



KANSAS

ADMINISTRATIVE

REGULATIONS

ARTICLE 20

CLASS B CLUBS

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14-20-1 through 14-20-10.

Revoked

14-20-11 to 14-20-13.

Reserved.

14-20-14. Definitions.

As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

(a) "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. Alcoholic liquor shall not include any cereal malt beverage.

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

(c) "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 which exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization.

(d) "Bulk wine" means wine which is sold to a club either by a retailer or a distributor in barrels, casks or bulk containers which individually exceed 20 liters.

(e) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

(f) "Director" means the director of the division of alcoholic beverage control of the department of revenue.

(g) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 1991 Supp. 41306, 41-306a and 41-307, to sell or offer for sale alcoholic liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.

(h) "Guest of member" means an individual who is known to and personally accompanied by a member of a club while on the licensed premises of the club. "Guest of member" shall not include members of the general public admitted to licensed club premises as guests of the club's owner, manager or employee.

(i) "Food service establishment" has the meaning provided by K.S.A. 36-501 and amendments thereto.

(j) "Licensed premises" means those areas described in an application for a club license that are under the control of the applicant and that are intended as the area in which alcoholic liquor or cereal malt beverages are to be served pursuant to the applicant's license.

(k) "Manager" means the manager or assistant manager, or both, of any licensed club who is in charge of the daily operations of the licensed club. A manager shall be deemed to be employed in connection with the dispensing, selling, mixing or serving of alcoholic liquor.

(l) "Member" means any individual who has been accepted into membership by a licensed class B club, as provided in the club's organizing documents, and that individual's spouse.

(m) "Morals Charge" means a charge made in an indictment, information or a complaint alleging crimes which involve:

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

(n) "Person" means any natural person, corporation, association, trust or partnership.

(o) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.

(p) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 1991 Supp. 41-2642 and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 1991 Supp. 41-2642 and amendments thereto, a licensed food service establishment.

(q) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substances in solution. The term "spirits" includes brandy, rum, whisky, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(r) "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 similar beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2601; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-20-15. Applications and renewals; documents required.

Each application for a class B club license shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Any application which does not contain the required information may be returned to the applicant without the application being considered on its merits.

(a) General requirements. Each application for a class B club license shall be accompanied by the following documents and all other documents the director deems necessary:

(1) A copy of a written lease, with at least nine months remaining in its term from the date the license is issued, or proof of ownership by the applicant of the premises sought to be licensed;

(2) a copy of any management or catering contract in force or a proposed management or catering contract, if applicable;

(3) a description of the club premises. The description may include those areas outside the main service area that are in close proximity to the main service area and are located upon property subject to legal occupation by the applicant, as approved by the director. The description shall state the location of the licensed premises, the approximate dimensions of the licensed premises, enough detail to identify the licensed premises and a depiction of the liquor storage area;

(4) a certified statement from the applicant that the licensed premises are located:

(A) In an area where the zoning regulations of either the city, township or county allow the operation of a club; or

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

(5) the registration fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(6) the license fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted;

(7) a disclosure statement listing each owner, officer, manager, trustee, director, stockholder owning a beneficial interest, grantor or beneficiary, and the spouses of any of these individuals. The disclosure statement shall certify that all the individuals listed are not disqualified from obtaining a club license as provided in K.A.R. 14-20-16; and

(8) a disclosure statement listing all personnel who will be mixing or dispensing alcoholic liquor.

(b) Corporations. In addition to the documents required by subsection (a), each application on behalf of a corporation shall include:

(1) A certified copy of the articles of incorporation as a Kansas domestic for-profit corporation;

(2) a copy of the corporate bylaws that shall require each member of the club who is not a temporary member as provided in K.A.R. 14-20- 25:

(A) to be of good moral character;

(B) to pay an annual membership fee of not less than ten dollars; and

(C) to wait 10 days from the date of making application until said member may make use of the licensed premises; and

(3) an appointment of process agent together with a power of attorney authorizing that agent to conduct the business of the club and receive all service of process on behalf of the club. The process agent shall be an individual.

(c) Partnerships. In addition to the documents required by subsection (a), each application on behalf of a partnership shall include a copy of the partnership agreement.

(d) Trusts. In addition to the documents required by subsection (a), each application on behalf of a trust shall include a copy of the declaration of trust or other documents setting forth the aims and purposes of the trust.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2606; 41-2608; 41-2610; 41-2622; 41-2623, as amended by 1992 HB 2719; 41-2625; 41-2641; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-20-16. Requirements for class B club license.

(a) A class B club license shall not be issued to any corporation, partnership, trust or individual if any owner, partner, grantor, trustee, beneficiary, officer, manager, director, stockholder owning a beneficial interest in a corporation or spouse of these individuals:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age. This shall not apply to the spouse of the individual or to the beneficiary of a trust;

(5) (A) appoints or supervises any law enforcement officer, other than as a member of the governing body of a city or county;

(B) is a law enforcement official; or

(C) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the license;

(7) at the time of application for renewal of the license issued by the director would be ineligible for the license upon a first application. This provision shall not apply to the spouse of the individual;

(8) has had any license or permit issued by the director under the club and drinking establishment act revoked; or

(9) has a beneficial interest in the manufacture, preparation or wholesale or retail sale of alcoholic liquors or a beneficial interest in any other club or drinking establishment licensed by the director. This shall not apply to any owner, partner, grantor, trustee, beneficiary, officer, manager, director, stockholder or spouse who owns a beneficial interest in another club or drinking establishment if:

(A) the application is for licensed premises located in a hotel and all of the individual's beneficial interests are in clubs or drinking establishments located in hotels; or

(B) the application is for licensed premises that is a restaurant and all of the individual's beneficial interests are in clubs or drinking establishments that are restaurants.

(b) A corporation shall not be issued a class B club license if any officer, manager, director or stockholder owning a beneficial interest in the corporation has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(1) has had a license revoked under the provisions of the club and drinking establishment act;

or

(2) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(c) A partnership, trust or individual shall not be issued a class B club license if any owner, manager, grantor, trustee, beneficiary or partner:

(1) has been a citizen of the United States for less than 10 years;

(2) has been a resident of the state of Kansas for less than one year immediately preceding the date of application; or

(3) is not a resident of the county in which the club is to be located.

(d) Each corporate applicant shall be a Kansas domestic for-profit corporation.

(e) For the purpose of determining qualifications under subsections (a), (b) and (c) of this regulation, any person who provides financing to or leases premises to a class B club upon terms which result in that person having a beneficial interest in the club's business shall be deemed to be a partner in the club's business. A person who provides financing to a class B club shall be deemed to have a beneficial interest in the club's business if the terms for repayment are conditioned on the amount of the club's receipts or profits from the sale of alcoholic liquor, other items to be mixed with alcoholic liquor or club membership fees. A lessor shall be deemed to have a beneficial interest in a club's business if the lessor receives as rent, in whole or in part, a percentage of the licensee's receipts or profits from the sale of alcoholic liquor, other items to be mixed with alcoholic liquor or club membership fees. Financing or percentage rent provisions that exclude these items shall be subject to review and approval by the director.

(Authorized by K.S.A. 1991 Supp. 41-2634; implementing K.S.A. 1991 Supp. 41-2623 as amended by 1992 HB 2719; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992.)

14-20-17. Issuance of license.

(a) An annual class B club license shall be issued to each applicant who is determined by the director to have satisfied the requirements of the club and drinking establishment act and this article of these regulations.

(b) An application for a license may be rejected by the director if:

(1) the applicant's officers, directors, partners, registered agent, managers or owners have previously owned or operated any retail liquor, club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee had been ordered to appear and show cause why the license should not be revoked or suspended;

(2) the application is for premises which were the subject of the order to appear and show cause as set forth in paragraph (1), above, and it appears that the new application for a license is an attempt to avoid any possible remedial action taken by the director against the former licensee;

(3) the applicant's officers, directors, partners, registered agent, managers or owners, are currently delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(4) the applicant's officers, directors, partners, registered agent, managers or owners have previously owned or operated any retail liquor, club, drinking establishment or caterer's license, and at the time the previous license was surrendered, the licensee was delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas; or

(5) the application is for premises which were the subject of the delinquent taxes as set forth in paragraph (3), above, and it appears that the new application for a license is an attempt to avoid payment of the tax.

(Authorized by K.S.A. 1989 Supp. 41-2634; 79-41a03; implementing K.S.A. 1989 Supp. 41-2623; K.S.A. 79-41a03; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Aug. 6, 1990.)

14-20-18. Licenses, loss or destruction of; application for and issuance of duplicate.

Whenever any license issued by the director is lost or destroyed before its expiration, the club to which the license was issued may make written application to the director for a duplicate license. The application shall set forth all the facts and circumstances concerning the loss or destruction of the license and shall be sworn to by each person applying for the duplicate. Upon review of the application, a duplicate license may be issued by the director.

(Authorized by and implementing K.S.A 41-2634 as amended by L. 1987, Ch. 182, Sec 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-19. Change of club status.

(a) If a licensee desires to change its license from a class B club to a drinking establishment, the licensee shall make application, at least 45 days prior to the desired date of the change, for the type of license sought and shall voluntarily cancel the current license upon the issuance of the new type license. The licensee shall receive a refund of the license voluntarily canceled as provided by K.A.R. 14-20-20.

(b) If an audit by the director or the secretary finds a class B club with reciprocal agreements has failed to derive at least 50% of its gross receipts from the sale of food, all that class B club's reciprocal agreements shall be canceled. The class B club licensee, upon receipt of notice of cancellation of its reciprocal agreements, shall not admit reciprocal guests to the licensed premises.

(c) If an audit by the director or the secretary finds one of the class B clubs owned by a licensee which holds multiple licenses pursuant to the provisions of K.A.R. 14-20-24, fails to derive at least 50% of its gross receipts from the sale of food, then that class B club's license shall be canceled. The licensee shall have 10 days from receipt of notice of cancellation to advise the director, in writing, of its intent to sell the class B club and the date upon which the sale will be effective. If the effective sale date is within 30 days of the delivery of the licensee's notice of intent to sell, then the licensee's license shall be canceled on the effective date of the sale. If the licensee fails to give a notice of intent to sell or the effective date is longer than 30 days from the receipt of the licensee's notice of intent to sell, the licensee's license shall be canceled 40 days from the date the licensee receives the director's notice of cancellation and the licensee shall discontinue operations under the club and drinking establishment act and surrender its license to the director.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2601 as amended by L. 1987, Ch. 182, Sec. 60; 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-20. Refund upon voluntary cancellation.

If the license of any club is canceled, except through revocation or suspension, the club shall be eligible for a refund of a portion of the annual license fee. The refund shall be equal to one-twelfth of the annual license fee for each full calendar month of the license year which remains at the time of the cancellation. The refund shall be made only upon application to the director.

(Authorized by K.S.A. 41-2607; implementing K.S.A. 41-2629 as amended by L. 1987, Ch. 182, Sec. 80; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-21. Guests of members; reciprocal members; registration.

(a) A club shall only admit members, guests of members, reciprocal members or guests of reciprocal members. Admission of any other individual to the licensed premises is prohibited.

(b) "Reciprocal member" means an individual who belongs to a club which has executed a written reciprocal agreement with the club to which access is sought, as provided by K.A.R. 14-20-23, and has filed the agreement with the director.

(c) Each club that has entered into reciprocal agreements shall keep on the licensed premises a reciprocal guest book, in which each reciprocal member shall legibly sign his or her name each time the member enters the club. Each reciprocal member shall sign his or her name, show their personal address and the name and city address of the club of original membership.

(d) The privileges extended to reciprocal members shall be determined by the written reciprocal agreement. Each guest or reciprocal member shall be entitled to all the privileges of the club as may be provided in the reciprocal agreement. The extension of club privileges to a guest shall end with the departure of the sponsoring club member from the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-22. Roster of members.

The licensee of each club shall maintain a current roster of members who are entitled to access and use of the licensed premises and the services offered by the club.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-23. Agreement for reciprocal membership.

(a) Any two or more class B clubs may enter into an agreement which allows members of each club to have access to all other clubs which are parties to the reciprocal agreement.

(b) Each club shall submit two copies of the proposed reciprocal agreement to the director for approval. The agreement shall be properly executed and comply with the club and drinking establishment act. The club shall keep an approved copy of the agreement upon the licensed premises at all times.

(c) Upon severance of any reciprocal agreement each club shall return the approved copy of the agreement to the director with a notification that the agreement has been canceled.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-24. Restaurant clubs; criteria for determination; gross receipts affidavit; estimates.

(a) For purposes of reciprocity and multiple ownership of class B clubs, a club shall be deemed to be a restaurant if the ratio of food sales on the licensed premises to total gross receipts for all sales made on the licensed premises for a period of not less than 12 months is 50% or greater. Sales of any kind made on permanent public areas that are not a part of the licensed premises shall not be included in any calculation for this purpose. Sales of food or other commodities made on the licensed premises during times that public functions are authorized may be included in all calculations.

(b) Each club licensee requesting restaurant status shall submit accurate figures for food sales, total gross sales, and whatever other pertinent information is requested on forms to be provided by the director at the time the licensee initially requests restaurant status and upon each renewal of the licensee's license.

(c) Each club requesting restaurant status that has been in operation for a period of less than 12 months may submit estimated figures for food sales and total gross receipts. However, a successor corporation taking over an existing club shall not utilize estimates if 40% or more of the successor corporation is owned by persons who were required to meet the licensing qualifications of the existing club.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2601 as amended by L. 1987, Ch. 182, Sec. 60; 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-25. Temporary memberships; granting, records, and billing.

(a) (1) Each class B club located on the premises of a "hotel," or "RV resort," or each class B club that enters into a contract with a hotel or RV resort to issue temporary memberships to that hotel's or RV resort's guests, shall keep a record of temporary memberships granted by the club to registered nonresident guests of that hotel or RV resort. The term "hotel" shall have the meaning as provided in K.S.A. 36-501. The term "RV resort" shall have the meaning as provided in L. 1990, Ch. 179, Sec. 5.

(2) Only clubs shall issue temporary memberships. The hotel or RV resort management shall not issue or handle temporary memberships. A temporary membership card shall be issued to each temporary member setting forth, on its face, the effective dates, the name of the club and the name of the member. The hotel or RV resort may handle billings if all funds are accounted to the club and if the hotel or RV resort keeps a permanent record of all charges and payments due to the club which the hotel or RV resort handles.

(3) The hotel or RV resort shall provide to each guest who desires to become a temporary club member a preprinted form or statement on its business letterhead, signed by an authorized employee or official, setting forth the name of the guest, the date or dates on which the bearer is a registered guest at the hotel or RV resort and certifying that the guest does not permanently reside in the same county as the hotel or RV resort or the private club.

(b) Each class B club located on property which is owned or operated by a municipal airport authority shall keep a record of all temporary memberships granted to air travelers. Each temporary membership shall be granted only upon the licensed club premises by club management after receipt of an application form and shall be valid only for the day on which the air traveler's ticket is valid. Each temporary membership card issued shall state on its face the name of the club, the name of the temporary member, the name of the airline and flight number on which that member will be a passenger and the effective date or dates of the membership.

(c) Each class B club located in a racetrack facility where races with parimutuel wagering are conducted under the Kansas parimutuel racing act may establish rules whereby persons may file an application for temporary membership in the club only for the day the person is attending races at the race track facility.

(d) Records of all temporary memberships issued pursuant to subsections (a), (b) and (c) shall be maintained on licensed club premises for a period of one year from date of issuance.

(Authorized by K.S.A. 1989 Supp. 41-2634 as amended by L. 1990, Ch. 179, sec. 6; implementing K.S.A. 1989 Supp. 41-2641; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-20-26. Employees; registration of same; prohibitions.

(a) Each club shall register with the director all employees who will mix, sell, serve or dispense alcoholic liquor. The registration shall be submitted on forms supplied by the director, within five days after the employee begins work for the club and upon each renewal of the club's license.

(b) A club shall not employ or continue to employ any person:

(1) who is under the age of 18 years to serve alcoholic liquor or cereal malt beverage;

(2) who is under the age of 21 to mix or dispense drinks containing alcoholic liquor or cereal malt beverage;

(3) who is under the age of 21 years and not supervised by the licensee or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge in Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage;

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage; or

(6) who is a manufacturer, distributor or retailer, or who is an officer, agent, or employee of a manufacturer, distributor or retailer, in the capacity of a person registered to mix, serve, sell, or dispense alcoholic liquor.

(Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2610 and K.S.A. 1989 Supp. 41-2632; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-20-27. Purchase of alcoholic liquor and cereal malt beverages; requirements and restrictions.

(a) Each club shall purchase alcoholic liquor only from a retailer. However, any club may purchase bulk wine, beer and cereal malt beverages from a distributor.

(b) Any club may receive delivery of alcoholic liquor to its licensed premises from a retailer and delivery of bulk wine, beer and cereal malt beverages from a distributor.

(c) A club shall not purchase alcoholic liquor or beer from any retailer who does not possess a federal wholesaler's basic permit and who does not have on display at the retail establishment a sign that states

that the licensee is a "Wholesale Liquor Dealer Under Federal Law." A club shall not warehouse any liquor on any retail liquor store premises.

(d) A club shall not purchase bulk wine, beer or cereal malt beverage from any distributor who does not possess a federal wholesaler's basic permit and who does not have on display at the wholesale establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." A club shall not warehouse its liquor on any distributor's premises.

(e) Each club, when making alcoholic liquor purchases from retailers or distributors, shall obtain and keep on its licensed premises for a period of not less than three years from the date of purchase a sales slip that contains the following information:

- (1) The date of purchase;
- (2) the name and address of the retailer or distributor;
- (3) the name and address of the club;
- (4) the brand, size, proof and amount of all alcoholic liquor purchased; and
- (5) the subtotal of the cost of the alcoholic liquor purchased and the total cost of the order including enforcement tax and delivery charge, if any.

(f) Each club shall purchase alcoholic liquor through a registered employee of the licensed club and who shall be at least 21 years of age. The club shall provide to the registered employee identification sufficient to demonstrate to the retailer or distributor who possesses the federal wholesale basic permit that the individual making the purchase on behalf of the club is so registered.

(g) Each club shall maintain on the licensed premises all records of all alcoholic liquor purchased. These records shall be available for inspection by the director or any agent or employee of the director or secretary upon request.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-211; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 41-301, 41-306 as amended by L. 1987, Ch. 182, Sec. 13; 41-307 as amended by L. 1987, Ch. 182, Sec. 16; 41-308 as amended by L. 1987, Ch. 182, Sec. 18; 41-2621 as amended by L. 1987, Ch. 182, Sec. 73; 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-28. Licensee's responsibility for conduct of business and employees.

Each licensee shall be responsible for the conduct of its business. Each licensee shall be held responsible for all violations of the club and drinking establishment act by the following people while on the licensed premises:

- (a) An employee of the club;
- (b) an employee of any person contracting with the club to provide services or food; and (c) any individual mixing, serving, selling or dispensing alcoholic liquor.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-29. Storage of liquor; removal from club premises.

(a) Each licensee shall store its liquor only on the licensed premises of the club unless the licensee has received prior approval in writing from the director to do otherwise.

(b) Any licensee may store wine purchased by a customer only in the unopened original container on the licensed premises, pursuant to K.S.A. 41-2641 and amendments thereto. The licensee shall be responsible for the contents of each customer's wine storage area.

(c) The wine storage area shall be subject to immediate entry and inspection by any law enforcement officer or any officer or agent of the director. Each licensee shall maintain, on the licensed premises, a key or other means to access the contents of the wine storage area.

(d)(1) The licensee may allow a customer to have access to the customer's wine storage area. An agent or employee of the licensee shall accompany each customer to the customer's wine storage area.

(2) A receipt showing the quantity of each brand of wine purchased shall be maintained in each customer's wine storage area. Each time the customer requests the removal of any wine from the storage area, the licensee or its owner, employee, or agent shall mark the receipt showing the date of removal and the quantity of each brand removed.

(e) No licensee, and no owner, employee, or agent of the licensee, shall make any sales of alcoholic liquor for consumption off the licensed premises. No alcoholic liquor purchased on the club premises shall be removed from the club premises, except in accordance with this regulation.

(f)(1) A licensee may permit its customers to remove partially consumed bottles of wine from the licensed premises, in accordance with K.S.A. 41-2653 and amendments thereto.

(2) If any customer wishes to remove from the licensed premises a partially consumed bottle of wine that had been stored in its original unopened container pursuant to K.S.A. 41-2641 and amendments thereto and this regulation, the licensee or its employee shall provide the customer with a copy of the original receipt with a notation that the bottle was removed from the customer's wine storage area on that date.

(Authorized by K.S.A. 41-2634; implementing K.S.A. 41-2613, K.S.A. 2009 Supp. 41-2641, and K.S.A. 2009 Supp. 41-2653; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Sept. 17, 2010.)

14-20-30. Nontaxed liquor and refilling of containers prohibited.

(a) Alcoholic liquor shall only be dispensed from or stored in original containers bearing Kansas alcoholic liquor identification stamps. A licensed club shall not refill any original container with any alcoholic liquor, or any other substance.

(b) A member, guest or reciprocal member may be allowed to bring bottles onto the club premises upon the following conditions:

(1) A club shall not warehouse any bottles upon the club premises;

(2) each person bringing any bottles onto the club premises shall remove the bottles when departing from the club premises; and

(3) each bottle shall bear a Kansas alcoholic liquor identification stamp if required by law.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-2621 as amended by L. 1987, Ch. 182, Sec. 73; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-31. Cereal malt beverages; sale allowed.

(a) Any club may sell cereal malt beverages upon the licensed premises if:

(1) The club notifies the director when it obtains a license for the retail sale of cereal malt beverages;

(2) the club notifies the director of each renewal of the license for the retail sale of cereal malt beverages; and

(3) the club dispenses cereal malt beverage only for consumption upon the licensed premises.

(b) Violation of any cereal malt beverage statute shall subject the club to suspension or revocation of its license or to a monetary fine under the procedures of K.A.R. 14-16-14 et seq.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2704 as amended by L. 1987, Ch. 182, Sec. 100; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-32. Minimum prices for drinks; how determined.

(a) A licensed private club shall not sell any drink to any person for less than the acquisition cost of that drink to the club.

(b) The cost of each of the following items shall be included in the acquisition cost of a drink:

- (1) All alcoholic liquor contained in the drink; and
- (2) any liquid of a non-alcoholic nature contained in the drink.

(c) Any of the following items shall not be required to be included in the acquisition cost:

- (1) City service or tap water;
- (2) ice;
- (3) employee salaries or other usual overhead; and
- (4) any other items of clearly negligible value used in the drink.

(d) In determining the minimum price, a club shall not include the drink tax as imposed by K.S.A. 79-41a02. This tax shall be collected in addition to the minimum price for the drink itself.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 412640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-33. Clubs charge the same price for the same drink all day; day defined.

(a) A licensed club shall not sell a drink to any person for less than the price charged for that same drink to all other club patrons on that day. Any particular drink that is offered for sale at any time during the day shall be offered at the same price for the entire day.

(b) The term "day" shall mean from 9:00 a.m. until 2:00 a.m. the following calendar day.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 412640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-34. Licensee must pay city or county license tax before making sales.

A licensee shall not operate until the licensee has paid any annual occupation or license tax imposed by the city or county in which the licensed premises are located. A licensee shall not sell 3.2 beer without first having obtained a cereal malt beverage license.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 412622 as amended by L. 1987, Ch. 182, Sec. 74; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-35. Federal retail stamp.

Private club licensees shall purchase from the United States bureau of alcohol, tobacco and firearms a federal retail stamp and shall display that stamp, or proof of payment for the stamp, in public view on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 412611 as amended by L. 1987, Ch. 182, Sec. 66; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-36. Excise tax shall be current.

Each club that fails to register for an excise tax registration number shall be subject to cancellation of its license or fine by the director. Each club that is delinquent in the payment of its excise taxes levied on alcoholic liquors shall be subject to cancellation of its license or fine by the director.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-37. Suspension and revocation; grounds for; procedure.

The license of any class B club may be revoked, canceled or suspended by the director for any one or more of the following reasons, subject to the procedures and other provisions of K.A.R. 14-16-14 et seq.:

- (a) The licensee has omitted or misstated a material fact in its application;
- (b) the licensee has operated in a manner materially different from that represented in the application;
- (c) the licensee has engaged in a prohibited transaction;
- (d) the licensee has violated any provision of the liquor control act, the club and drinking establishment act, the cereal malt beverage act or any regulations adopted pursuant thereto;
- (e) there has been a violation of the laws of Kansas pertaining to the sale of alcoholic liquor or cereal malt beverage or a violation of the laws of the United States pertaining to the sale of intoxicating liquor or a violation involving a morals charge;
- (f) the licensee, its managing officers or any employee, has purchased and displayed, on the licensed premises a federal wagering occupational stamp or a federal coin operated gambling device stamp issued by the United States treasury department;
- (g) the licensee has refused to permit the director or any agent or employee of the director or the secretary to inspect the licensed premises and any alcoholic liquor in the licensee's possession or under the licensee's control upon the premises covered by the license, or upon any other premises where the liquor may be stored; or
- (h) the licensee has allowed a person who is under the age of 21 years to possess alcoholic liquor while on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182; Sec. 66; 41-2613 as amended by L. 1987, Ch. 182, Sec. 68; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-38. Public functions upon licensed premises; when allowed; approval of director.

(a) A club shall not open any part of its licensed premises to the public unless it has first received the written approval of the director. All requests for written approval of the director to open the licensed premises to the public shall be accompanied by a sworn statement containing:

- (1) The days of the week and hours of those days for which the application is made;
- (2) a description of the exact area of the club to be open to the general public;
- (3) the statement that no alcoholic liquor or cereal malt beverage will be sold, dispensed or consumed by anyone in the area described during the time indicated;
- (4) the date and time that normal club activities will be resumed in the described areas; and
- (5) a description of the type of activity to be conducted and by whom.

(b) The use of the licensed premises by the general public shall not remove the area from the jurisdiction of the director. The licensee may be suspended, revoked or fined for any violations of chapter 41 of the Kansas statutes during any public function held on its licensed premises.

(Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-39. Display of license.

Each class B club shall display its license in a conspicuous place on the licensed premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, implementing K.S.A. 412612 as amended by L. 1987, Ch. 182, Sec. 67; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-20-40. Denial, revocation, or suspension of license upon request for hearing by governing body of city or county; request; evidence.

(a) The governing body of a city or county may request a hearing before the director to determine whether an application for licensure or renewal shall be denied or whether a license issued under the club and drinking establishment act shall be revoked or suspended.

(b) The request shall be submitted in writing by the governing body, on city or county letterhead, to the director and shall be accompanied by evidence that indicates reasonable cause exists to conduct a hearing to deny, revoke, or suspend the license.

(c) The director shall review the evidence presented and determine whether reasonable cause exists to conduct a hearing to deny, revoke, or suspend the license. The director shall notify the governing body of the date and time of the hearing, or denial of the request, in writing as soon as reasonably possible.

(d) The hearing and notices shall be in accordance with the Kansas administrative procedures act (KAPA). The director shall consider the evidence presented by the governing body and the licensee at the hearing and determine whether the license shall be denied, revoked, or suspended.

(e) Evidence to be considered in determining whether a license shall be denied, revoked, or suspended shall include the following:

(1) A crime of violence has occurred in, on, or about the premises, arising from conduct occurring within the licensed premises.

(2) The licensed premises and surrounding areas under relative control of the licensee constitute an abnormal and unreasonable drain on public resources to secure the safety of patrons, local residents, and businesses.

(3) The licensed premises, including surrounding areas under relative control of the licensee, constitute a threat to public health, safety, and welfare.

(4) The governing body has filed one or more nuisance actions against the licensee or the licensed premises.

(5) The governing body or licensee has taken all reasonable remedial steps regarding the situation.

(f) For purposes of this regulation, “crime of violence” shall include arson, murder, manslaughter, rape or sexual assault, armed robbery, assault, and battery, and an attempt to commit any of these crimes.

(Authorized by and implementing K.S.A. 2009 Supp. 41-2651; effective Sept. 17, 2010.)

14-20-41. Extension of premises.

(a) A licensee may permanently or temporarily extend its licensed premises upon written approval by the director.

(b) A licensee shall request the director’s approval to extend its licensed premises in writing at least 10 days before the proposed extension.

(c) Each request shall be accompanied by a diagram of the extended premises, clearly showing the boundaries of the premises, entrances to and exits from the premises, and the area in which the service of alcoholic liquor would take place.

(d) For a temporary extension, the request shall include the dates on which and times during which the premises would be extended. If the licensee does not own or lease the area to be included in the temporarily extended premises, the request shall also include written permission from the governing body, owner, or property manager to extend the licensed premises into that area.

(e) No premises shall be extended permanently into an area for which the licensee does not possess a valid lease or deed.

(f) The boundary of any premises extended beyond the interior of a building shall be marked by a three-dimensional obstacle.

(g) The licensee shall maintain, on the licensed premises, a copy of the diagram showing the extended premises. The copy shall be available for inspection upon request by any law enforcement officer or any officer or agent of the director.

(h) The licensee shall maintain, on the licensed premises, a copy of the director's written approval to extend the licensed premises. The copy shall be available for inspection upon request by any law enforcement officer or any officer or agent of the director.

(i) No licensee, and no owner, employee, or agent of the licensee, shall allow the serving or consumption of alcoholic liquor on extended premises that have not been approved by the director.

(Authorized by K.S.A. 41-2621; implementing K.S.A. 41-2621 and K.S.A. 2009 Supp. 41-2645; effective Sept. 17, 2010.)

14-20-42. Class B clubs; automated devices.

(a)(1) "Automated device" shall mean any mechanized device capable of dispensing wine directly to a customer in exchange for compensation that a licensee has received directly from the customer.

(2) "Business day" shall mean the hours authorized by state law during which alcohol can be served on the licensed premises.

(b) No licensee shall allow an automated device to be used on its licensed premises without first providing written or electronic notification to the director of the licensee's intent to use the automated device. The licensee shall provide this notification at least 48 hours before any automated device is used on the licensed premises.

(c) Each licensee offering customer self-service of wine from any automated device shall provide constant video monitoring of the automated device at all times during which the licensee is open to the public. The licensee shall keep recorded footage from the video monitoring for at least 60 days and shall provide the footage, upon request, to any agent of the director or other authorized law enforcement agent.

(d) The compensation required by subsection (a) shall be in the form of a programmable, prepaid access card containing a fixed amount of monetary credit that may be directly exchanged for wine dispensed from the automated device. Access cards may be sold, used, or reactivated only during a business day.

Each access card shall be purchased from the licensee by a customer. A licensee shall not issue more than one active access card to a customer. For purposes of this regulation, an access card shall be deemed "active" if the access card contains monetary credit or has not yet been used to dispense 15 ounces of wine.

Each purchase of an access card under this regulation shall be subject to the liquor drink tax imposed by K.S.A. 79-41a02, and amendments thereto.

(e) In order to obtain a prepaid access card from a licensee, each customer shall produce a valid driver's license, identification card, or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least 21 years of age. Each access card shall be programmed to require the production of the customer's valid identification before the access card can

be used for the first time during any business day or for any subsequent reactivation as provided in subsection (f). Each access card shall become inactive at the end of each business day.

(f) Each access card shall be programmed to allow the dispensing of no more than 15 ounces of wine to a customer. Once an access card has been used to dispense 15 ounces of wine to a customer, the access card shall become inactive. Any customer in possession of an inactive access card may, upon production of the customer's valid identification to the licensee or licensee's employee, have the access card reactivated to allow the dispensing of an additional 15 ounces of wine from an automated device.

This subsection shall not apply to wine dispensed by an automated device if the wine is dispensed directly to the licensee or the licensee's agent or employee.

This regulation shall become effective on July 1, 2015. (Authorized by K.S.A. 2014 Supp. 41-2640, as amended by 2015 HB 2223, sec. 5; implementing K.S.A. 2014 Supp. 41-2640, as amended by 2015 HB 2223, sec. 5, and K.S.A. 2014 Supp. 79-41a02; effective, T-14-7-1-15, July 1, 2015; effective Oct. 9, 2015.)