occupied. Failure to grant immediate entry shall be grounds for revocation of the retailer's license.

(f) Except as specifically allowed in this subsection, no retailer may provide any food, service, or other thing of value other than samples of alcoholic liquor at any tasting event.

(1) Any retailer conducting a tasting event on the licensed premises may provide cups, napkins, and mixers.

(2) Any retailer conducting a tasting event on adjacent premises may provide cups, napkins, food, mixers, and other similar items.

(g) A licensed distributor or its agent, employee, or representative shall not purchase alcoholic liquor for tasting, pour samples, or provide any supplies or things of value, except that an agent, employee, or representative of a distributor may provide education on the product or products being sampled.

(h)(1) Any partially used container of alcoholic liquor removed from the licensed premises for tasting at adjacent premises shall be disposed of or returned to the licensed premises before the retailer's close of business on the same date the container was removed.

(2) Each retailer shall perform one of the following for each partially used container of alcoholic liquor used for sampling:

(A) Dispose of the container;

(B) store the container on the licensed premises in a secured, locked storage area, separate from containers of alcoholic liquor available for purchase; or

(C) secure the container with a tamperproof seal around the opening of the container.

(i) Each retailer engaged in tasting events shall keep, for at least three years, records of all alcoholic liquor removed from inventory for the tasting events. These records shall be available for inspection by the director, any agent or employee of the director, or the secretary, upon request.

(1) Each record required by this regulation shall be maintained on the licensed premises of the retailer for at least 90 days after the date on which the alcoholic liquor was removed from inventory. These records may be maintained in electronic format but shall be capable of being printed immediately upon request.

(2) After 90 days, any record required by this regulation may be stored electronically and maintained off the licensed premises. Each record shall be provided in electronic or paper format, upon request.

(Authorized by K.S.A. 41-210 and K.S.A. 2012 Supp. 75-5155; implementing K.S.A. 2012 Supp. 41-308d; effective, T-14-6-28-12, July 1, 2012; effective, T-14-10-25-12, Oct. 29, 2012; effective May 10, 2013.)

#### **14-13-17. Tasting events; supplier participation; requirements; prohibitions.**

Any supplier may participate in a retail tasting event through the supplier's employee or agent. For the purpose of this regulation, "supplier" shall mean any person holding a permit issued pursuant to K.S.A. 41-331, and amendments thereto.

(a) A supplier's "agent" may include a third party contracted for the purpose of conducting the tasting. This term shall not include a licensed distributor or any agent, employee, or representative of a licensed distributor.

(b) For the purpose of participation in tasting events, each licensed distributor who also possesses a Kansas supplier permit shall be limited to providing educational information about the product or products being sampled. A distributor or its agent or employee shall not participate in any other manner in a tasting event.

(c) The supplier shall purchase alcoholic liquor to be sampled at a tasting event from the retailer. For each purchase under this regulation, the retailer shall provide the supplier with a numbered invoice or sales slip that contains the following information:

(1) The date of purchase;

(2) the name and license number of the retailer;

(3) the name and Kansas permit number of the supplier;

(4) the brand, size, and quantity of all alcoholic liquor purchased; and

(5) the subtotal of the cost of the alcoholic liquor and the total cost of the purchase, including enforcement tax.

(d) Any supplier may store containers of alcoholic liquor used for sampling at a tasting event on the retailer's licensed premises if all of the following conditions are met:

(1) Each container of alcoholic liquor is clearly marked, in a manner that does not obscure the label, as reserved for samples only.

(2) The container is secured in a locked storage area separate from containers of alcoholic liquor available for purchase or is secured with a tamper-proof seal around the opening of the container.

(3) The container is accompanied by a copy of the invoice provided to the supplier by the retailer.

(e)(1) Any supplier participating in a tasting event on the retailer's licensed premises may provide cups, napkins, and mixers.

(2) Any supplier participating in a tasting event on the retailer's adjacent premises may provide

nonalcoholic mixers, cups, napkins, food, and similar items.

(f) Each retailer who sells alcoholic liquor to a supplier participating in a tasting event shall keep a copy of the invoice or sales slip required by this regulation for at least three years. The records required by this subsection shall be available for inspection by the director, any agent or employee of the director, or the secretary, upon request.

(1) Each record required by this regulation shall be maintained on the retailer's licensed premises for at least 90 days after the sale. These records may be maintained in electronic format but shall be capable of being printed immediately upon request.

(2) After 90 days, any record required by this regulation may be stored electronically and maintained off the licensed premises. Each record shall be provided in electronic or paper format, upon request.

(Authorized by K.S.A. 41-210 and K.S.A. 2012 Supp. 75-5155; implementing K.S.A. 2012 Supp. 41-308d; effective, T-14-6-28-12, July 1, 2012; effective, T-14-10-25-12, Oct. 29, 2012; effective May 10, 2013.)

**14-13-18. Change of ownership; notice to director.**

(a) Each retailer intending to transfer ownership in its business association shall report this intent to the director at least 20 days before the intended transfer of ownership if the transfer would result in any person holding a beneficial interest greater than five percent in the business association that is subject to the license.

(b) Each retailer shall notify the director within 10 days after each transfer of ownership specified in subsection (a).

(c) The retailer shall submit the notifications required by subsections (a) and (b) on forms prescribed by the director and shall include all information necessary to determine the continued eligibility of the retailer under K.S.A. 41-311, and amendments thereto.

(Authorized by K.S.A. 41-210; implementing K.S.A. 2012 Supp. 41-311; effective May 10, 2013.)