



HANDBOOK

FOR

CATERERS

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Changes made to this handbook since the previous revision(s) have been highlighted with a yellow background. Statutory changes that become effective on Jan. 1, 2017, are highlighted with a green background.

Please report errors, omissions or suggestions for improvement to this handbook to the Division of Alcoholic Beverage Control by telephone at 785-296-7015, by fax at 785-296-7185 or by email to Kdor_abc.email@ks.gov.

Definitions

"Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include cereal malt beverage. [Subsection (a) of K.S.A. 41-2601, referring to subsection (b) of K.S.A. 41-102]

"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 that exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization. [Subsection (c) of K.A.R. 14-22-1]

"Bulk wine" means wine that is sold to a club, drinking establishment, caterer, or public venue by a retailer or wine distributor in barrels, casks or similar bulk containers which individually exceed 20 liters. [Subsection (f) of K.A.R. 14-14-1]

A "caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related thereto, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit. [Subsection (c) of K.S.A. 41-2601]

"Dispense" means to portion out servings of alcoholic liquor for consumption. This term shall include the pouring of drinks of alcoholic liquor and opening original containers of alcoholic liquor by the licensee or licensee's employee for consumption by customers, and shall not include any self-dispensing by a customer. [Subsection (d)(1) of K.S.A. 41-2658]

"Hard Cider" means any alcoholic beverage that:

- (1) Contains less than 8.5% alcohol by volume;
- (2) has a carbonation level that does not exceed 6.4 grams per liter; and
- (3) is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.

[Subsection (n) of K.S.A. 41-102 effective Jan. 1, 2017]

"Individual drink" means a beverage containing alcoholic liquor or cereal malt beverage served to an individual for consumption by such individual or another individual, but which is not intended to be consumed by two or more individuals. The term includes beverages containing not more than eight ounces of wine, 32 ounces of beer or cereal malt beverage, or four ounces of a spirit or combination of spirits. [Subsection (l) of K.S.A. 41-2601]

"Industry member" means any distributor, manufacturer or supplier or any agent, salesperson or representative thereof. [Subsection (f) of K.A.R. 14-10-5]

"Powdered alcohol" means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a nonalcoholic liquid. [Subsection (w) of K.S.A. 41-102]

"Retailer" means a person who sells at retail, or offers for sale at retail, alcoholic beverages. "Retailer" does not include a microbrewery or a farm winery. [Subsection (y) of K.S.A. 41-102]

"Sample" means a serving of alcoholic liquor which contains not more than: (A) one-half ounce of distilled spirits; (B) one ounce of wine; and (C) two ounces of beer or cereal malt beverages. A sample

of a mixed alcoholic beverage shall contain not more than one-half ounce of distilled spirits. Subsection (u) of K.S.A. 41-2601

A "sponsor" means a person or organization which contracts with a caterer to conduct an event.

"Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. Effective Jan. 1, 2017, the term "wine" shall include hard cider and any other product that is commonly known as a subset of wine. [Subsection (ii) of K.S.A. 41-102]

Application for Licensure; License and Application Fees

Apply online at <https://www.ksabconline.org> or download and print the online forms from our webpage at <http://www.ksrevenue.org/abconprem.html>. Follow the directions for submitting the application to ABC.

The license term commences on the date that the license is issued by the director. At the end of the two-year license term, the license is renewable for another two-year term unless sooner suspended or revoked, as long as the licensee and premises continue to meet the requirements of all relevant laws and regulations. [Subsection (a) of K.S.A. 41-2629]

The biennial license fee is \$1,000. [Subsection (a)(5) of K.S.A. 41-2622]

The applicant may pay either the full amount of the license fee or may pay ½ of the license fee at the time of application. The remaining ½ of the license fee, plus 10% of the remaining balance, is due one year from the date on which the license was issued. Failure to pay the remaining license fee and 10% fee timely will result in the license being canceled. [Subsections (c) and (d) of K.S.A. 41-2606]

The license fee is refundable if the applicant is denied a license. [Subsection (e) of K.S.A. 41-2606]

There is an additional application fee of \$50 for new applicants and \$10 for renewals. That fee is not refundable. [Subsection (a) of K.S.A. 41-2606]

Licensee must also post a tax bond. See Tax Bond section for details.

Once all of the forms, fees and other required documentation for licensure are submitted to and accepted by Director, the Director has 30 days to either issue the license or issue an order denying the license. If no license is issued or no denial order is issued within that time, then the license is deemed to be denied. The applicant may agree in writing to give the Director an additional 30 days to either issue or deny the license. [K.S.A. 41-2628, referencing K.S.A. 41-319]

An order by the Director denying a license shall state the reason(s) therefore. Any denial of an application for a license by the Director must be done in accordance with the Kansas Administrative Procedures Act (K.S.A. 77-501 et seq.). [Subsection (a)(1) of K.S.A. 41-2609]

The applicant may file a notice of appeal from a Director's denial order with the Secretary of Revenue within 15 days after service of the order. [K.S.A. 41-2609, referencing K.S.A. 41-321]

The decision of the Secretary or Secretary's designee on an applicant's appeal of a denial of licensure may be appealed to District Court pursuant to the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 et seq. [K.S.A. 41-2609, referencing K.S.A. 41-323]

A caterer's license is a personal privilege and is not assignable. [Subsection (c) of K.S.A. 41-2629]

Qualifications for Licensure

Partnerships

Each partner in a partnership must meet the licensing qualifications for individual ownership below. [K.S.A. 41-2623(a)(5)]

Corporations

Corporations must be organized (incorporated) in Kansas. [K.S.A. 41-2623(a)(8)]

For corporations to be licensed, each officer, manager and director thereof, and any stockholder owning a total of more than 5 percent of the common or preferred stock thereof, must meet the licensing qualifications for individual ownership below, except for citizenship and residency requirements. [K.S.A. 41-2623(a)(6)] In addition, each such person cannot have been an officer, manager, director or stockholder owning a total of more than 5 percent of the common or preferred stock in another corporation that either had a license revoked under the Kansas Club and Drinking Establishment Act or was convicted of a violation of the Kansas Club and Drinking Establishment Act or the Kansas Cereal Malt Beverage Act. . [K.S.A. 41-2623(a)(7)]

Every corporation seeking a license shall appoint a citizen of the United States and resident of Kansas as process agent to receive service of process and exercise authority of the corporation. The process agent must meet the licensing qualifications for individual ownership below except for residence in the county where the licensed premises will be located. [Subsection (a) of K.S.A. 41-2625]

Limited Liability Companies (LLCs)

LLCs must meet the same qualifications for licensure as a corporation as set forth in K.S.A. 41-2623 (see above). [Subsection (a) of K.S.A. 41-2623a] This includes the following requirements:

- The LLC must be organized under the laws of Kansas. [K.S.A. 41-2623(a)(8)]
- Each person having more than a 5 percent interest in the LLC must meet the licensing qualifications for persons as listed below, except for the citizenship and residency requirements. [K.S.A. 41-2623(a)(6)]
- The LLC shall appoint a citizen of the United States and resident of Kansas as process agent to receive service of process and exercise authority of the LLC. The process agent must meet the licensing qualifications for persons as listed below except for residence in the county where the licensed premises will be located. [Subsection (a) of K.S.A. 41-2625]

The LLC must submit a copy of its Articles of Organization and its Operating Agreement to the Director in a form and manner as prescribed by the Director. [Subsection (b) of K.S.A. 41-2623a]

Municipal Corporations

Municipal corporations are not subject to most licensing qualifications. A municipal corporation shall be issued a license unless it has had a previous license revoked for cause. [K.S.A.41-2654(b)]

Trusts

For trusts to be licensed, each grantor, beneficiary and trustee must meet the licensing qualifications for individual ownership below. However, beneficiaries do not have to be at least 21 years of age. [K.S.A. 41-2623(a)(9)]

Persons

K.S.A. 41-2623 lists the qualifications for an initial license. The same requirements must be met for renewal of an existing license except as specifically indicated. Subsection (a)(1) of K.S.A. 41-2623 requires that licensees meet most of the same restrictions as retailers licensed under the Liquor Control Act, specifically paragraphs (1), (2), (4), (5), (6), (7), (8), (9), (12) and (13) in subsection (a) of K.S.A. 41-311 (also listed in subsection (a) of K.A.R. 14-22-3):

- ***Age requirement.***

The person must be at least 21 years of age. [Subsection (a)(6) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623 and subsection (a)(4) of K.A.R. 14-22-3]

For either an initial or renewal license, this requirement does not apply to the person's spouse. [Subsection (a)(12) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

- ***U.S. Citizenship.***

The person must be a U.S. citizen. [Subsection (a)(1) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

- ***Felony conviction.***

The person cannot have been convicted of a felony in Kansas or any other state or the United States. [Subsection (a)(2) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623 and subsection (a)(1) of K.A.R. 14-22-3]

For an initial license, this requirement also applies to the person's spouse regardless of when the conviction occurred. [Subsection (a)(12) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

For a renewal license, this requirement also applies to the person's spouse, but only if the conviction occurred during the time that that the person's spouse was licensed under the Club and Drinking Establishment Act. [Subsection (a)(13) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

- ***Conviction for keeping a house of prostitution.***

The person cannot have been convicted of being a keeper of a house of prostitution or is keeping a house of prostitution. Cannot have forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution. [Subsection (a)(4) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623 and subsection (a)(2) of K.A.R. 14-22-3]

For an initial license, this requirement also applies to the person's spouse regardless of when the conviction occurred. [Subsection (a)(12) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

For a renewal license, this requirement also applies to the person's spouse, but only if the conviction occurred during the time that that the person's spouse was licensed under the Club and Drinking Establishment Act. [Subsection (a)(13) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

- ***Conviction of owning gambling house, pandering or crime opposed to decency or morality.***

The person cannot have been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality and cannot have forfeited bond to appear in court to answer charges for any of these crimes. This includes both felonies and misdemeanors.

[Subsection (a)(5) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623 and subsection (a)(3) of K.A.R. 14-22-3]

"Pandering" is not currently defined in the Kansas criminal law. Black's Law Dictionary defines a "panderer" as one who solicits for prostitution. The definition of "pander" includes being a "pimp" or procurer of persons to be prostitutes. Most of these acts are currently prohibited by K.S.A. 21-3513 (promoting prostitution).

Crimes involving morality are defined in subsection (k) of K.A.R. 14-22-1 as a charge alleging:

- prostitution
- procuring any person
- solicitation of a child under 18 years of age for any immoral act involving sex
- possession or sale of narcotics, marijuana, amphetamines or barbiturates
- rape
- incest
- gambling
- adultery
- bigamy

For an initial license, this requirement also applies to the person's spouse regardless of when the conviction occurred. [Subsection (a)(12) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

For a renewal license, this requirement also applies to the person's spouse, but only if the conviction occurred during the time that that the person's spouse was licensed under the Club and Drinking Establishment Act. [Subsection (a)(13) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

- ***Employee of ABC.***

The person cannot be an employee of the Division of Alcoholic Beverage Control. [Subsection (a)(7) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623 and subsection (a)(5)(C) of K.A.R. 14-22-3]

- ***Law enforcement officer.***

The person cannot be a law enforcement official (not defined in statute). ABC defines this as being either a police officer or head of a police agency. [Subsection (a)(7) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623 and subsection (a)(5)(B) of K.A.R. 14-22-3] Since this subsection does not mention jurisdiction, it is assumed that this restriction applies regardless of whether the law enforcement officer is located in the same jurisdiction as the licensee. [Ruling by the Director on Jan. 19, 2005.]

Persons not certified as law enforcement officers, including non-commissioned correctional facility employees, are not included as "law enforcement officers" for purposes of acquiring a license. [Ruling by the Director on July 24, 2012]

For an initial license, this requirement applies to the person's spouse. For a renewal license, this requirement does not apply to the person's spouse. [Subsection (a)(12) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

- ***Supervisor of law enforcement officers.***

The person cannot hold a position which appoints or supervises any law enforcement officer. However, members of the governing body of a city or county (assume this means city council members and county commissioners) are exempt from this restriction. [Subsection (a)(7) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623 and subsection (a)(5)(A) of K.A.R. 14-22-3] Since this subsection does not mention jurisdiction, it is assumed that this restriction applies regardless of whether the law enforcement officer is located in the same jurisdiction as the licensee. [Ruling by the Director on Jan. 19, 2005.]

For an initial license, this requirement applies to the person's spouse. For a renewal license, this requirement does not apply to the person's spouse. [Subsection (a)(12) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

- ***Acting as agent of another.***

The person cannot intend to act as an agent for another in operating the licensed business. [Subsection (a)(8) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623 and subsection (a)(6) of K.A.R. 14-22-3]

- ***Previous liquor license revocation.***

The person cannot have had a license revoked under the provisions of the Club and Drinking Establishment Act. [Subsection (a)(2) of K.S.A. 41-2623]

For an initial license, this requirement applies to the person's spouse. For a renewal license, this requirement does not apply to the person's spouse. [Subsection (a)(12) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

- ***Previous finding of hidden beneficial interest.***

The person cannot, after a hearing before the Director, be found to have held an undisclosed beneficial interest in any liquor license which was obtained by means of fraud or any false statement made on the application for such license. [Subsection (15) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

- ***Resident of Kansas.***

The person must be a resident of Kansas for at least one year immediately preceding the date of application. [Subsection (a)(3) of K.S.A. 41-2623]

For either an initial or renewal license, this requirement does not apply to the person's spouse. [Subsection (a)(12) of K.S.A. 41-311]

- ***Beneficial interest in certain other liquor license(s).***

The person cannot have a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors as licensed under the Liquor Control Act. The person cannot have a beneficial interest in any business licensed under the Club and Drinking Establishment Act **except** as follows [Subsection (a)(4) of K.S.A. 41-2623]:

- A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment. [Subsection (a)(4)(C) of K.S.A. 41-2623]
- A caterer's license may be issued to a person who has a beneficial interest in a microbrewery, microdistillery, or farm winery licensed under the Kansas Liquor Control Act. [Subsection (a)(4)(E) of K.S.A. 41-2623]

For an initial license, this requirement applies to the person's spouse. For a renewal license, this requirement does not apply to the person's spouse. [Subsection (a)(12) of K.S.A. 41-311 as referenced in subsection (a)(1) of K.S.A. 41-2623]

Federal registration.

The applicant must register as an alcohol dealer with the federal government. The registration form is available at <http://www.ksrevenue.org/abconprem.html> or at <http://www.ttb.gov/forms/f56305d.pdf>. [Ruling by the Director, Aug. 20, 2012]

Restrictions on Location of Business

The caterer's principle place of business must be located in a county which has approved liquor by the drink. [Subsection (c) of K.S.A. 41-2643] County status information may be found on the ABC website at: <http://ksrevenue.org/pdf/abcwetdrymap.pdf>.

There is no requirement within the Club and Drinking Establishment Act that a caterer's premises comply with city, township or county zoning code, such as is required for clubs and drinking establishments. [K.S.A. 41-2608]

The caterer must either own the premises designated as its principle place of business or have a valid lease for such premises. [Subsection (a) of K.A.R. 14-22-2]

The principle place of business must include a secure storage area for all liquor used in its business. The liquor may not be stored in any other location unless approved in writing by the Director. [Subsection (a) of K.A.R. 14-22-12]

Right of Governing Body to request a Hearing on whether a License should be Revoked or Suspended

The governing body of any city or county may, at any time, request a hearing to determine whether a license issued under the Club and Drinking Establishment Act should be revoked or suspended. [Subsection (c) of K.S.A. 41-2651]

The hearing shall be conducted in accordance with the Kansas Administrative Procedures Act. [Subsection (d) of K.S.A. 41-2651] At such hearing, the governing body shall have the right to present testimony and evidence and make recommendations regarding whether the Director should issue or renew the license. [Subsection (e) of K.S.A. 41-2651]

Restrictions on Employees

All persons who are serving alcoholic beverages must be at least 18 years old. However, any server who is under the age of 21 must be supervised by a person who is at least 21 years old. [Subsections (a) and (f) of K.S.A. 41-2610 and Subsections (b)(1) and (b)(3) of K.A.R. 14-22-9]

All persons who are mixing or dispensing alcoholic beverages must be at least 21 years old. [Subsection (g) of K.S.A. 41-2610 and Subsection (b)(2) of K.A.R. 14-22-9]

No person connected with the dispensing, mixing and serving of alcoholic liquor can:

- have a conviction of a felony or of any crime involving a morals charge* in Kansas, any other state, or the United States at any time. [Subsection (b) of K.S.A. 41-2610] * "Morals charge" is defined in subsection (j) of K.A.R.14-22-1 as a charge alleging:
 - prostitution
 - procuring any person
 - solicitation of a child under 18 years of age for any immoral act involving sex
 - possession or sale of narcotics, marijuana, amphetamines or barbiturates
 - rape
 - incest
 - gambling
 - adultery
 - bigamy
- have a conviction of a violation of any intoxicating liquor law of Kansas, any other state, or the United States within the previous two years. [Subsection (b)(5) of K.A.R. 14-22-9]
- have two or more convictions within the previous five years of K.S.A. 21-5607, furnishing alcoholic liquor to a minor, or a similar law of any other state, or of the United States; or have three or more convictions within the previous five years of any other intoxicating liquor law of Kansas or any other state, or of the United States. [Subsection (c) of K.S.A. 41-2610] This would include convictions for driving while intoxicated (DWI) or driving under the influence (DUI).

No person employed in the dispensing, mixing and serving of alcoholic liquor can:

- be a manufacturer, distributor or retailer. [Subsection (b)(6) of K.A.R. 14-22-9]
- be an officer, agent or employee of a manufacturer, distributor or retailer. [Subsection (b)(6) of K.A.R. 14-22-9]

Food servers who have a disqualifying conviction may take orders for alcoholic liquor from customers as long as another, qualified person mixes or dispenses and serves the alcoholic liquor to the customers. [Interpretation made by AAG on Feb. 1, 2005].

Catered Events

A caterer is allowed to sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, but only in counties where the voters have approved liquor by the drink. Information concerning the status of each county may be found on the ABC website at: <http://www.ksrevenue.org/pdf/abcwetdrymap.pdf>. If the county approval includes a 30 percent food sales requirement, then the caterer must comply, however the computation is made using catered events in a 12-month period. [Subsections (a) and (b) of K.S.A. 41-2643]

A caterer shall notify the Director by electronic notification at least 48 hours prior to any event at which the caterer will sell alcoholic liquor by the individual drink. Log on or register for a Kansas Customer Service Center account to register catered events online. Additional instructions at <http://ksrevenue.org/pdf/abcRegCateredEventOnline.pdf>. The Director will make such notification available to local law enforcement. Such notification shall include:

- The time and location of the event.
- The names of the contracting parties of the event.

However, notification is not required for the following events:

- weddings
- funerals
- events sponsored by religious institutions
- business, industry or trade sponsored meetings, including awards presentations and retirement

[Subsection (d) of K.S.A. 41-2643]

For each event where alcohol is served, the caterer shall retain all documents for a period of three years for inspection by the Director, including:

- agreements
- receipts
- employees assigned
- records of alcohol purchased

[Subsection (d) of K.S.A. 41-2643]

A caterer shall not conduct a catered event lasting longer than seven days without specific approval for a longer period of time from the Director. [Subsection (g)(2) of K.A.R. 14-22-6]

A caterer may conduct a catered event without a third party “event sponsor”. [Ruling by the Director on May 2, 2011]

A caterer must prominently display the following information at each catered event:

- a copy of the caterer's license
- name of the event sponsor, if a party other than the caterer

[Subsection (f) of K.A.R 14-22-6]

A caterer may rebate a portion of the caterer's receipts from the sale of alcoholic liquor at an event to the person or organizations contracting with the caterer to sell alcoholic liquor at such event. [Subsection (e) of K.S.A. 41-2643]

Records to be Retained and Available for Inspection

Caterers shall retain the following records of purchases and sales for a period of three years:

- Sales slips and other purchase documents for all alcoholic liquor purchased from retailers, farm wineries or distributors. [Subsection (e) of K.A.R. 14-22-10]
- Invoices and other records of sales of alcoholic liquor to all customers. [Subsection (a) of K.S.A. 79-3609 as referenced in subsection (a) of K.S.A. 79-4105 of the Liquor Enforcement Tax Act]

These records are subject to inspection by the Director or any agent or employee of the Director. [Subsection (g) of K.A.R. 14-22-10]. For a period of 90 days after the purchase or sale, the records must be kept on the licensed premises. The records may be in electronic or paper format. If electronic, the records must be available to print upon request by the Director or any agent or employee of the Director. [Ruling by the Director on July 16, 2012]

After 90 days, the records may be stored off the licensed premises but shall be provided within a reasonable time upon request. [Ruling by the Director on July 16, 2012]

Holders of a combination DE/caterer license must keep the records of their DE separate from the records of their catering business. [K.A.R. 14-22-8]

Hours and Days of Sales

There shall be no serving, mixing or consumption of alcoholic liquor at a catered event between the hours of 2 a.m. and 6 a.m. on any day. [Subsection (b) of K.S.A. 41-2614]

Signs, Advertising, Trade Practices and Promotional Activities

For further clarification of trade practices involving product displays, point of sale items and equipment, refer to "Policy Memorandum 2016-1" dated March 30, 2016, on ABC webpage: <http://www.ksrevenue.org/abcpolicy.html>

Outside signs.

Industry members may give, lend or sell basic signs advertising the industry member's products. The value of the signs may not exceed \$400. The industry member cannot make payments or give credits to the licensee for displaying their sign and cannot pay for the installation, removal or operation of the sign. This would prohibit the industry member from supplying the structure to mount the sign on, such as a billboard, marquee with space to post additional information, a semi-trailer truck, etc. [27 CFR ch. 1, Sec. 6.102, as adopted by K.A.R. 14-10-17]

Definition of advertising.

"Advertising" means the medium of radio, television, newspapers, periodicals, circulars, pamphlets, or other publications or any sign or outdoor advertising or any other printed or graphic matter. [K.A.R. 14-8-1] Webster's Dictionary (New Riverside University Edition published in 1984) defines "graphic" as:

- pertaining to written representation
- pertaining to pictorial representation
- pictorial device, as an illustration or chart
- display by a computer or imaging device

Radio and television advertising.

Licensees may purchase live radio or TV commercials to take place at the licensed premises if the licensee pays the entire cost of the commercial. An industry member may be present and hand out promotional items to consumers on the premises during the time the commercial is broadcast but shall not participate in the commercial or pay any of the cost thereof. [Ruling by the Director on Aug. 1, 2005] A licensee may arrange for a radio or television station to run a remote broadcast from the licensee's parking lot or anywhere **outside** the licensed premises and the licensee or the radio or television station may give away food or promotional items at that location. Any food or other items may be given free to the public. The food cannot be paid for by an industry member (manufacturer, supplier or distributor).

Industry members selling, giving or lending equipment or supplies.

Industry members are prohibited from giving or lending money, equipment, supplies, services or anything of value to a licensee except as permitted by K.A.R. 14-10-17. The following are allowed:

- Glassware, as long as the price is not less than what the industry member paid for it.
- Tapping and dispensing equipment, as long as the price is not less than what the industry member paid for it.

- Carbon dioxide gas and ice, as long as the price is not less than the local market price.
- Coil cleaning service.

Industry members selling or giving services.

Industry members are prohibited from inducing licensees to purchase product from them by paying or crediting the licensee for any advertising, display or distribution service. The following practices are prohibited:

- Participating in paying for an advertisement placed by the retailer.
- The purchase of advertising on signs, scoreboards, programs, scorecards, and similar items from the retail concessionaire at ballparks, racetracks or stadiums.
- The purchase of advertising in a publication of the retailer which is distributed to consumers or the general public.
- Reimbursements to retailers for setting up product or other displays.
- Rental of display space in the licensed premises.

[Subsection (d) of 27 CFR, ch. 1, Sec. 6.21, as adopted by K.A.R. 14-10-14]

Industry members shall not obtain tickets to a concert or other event and give them away to consumers either directly or through a third party if the concert or other event is being held on a licensee's premises. This is interpreted as furnishing something of value to the licensee (inducing consumers to visit the licensed premises) in violation of subsection (a) of K.S.A. 41-703. [Ruling by the Director on Aug. 1, 2005]

Industry members shall not arrange for a radio station to have its mobile unit park at a licensee's location and offer something of value to the public for finding the mobile unit and broadcast clues to find the mobile unit. This is interpreted as furnishing something of value to the licensee (inducing consumers to visit the licensed premises) in violation of subsection (a) of K.S.A. 41-703. [Ruling by the Director on Aug. 1, 2005]

However, industry members may furnish, give, rent, loan or sell newspaper cuts, mats or engraved blocks to a licensee for use in their advertising of the industry member's products. [27 CFR, ch. 1, Sec. 6.92, as adopted by K.A.R. 14-10-17]

Industry members may put the name of the retailer on the label or packaging of the products sold to retailers. If the name is added to a label that has previously been registered with ABC, the new label must be separately registered with ABC. [Ruling by the Director on Aug. 20, 2007]

Product displays.

Industry members may give or sell product displays to licensees. The selling or giving of the product displays may be conditioned upon the purchase of enough of the liquor products advertised on the display for the initial completion of the display. No other conditions are allowed. [Subpart (c)(3) of 27 CFR, ch. 1, Sec. 6.83, as adopted by K.A.R. 14-10-17]

"Product display" means any wine racks, bins, barrels, casks, shelving, or similar items whose primary function is to hold and display consumer products. [Subpart (b) of 27 CFR, ch. 1, Sec. 6.83, as adopted by K.A.R. 14-10-17] The total value, based on actual cost to the industry member, of all product displays given or sold by an industry member may not exceed \$300 per brand at any one time in any one licensed premises. [Subpart (c)(1) of 27 CFR, ch. 1, Sec. 6.83, as adopted by K.A.R. 14-10-17]

All product displays must bear conspicuous and substantial, permanently affixed, advertising material about the product or the industry member. The product display may also include the name and address of the retailer. [Subpart (c)(2) of 27 CFR, ch. 1, Sec. 6.83, as adopted by K.A.R. 14-10-17]

Point of Sale (“POS”) Advertising Materials.

Industry members may provide to licensees items intended to be used within the establishment to attract customers’ attention to the products of the industry member. Such advertising materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, menu cards, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, banners, display cards, ceiling danglers, table tents and alcoholic beverage lists or menus dealing with alcoholic beverages. [Subpart (b)(1) of 27 CFR, ch. 1, Sec. 6.84, as adopted by K.A.R. 14-10-17]

All POS must bear conspicuous and substantial, permanently affixed, advertising material about the product or the industry member. The POS may also include the name and address of the retailer. [Subpart (c)(1) of 27 CFR, ch. 1, Sec. 6.84, as adopted by K.A.R. 14-10-17]

Consumer advertising specialties (“CAS”) offered by industry members.

Industry members may provide to licensees consumer advertising specialties that are designed to be carried away by the consumer, such as trading stamps, nonalcoholic mixers, pouring racks, ashtrays, bottle or can openers, corkscrews, shopping bags, matches, printed recipes, informational pamphlets, cards and leaflets, post cards, posters, printed sports schedules, pens, pencils, koozies, t-shirts, ball caps and other similar items as approved by the Director for distribution to the general public. [Subpart (b)(2) of 27 CFR, ch. 1, Sec. 6.84, as adopted by K.A.R. 14-10-17]

The CAS must bear conspicuous and substantial advertising material about the product or the industry member. The CAS may also include the retailer’s name and address. The licensee shall not be paid or credited in any manner, directly or indirectly, for this distribution service. [Subpart (c) of 27 CFR, ch. 1, Sec. 6.84, as adopted by K.A.R. 14-10-17]

Retailer-Generated Consumer Advertising Specialties (“CAS”).

A retailer (on or off-premise licensee) may generate and distribute unconditionally and free of charge to the general public CAS intended to be carried away by the consumer. Such items include ash trays, bottle or can openers, cork screws, matches, printed recipes, informational pamphlets, cards and leaflets, post cards, posters, printed sports schedules, pens, pencils, koozies, t-shirts, ball caps and other similar items as approved by the Director. Each CAS must bear conspicuous and substantial advertising material relating to the operation of the retail establishment.

There can be no requirement to purchase anything in order to receive the retailer-generated CAS. Industry members are prohibited from providing or paying for retailer-generate CAS.

Table 1: Point of Sale (POS) and Consumer Advertising Specialties (CAS) Quick Reference

Type of Materials	Purpose	For consumers	Advertising about	Costs paid by	Keep Records	Notify ABC of New Items
Industry Member POS	Materials provided by industry member for use within a retailer’s	No	Industry member or product	Industry member or retailer	No	No

	premises to attract customer attention to the products		May include retailer's information			
Industry Member CAS	Materials provided by industry member designed to be carried away by consumers	Yes	Industry member or product May include retailer's information	Industry member or retailer	No	Yes
*Retailer-generated CAS	Materials generated by retailers that are designed to be carried away by consumers	Yes	Retailer. Can include name, logo, address, phone, website, etc.	Retailer	No	Yes

* Retailer means any on or off-premise establishment and includes retail liquor dealers, clubs, public venues, drinking establishments, and caterers.

Offering coupons, premiums, rebates and refunds to customers by industry members.

Industry members may offer coupons through retailers (on and off-premise licensees) to consumers if all retailers within the market where the offer is made may redeem the coupons. Industry members may not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee. [Subpart (a) of 27 CFR, ch. 1, Sec. 6.96, as adopted by K.A.R. 14-10-17] The Director has interpreted this regulation to also permit redemption of such coupons for free or discounted non-alcoholic items at grocery stores.

Industry members may offer contest prizes, premiums, refunds and like items directly to consumers. A premium may or may not be conditioned upon the purchase of an alcoholic beverage. The retailer shall not accept any reimbursement, payment or credit for providing this service to the industry member. Officers, employees and representatives of distributors and retailers shall be excluded from participation. [Subpart (b) of 27 CFR, ch. 1, Sec. 6.96, as adopted by K.A.R. 14-10-17]

"Premium" is not defined in the statutes or regulations but is defined by Webster's Dictionary as "something offered free or at a reduced price as an inducement to buy." and by Black's Law Dictionary as "a reward for an act done."

Industry member support of events sponsored by licensees.

Industry members may not support these events through the donation of money, advertising, consumer advertising specialties or product. [Subsection (a) of K.S.A. 41-702 and subsection (a) of K.A.R. 14-14-11] Subsection (e) of K.S.A. 41-703 authorizes the Secretary of Revenue to adopt rules and regulations authorizing exceptions to the general prohibition in K.S.A. 41-702. K.A.R. 14-10-1 et seq. dictates exceptions to the prohibition on industry members giving anything of value to retailers and it does not provide for any assistance with licensee sponsored events, whether they be fundraising or otherwise. Industry members may participate in these events but any fees paid by such industry members shall be the same as paid by any other participant.

Industry member support of fundraising events sponsored by charitable organizations with sponsorship in whole or in part by a liquor licensee.

Industry members may support these events through the donation of money and consumer advertising specialties directly to the charity, but not to the event sponsor or any other party. They may not donate

product. Industry members may participate in these events, however any contributions made or fees paid by such industry members shall be the same as that contributed or paid by any other participant.

Industry member support of fundraising events sponsored by Charities, Not-for-profit Organizations with **no** Retailer Involvement.

Industry members may support these events through the donation of money and consumer advertising specialties directly to the charity. They may not donate product. Industry members may participate in these events, however any contributions made or fees paid by such industry members shall be the same as that contributed or paid by any other participant.

Industry member support to Liquor Association Sponsored Events. Industry members may participate in these events to a limited extent. Industry members may: display products at a convention or trade show; rent display space at the same rental rate paid by all other exhibitors; provide hospitality independent from that provided by the retail association; purchase tickets to functions and pay registration fees at the same price paid by all other attendees, participants, or exhibitors; and pay for advertising in programs or brochures if the total payments made by an industry member for all such advertisements does not exceed \$300 per year for any retail association. [27 CFR, ch. 1, Sec. 6.100, as adopted by K.A.R. 14-10-17]

Table 2: Industry member support to fundraising and other events

Type of Support	Retailer Sponsored Event	Charity sponsored events with retailer involvement	Charity sponsored events with NO retailer involvement	Liquor association sponsored events
Monetary Donations	No	Conditional (2)	Yes	No
Product Donations	No	No	No	Conditional (3)
CAS Donations	No	Conditional (2)	Yes	Yes
Participation Fees	Conditional (1)	Conditional (1)	Yes	Conditional (1)

Conditions

- (1) Participation fees not in excess to those paid by all other participants.
- (2) May only be provided to the charity. Donations may not go through retailer or any other party.
- (3) May be provided as hospitality or at industry seminars.

Obtaining, Transporting and Paying for Alcoholic Liquor

A caterer may only obtain its alcoholic liquor as follows:

- Purchase alcoholic liquor from a Kansas licensed retail liquor store. [Subsection (a) of K.A.R. 14-22-10] The retail liquor store must have a federal wholesaler's basic permit. [Subsection (a) of K.A.R. 14-22-10] The caterer shall not warehouse any liquor on the premises of the retail liquor store. [Subsection (c) of K.A.R. 14-22-10] The caterer may take delivery of the alcoholic liquor at the retailer's licensed premises or the retailer may deliver the alcoholic liquor to the caterer's principle place of business. [Subsection (b) of K.A.R. 14-22-10] The caterer must pay the retailer for the alcoholic liquor sold before or at the time of delivery. [Subsection (a)(5) of K.A.R. 14-13-9]

If both the caterer and the retailer agree, payment may be made by electronic funds transfer. Payment by EFT must be made no later than the next banking business day after the date of delivery of the product to the caterer. [Paragraph 3.c. of ABC Policy Memorandum 2001-2] [Ruling by the Director, July 30, 2012]

- Purchase bulk wine from wine distributors which are authorized by franchise agreements on file with the Director to sell wine within the geographic area where the caterer is located. [Subsection (c)(1) of K.S.A. 41-306a and subsection (a) of K.A.R. 14-22-10] The wine distributor must have a federal wholesaler's basic permit. [Subsection (d) of K.A.R. 14-22-10] The caterer may take delivery of the wine at the distributor's licensed premises or the distributor may deliver the wine to the caterer's principle place of business. [Subsection (b) of K.A.R. 14-22-10] The caterer shall not warehouse any wine on the premises of the distributor. [Subsection (d) of K.A.R. 14-22-10] If both the caterer and the distributor agree, payment may be made by electronic funds transfer. Payment by EFT must be made no later than the next banking business day after the date of delivery of the product to the caterer. [Paragraph 3.c. of ABC Policy Memorandum 2001-2]
- Purchase beer in barrels, casks and other bulk containers from beer distributors which are authorized by franchise agreements on file with the Director to sell beer within the geographic area where the caterer is located. [Subsection (c)(1) of K.S.A. 41-307 and subsection (a) of K.A.R. 14-22-10] The beer distributor must have a federal wholesaler's basic permit. [Subsection (d) of K.A.R. 14-22-10] The caterer may take delivery of the beer at the distributor's licensed premises or the distributor may deliver the beer to the caterer's principle place of business. [Subsection (b) of K.A.R. 14-22-10] The caterer shall not warehouse any beer on the premises of the distributor. [Subsection (d) of K.A.R. 14-22-10] If both the caterer and the distributor agree, payment may be made by electronic funds transfer. Payment by EFT must be made no later than the next banking business day after the date of delivery of the product to the caterer. [Paragraph 3.c. of ABC Policy Memorandum 2001-2]
- Purchase domestic wine from a farm winery. [Subsection (a)(2) of K.S.A. 41-308a] The caterer shall not warehouse any domestic wine on the premises of the farm winery. The caterer may take delivery of the wine at the farm winery's premises or the farm winery may deliver the wine to the caterer's principle place of business. The caterer must pay the farm winery for the domestic wine before or at the time of delivery.
- Purchase alcoholic liquor from a sheriff's sale, a sale authorized by the Director, or from a licensee who is quitting business. [K.S.A. 41-1102, K.S.A. 41-1122, K.S.A. 41-1123, K.S.A. 41-1125, and Policy Memorandum 2010-1]

Selling and Serving of Alcoholic Beverages

A caterer may offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises which may be open to the public, if the premises are located within a "wet county." [Subsection (a) of K.S.A. 41-2643]

A caterer shall sell and serve alcoholic liquor only by the individual drink [subsection (c) of K.S.A 41-2601], except that a caterer may sell or serve:

- Beer or CMB in a pitcher capable of containing not more than 64 fluid ounces. [Subsection (c)(4) of K.S.A. 41-2640]

- Margarita, sangria, daiquiri, mojito or other mixed alcoholic beverages, as approved by the Director, in a pitcher containing not more than 64 fluid ounces. [Subsection (c)(6) of K.S.A. 41-2640]

A caterer may offer up to five samples per customer per visit. Samples cannot be combined in any form, no cover can be charge during the day samples are served. Samples must be withdrawn from inventory. The caterer will pay tax on the samples at acquisition costs (K.S.A. 41-2642(a)(c)).

Multiple cans or bottles of beer may be sold to a customer at the same time. The bottles or cans may be opened prior to service. [Approved by the Director June 18, 2010]

Most of the restrictions on the pricing of drinks dispensed at clubs, DEs, caterers and temporary permit holders by their employees or agents are set forth in subsection (a) of K.S.A. 41-2640, which prohibits:

- Offering or serving free alcoholic liquor or CMB with the exception of samples to any person. [Subsection (a)(1)] This is interpreted as also prohibiting employees or agents of the licensee from "buying" drinks for anyone on the licensed premises.
- Selling, offering or serving any drink at a price below acquisition cost of the drink. [Subsection (a)(2)] The acquisition cost shall include the cost of both the alcoholic liquor and non-alcoholic liquor contained in the drink, but not the cost of water, ice, labor, overhead and any other items of clearly negligible value. [K.A.R. 14-22-16]
- Selling, offering or serving an unlimited number of drinks to any person for a set period of time at a fixed price, except at private functions not open to the general public or to the general membership of a club. [Subsection (a)(3)]
- Encouraging or permitting any game or contest which involves drinking alcoholic liquor or CMB or the awarding of drinks as prizes. [Subsection (a)(4)]
- Advertising or promoting in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (4). [Subsection (a)(5)]

Caterers may offer and advertise happy hours and other drink specials. Caterers may charge different prices for the same drink at any time during a catered event. [Subsection (c) of K.S.A. 41-2640]

Customers shall not be permitted to consume alcoholic liquor served by the caterer while inside a vehicle on a public street, alley, road or highway. [Subsection (a)(2) of K.S.A. 41-719]

Customers shall not be permitted to remove any alcoholic liquor served by the caterer from the boundaries of a catered event. [Subsection (a)(3) of K.S.A. 41-719]

Sale of Business Already Licensed

Individuals and partnerships

If an individual (sole proprietor) or partnership which owns a currently licensed caterer sells the business to another individual or business entity, or the partnership interests change, then the license will be terminated effective no later than the date of transfer of ownership and the new owner or partnership will be required to apply for a new license and meet the licensing requirements for an initial license.

Corporations

If a corporation which owns a currently licensed caterer is sold intact (the corporation continues to exist, but one or more of the stockholders changes), then the business may continue to operate as a caterer under the existing license if the corporation retains the same FEIN. The corporation must submit a copy of the corporation meeting minutes documenting the sale and a Notice of Ownership Change form (ABC-809) to ABC Licensing.

Limited Liability Companies (LLCs)

If an LLC which owns a currently licensed caterer is sold intact (the LLC continues to exist, but one or more of the members changes), then the business may continue to operate as a caterer under the existing license if the LLC retains the same FEIN. The sale agreement must include language which explicitly makes the new members of the LLC liable for any state taxes which are due at the time of sale or may be found later to be due for any time period prior to the date of sale. **The LLC must submit the following to ABC Licensing: a copy of the sale agreement; a Notice of Ownership Change (form ABC-809); and a Financial Disclosure (form ABC-801) disclosing its source of funding to purchase the LLC.**

Transfer of a Caterer's Stock upon the Closing of the Business

When a licensed caterer closes for any reason, including when the license has expired or has been revoked, the licensee may apply to the Director of ABC for permission to sell the licensee's stock of alcoholic liquor to another licensee, as follows:

- Bulk wine and beer in the unopened original containers may be sold back to the distributor from which it was originally purchased. [Subsection (d)(1) of K.S.A. 41-728] The caterer and distributor must complete and submit form ABC-812 (Request Permission to Sell Inventory of Alcoholic Beverages).
- Alcoholic liquor in unopened original containers may be sold to any licensed retailer, DE, class A or B club or caterer. The caterer and purchasing licensee must complete and submit form ABC-812 (Request Permission to Sell Inventory of Alcoholic Beverages). [Policy Memorandum 2010-1]

Any liquor left at the caterer's principal place of business after the business closes shall be deemed abandoned by the Director and shall be seized and sold. [Policy Memorandum 2010-1]

Authorized Activities

Free food or entertainment.

A caterer may offer free food or entertainment at any time. [Subsection (c) of K.S.A. 41-2640]

Combination pricing.

A caterer may offer specials including meals, entertainment and/or drinks of alcoholic liquor for a single price. [Ruling by the Director on July 23, 2012] If such a special is offered, the caterer shall assign a portion of the price to the alcoholic liquor included. The portion assigned to the alcoholic liquor shall be not less than the acquisition cost of the drink to the caterer. The receipt shall record that portion and the liquor drink tax collected on that portion as separate items. [K.A.R. 92-24-15 and K.A.R. 92-24-16]

Catered events on licensed premises.

If the caterer has a DE/caterer's license, then it may cater events on its own premises if a sponsor contracts with them to do so. [K.S.A. 41-2644 and the last sentence of K.A.R. 14-22-13] A caterer may be its own sponsor for a catered event. [Ruling by the Director on May 16, 2011]

Sampling of alcoholic liquor.

A caterer may allow a microbrewery or microdistillery to serve free samples of its manufactured beer or spirits during a catered event at special events monitored and regulated by the division of ABC. [Ruling by the Director, Aug. 13, 2012, based on K.S.A. 41-354 and K.S.A. 41-308b]

A caterer may allow a farm winery to serve free samples of its manufactured wine and sell wine in the original container during a catered event at special events monitored and regulated by the division of ABC. [Ruling by the Director, Aug. 13, 2012, based on K.S.A. 41-308a]

Each microbrewery, farm winery or microdistillery shall possess written approval of the Director to participate in the special event.

“Special event” is defined as a public or private gathering of two or more persons, arranged for a specific commercial, charitable or social purpose, having a limited duration and not conducted in the ordinary course of business.

Prohibited Activities (also see section on "Selling and Serving of Alcoholic Beverages")

Unqualified employees.

A caterer shall not knowingly employ any person who does not meet the qualifications set forth in K.S.A. 41-2610 and K.A.R. 14-22-9.

Purchases of liquor stock.

A caterer shall not purchase alcoholic liquor from any person except from a person authorized by law to sell such alcoholic liquor to such licensee. [Subsection (e) of K.S.A. 41-2610] See section entitled "Obtaining, transporting and paying for alcoholic beverages."

Removal of alcoholic liquor from premises.

A caterer shall not allow patrons to remove alcoholic beverages purchased from the caterer from the event premises. [K.A.R. 14-22-13]

Serving free alcoholic liquor.

A caterer shall not offer or serve any free alcoholic liquor or CMB in any form to any person. [Subsection (a)(1) of K.S.A. 41-2640]

Selling alcoholic liquor below cost.

A caterer shall not sell any individual drink at a price less than the acquisition cost of the drink to the licensee, plus liquor drink tax. [Subsection (a)(2) of K.S.A. 41-2640]

Offering 2-for-1 or buy-one-get-one-free specials.

A caterer may not offer or sell any drink special which implies or indicates that a drink is free. [Subsections (a)(1) and (a)(4) of K.S.A. 41-2640]

Allowing a drinking game.

A caterer shall not encourage or permit any game or contest that involves the consumption of alcoholic liquor during a catered event. [Subsection (a)(4) of K.S.A. 41-2640] This does not include “water pong” or any other game in which participants consume only water or other non-alcoholic liquid. It **does** include any game advertised or promoted as including only water or other non-alcoholic liquid but during which the participants consume alcoholic liquor. [Ruling by the Director on July 30, 2012]

Sale of powdered alcohol.

A licensee shall not sell, offer to sell, or serve free of charge any powdered alcohol. [Subsection (a)(5) of K.S.A. 41-2640]

Hours of sale.

A caterer shall not allow the serving, mixing or consumption of alcoholic liquor at any catered event between the hours of 2 a.m. and 6 a.m. [Subsection (b) of K.S.A. 41-2614]

CMB and non-alcoholic drinks.

A caterer shall not sell cereal malt beverages or non-alcoholic malt beverages at the catered event. [Subsection (g)(5) of K.A.R. 14-22-6]

Storage of alcoholic liquor.

A caterer shall not store liquor while not being used at a catered event at any location other than its principle place of business as described on its license without the written approval of the Director. [Subsection (a) of K.A.R. 14-22-12]

Illegal consumption of alcoholic liquor.

Allowing any person to consume alcoholic liquor at a catered event contrary to the provisions of the Club and Drinking Establishment Act is a criminal offense, subject to fine and imprisonment, in addition to possible administrative action by the Director. [K.S.A. 41-2604]

Illegal possession or consumption of alcoholic liquor by a minor.

Knowingly or unknowingly permitting any minor to possess or consume alcoholic liquor on the premises of a catered event is a criminal offense, subject to fine and imprisonment, in addition to possible administrative action by the Director. [K.S.A. 41-2615]

Exceptions or defenses:

- An exception is made for a minor that is an employee of the licensee and is serving alcoholic liquor under the supervision of another employee of the licensee who is at least 21 years of age. [Subsection (a) of K.S.A. 41-2615]
- It is a defense to criminal prosecution if the minor exhibited a driver's license, Kansas non-driver's ID card, or other official or apparently official document, containing a photograph that reasonably appears to be the minor and purporting to establish that such minor was 21 years of age or more, and the licensee had reasonable cause to believe that the minor was 21 years of age or older. [Subsection (c) of K.S.A. 41-2615]

Refusing immediate entry and inspection of the premise to law enforcement officers.

The right to immediate entry and inspection of the licensed premises by law enforcement officers is a condition of the license. The right to immediate entry is not limited to regular business hours, but exists whenever the premise is occupied. Denial of this right to immediate entry is grounds for revocation of the license. [K.S.A. 41-2613]

Intoxication of manager or employee.

The licensee's manager or employee has been intoxicated while on duty. [Subsection (d) of K.S.A. 41-2611]

Allowing disorderly conduct.

Permitting any disorderly person to remain on the licensed premises. [Subsection (e) of K.S.A. 41-2611]

Violation of certain state or federal laws.

Allowing a violation of the laws of this state, or of the United States, pertaining to the sale of intoxicating or alcoholic liquors or cereal malt beverages, or any crime involving a morals charge, on the licensed premises. [Subsection (f) of K.S.A. 41-2611]

Federal wagering occupational stamp.

The purchase of a federal wagering occupational stamp issued by the United States Treasury Department by the licensee or any of its managing officers or employees and display of the stamp on the licensed premises. [Subsection (g) of K.S.A. 41-2611]

Federal coin operated gambling device stamp.

The purchase of a federal coin operated gambling device stamp issued by the United States Treasury Department by the licensee or any of its managing officers or employees and display of the stamp on the licensed premises. [Subsection (h) of K.S.A. 41-2611]

Human rights violation.

The licensee has been found guilty of a human rights violation under Article 10 of Chapter 44 of the Kansas Statutes Annotated or guilty of discrimination pursuant to K.S.A. 21-6102. [Subsection (i) of K.S.A. 41-2611]

Public nuisance.

The licensee has been found guilty of permitting or maintaining a public nuisance pursuant to K.S.A. 21-6204. [Subsection (j) of K.S.A. 41-2611]

Administrative Actions for Violations of Statutes and Regulations

If an ABC enforcement agent observes a violation of the state liquor statutes or administrative regulations, the agent may issue an administrative citation setting forth the details of the violation as listed in subsection (c) of K.S.A. 41-106. The agent shall deliver the administrative citation to the licensee or person in charge of the licensed premises at the time of the violation. A copy of the administrative citation shall also be sent to the licensee by U.S. mail within 30 days after the date of the violation. [Subsection (a) of K.S.A. 41-106]

If a law enforcement officer from any other law enforcement agency observes a violation of the state liquor statutes, the law enforcement officer may prepare a notice of the violation (Form ABC-60) and serve the notice on the licensee or person in charge of the licensed premise. The law enforcement officer shall then submit a report of the violation to ABC for review to determine if administrative action should be taken against the licensee. If ABC decides to take action, then an administrative citation and notice of administrative action is sent to the licensee by U.S. mail within 30 days after the date of the violation. [Subsection (b) of K.S.A. 41-106]

The “person in charge” is defined as any individual or employee present on the licensed premises at the time of the alleged violation who is responsible for the operation of the licensed premises. If no individual or employee has been designated by the licensee as being in charge, then any employee present is considered the “person in charge” for the purpose of delivering an administrative citation by an ABC enforcement agent or for delivering a notice of violation by any other law enforcement officer. [Subsection (e) of K.S.A. 41-106]

The Director may suspend, involuntary cancel or revoke any license issued by the Division of Alcoholic Beverage Control after the issuance of a citation to the licensee and a hearing conducted by the Director pursuant to the Kansas Administrative Procedures Act (K.S.A. 77-501 et seq.) in which the licensee has an opportunity to participate, for any of the following reasons:

- Providing false information on the license application or at any hearing relating to the issuance of the license. [Subsection (a) of K.S.A. 41-2609]
- Violation of any provision of the Club and Drinking Establishment Act or any administrative regulation adopted pursuant to such act (see handbook section above entitled “Prohibited activities). [Subsection (b) of K.S.A. 41-2609]
- No longer meets the qualifications to obtain the license. [Subsection (c) of K.S.A. 41-2609]

[K.S.A. 41-2609 and 41-2611]

The Director may also impose a fine not to exceed \$1,000 on a licensee for each violation of the Club and Drinking Establishment Act. The order imposing the fine is appealable in accordance with provisions of the Kansas Administrative Procedures Act (K.S.A. 77-501 et seq.). [K.S.A. 41-2633a]

The Director may determine a penalty based on the ABC’s fine and penalty schedule, dated July 16, 2012. Penalties may vary from the schedule based on the presence of mitigating or aggravating circumstances. The liquor penalty grid is available for download from our website at <http://www.ksrevenue.org/abclawsnotices.html>.

Liquor Drink Tax

Sales of alcoholic liquor made by a caterer are subject to the 10 percent liquor drink tax pursuant to K.S.A. 79-41a01 et seq. The tax is paid by the consumer and computed on the full purchase price of the drink, including any mandatory gratuity charged by the licensee. The caterer must file a monthly return of taxes collected and submit the return and the taxes to the department by the 25th day of the month subsequent to the month in which the taxes were collected.

The liquor drink tax is imposed as an alternative to the Kansas retail sales tax. Therefore, alcoholic drinks subject to the liquor drink tax are exempt from the Kansas retail sales tax. [Subsection (a) of K.S.A. 79-3606]

Any caterer that becomes delinquent in the filing of returns and/or payment of its liquor drink taxes is subject to being fined or having its license suspended or revoked by the Director. [Subsection (b) of K.S.A. 79-41a07]

Tax Bond

No license will be issued or renewed without the proper tax bond having been provided. The bond must be equal to 25 percent of the actual or estimated annual tax liability, or \$1,000, whichever is

greater. The bond may be a cash bond, escrow bond, or corporate surety bond. [K.A.R. 92-24-23 as authorized by subsection (e) of K.S.A. 79-41a03]

Licensees will not be registered for the liquor drink tax until the bond requirement is satisfied. [Subsection (a) of K.A.R. 92-24-23]