



HANDBOOK

FOR

**CEREAL MALT BEVERAGE
RETAILERS**

K.S.A. 41-2701 et seq.

Last Amended January 2019

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Changes made to this handbook since the previous revision(s) have been highlighted with a **light blue 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

"Retailer"

A "retailer" is a person who sells or offers for sale any cereal malt beverage ("CMB") for use or consumption and not for resale in any form. [Subsection (e) of K.S.A. 41-2701] **"Retailer" shall include businesses engaged in either on-premise or off-premise sales, or both.**

A retailer may only sell CMB at the place of business specified on their license. They may not deliver CMB to locations outside the place of business. [A.G.'s Opinion 87-1 issued Jan. 9, 1987]

On and after April 1, 2019, a retailer may, in addition to CMB, sell beer containing not more than 6% alcohol by volume. Throughout this handbook, any reference to the sale or purchase of CMB shall be deemed to also refer to the sale or purchase of beer containing not more than 6% alcohol by volume. [Subsection (a) of K.S.A. 41-2702; *see also* 2017 House Substitute for Senate Bill 13]

"Beer"

"Beer" is defined as a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content. [Subsection (d) of K.S.A. 41-102] 3.2% alcohol by weight is equivalent to 4.0% alcohol by volume.

"Cereal malt beverage"

"Cereal malt beverage" is defined in the CMB Act by subsection (a) of K.S.A. 41-2701 as having not more than 3.2% alcohol by weight produced by fermentation and not by distillation. The same definition appears in subsection (b) of K.A.R. 14-15-1.

"Malt beverage"

"Malt beverage" is defined by Federal Regulation (27 CFR Part 7) as an alcohol or alcohol-free beverage containing less than 2.5% alcohol by volume and made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, and the following:

- malted barley comprising not less than 25 percent by weight of the total weight of fermentable ingredients
- hops (or their parts or products) in an amount equivalent to seven and one-half pounds per 100 barrels (3100 gallons) of finished malt beverage and may contain:
 - ❖ other malted cereals
 - ❖ unmalted or prepared cereals
 - ❖ other carbohydrates (or products prepared therefrom)
 - ❖ carbon dioxide
 - ❖ other wholesome products suitable for human food consumption

[Additional information located within The Beverage Alcohol Manual (BAM), Volume 3 (Basic Mandatory Labeling Information for Malt Beverages), published by the U.S. Dept. of Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB)]

Licensure Process and Fees

An application for a retailer's license is submitted on a form prepared by the Attorney General's Office and must be verified. [Subsection (c) of K.S.A. 41-2702] The form is available on the Attorney General's website at <http://ag.ks.gov/licensing/other-forms>.

The completed application should be submitted to the:

- City clerk if the retailer is located within an incorporated city.
- County clerk if the retailer is located outside of an incorporated city.
- Director of ABC if the retailer is operating on a railway car.

See also subsection (b) of K.S.A. 41-2702 for a requirement for the Board of County Commissioners to give notice to the clerk of the township where the business will be located if outside an incorporated city.

A premise can hold both an on-premises license and an off-premises license. [implied by subsection (f)(1) of K.S.A. 41-2704]

Licenses are not transferable from one person to another. [Subsection (h) of K.S.A. 41-2702]

On-premises licenses

The fee for a retailer's license to sell CMB for consumption on the licensed premises (other than a railway car) is not less than \$25 nor more than \$200, as prescribed by the county commission or governing body of the city. [Subsection (d)(1) of K.S.A. 41-2702] The fee for a retailer's license to sell CMB for consumption of the premises of a railway car is \$100. [Subsection (d)(2) of K.S.A. 41-2702] These fees go to the county or city, as the case may be.

Off-premises licenses

The fee for a retailer's license to sell CMB in the original and unopened container and not for consumption on the licensed premises, is not less than \$25 nor more than \$50, as prescribed by the county commission or governing body of the city. [Subsection (g) of K.S.A. 41-2702] These fees go to the county or city, as the case may be.

Special Event (Temporary) Retailers' Permit

The fee for a special event retailer's permit to sell CMB for consumption on un-licensed premises for a limited duration is not less than \$25 nor more than \$200, as prescribed by the county commission or governing body of the city. [Subsection (e) of K.S.A. 41-2703] These fees go to the county or city which issued the permit.

State CMB Stamp

In addition to payment of the fees described above, each licensee or special event retailer's permit holder must purchase from the city or county clerk a \$25 state CMB stamp to be affixed to the license or permit. City and county clerks obtain these stamps from the Division of ABC Licensing Unit and remit the \$25 stamp fees collected from the CMB licensees to the Division of ABC quarterly. [Subsection (e) of K.S.A. 41-2702]

City and county clerk information can be found on our website at <https://www.ksrevenue.org/abccmbinfo.html>.

Qualifications for Licensure

Subsection (b) of K.S.A. 41-2703 lists the qualifications for an initial license. The same requirements must be met for renewal of an existing license and for any special event retailer's permit except as specifically indicated.

Corporations

Each manager, officer and director of the corporation must meet all of the licensing qualifications for individual ownership below except for citizenship and residency requirements. Each stockholder owning more than 25 percent of the corporation's stock must meet all of the licensing qualifications for individual ownership listed below except for citizenship and residency requirements. [Subsection (b)(7) of K.S.A. 41-2703]

The governing body may deny a license to a corporation if any manager, officer or director of the corporation, or any stockholder owning more than 25 percent of the corporation's stock, has been convicted of a violation of the Club and Drinking Establishment Act or the CMB Act in Kansas or has been a manager, officer or director of a corporation, or a stockholder owning more than 25 percent of a corporation's stock, which has had its retailer's license revoked. [Subsection (c) of K.S.A. 41-2703]

Partnerships

Each partner in a partnership must meet the licensing qualifications for individual ownership listed below. [Subsection (b)(6) of K.S.A. 41-2703]

The governing body may deny a license to a partnership if any partner has been convicted of a violation of the Club and Drinking Establishment Act or the CMB Act in Kansas or has been a manager, officer or director of a corporation, or a stockholder owning more than 25 percent of a corporation's stock, which has had its retailer's license revoked. [Subsection (c) of K.S.A. 41-2703]

Limited Liability Company (LLC)

LLCs must meet the same qualifications for licensure as a corporation as set forth in K.S.A. 41-2703 (see above), except that each person having an aggregate of 25 percent or more ownership interest in the LLC must meet the licensing qualifications for persons as listed below [Subsection (a) of K.S.A. 41-2703a]

The LLC must submit a copy of its Articles of Organization and its Operating Agreement to the governing body. [Subsection (b) of K.S.A. 41-2703a]

The governing body may deny a license to an LLC if any manager, officer or director of the LLC, or any member owning more than 25 percent of the LLC, has been convicted of a violation of the Club and Drinking Establishment Act or the CMB Act in Kansas or has been a manager, officer or director of a corporation, or a stockholder owning more than 25 percent of a corporation's stock, which has had its retailer's license revoked. [Subsection (c) of K.S.A. 41-2703]

Persons

- ***Age requirement.***

The person must be at least 21 years of age. [Subsection (c)(5) of K.S.A. 41-2702]

- ***Resident of county.***

The person must be a resident of the county where the licensed premises is located for at least six months. [Subsection (b)(1) of K.S.A. 41-2703]

- ***Resident of Kansas.***

The person must be a resident of Kansas for at least one year immediately preceding application for licensure. [Subsection (b)(2) of K.S.A. 41-2703]

- ***Character and reputation.***

The person must be of good character and reputation in the community in which he or she resides. [Subsection (b)(3) of K.S.A. 41-2703]

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

The person must be a citizen of the United States. [Subsection (b)(4) of K.S.A. 41-2703]

- ***Criminal convictions.***

The person must not have been convicted of or released from incarceration, probation or parole for, a felony or any other crime involving moral turpitude, drunkenness, DUI, or a violation of the liquor laws of Kansas, any other state, or the United States, within two years immediately preceding the date of application. [Subsection (b)(5) of K.S.A. 41-2703]

- ***Manager or agent.***

If the person's place of business is conducted (managed) by a manager or agent, then the manager or agent must meet all of the qualifications for a license. [Subsection (b)(8) of K.S.A. 41-2703]

- ***Spouse.***

The person's spouse must meet all of the qualifications for ownership except for citizenship, residency or age. **However**, this requirement applies only to an initial license and not to a renewal of an existing license. [Subsection (b)(9) of K.S.A. 41-2703]

If the person's spouse was ever licensed under the CMB Act, that spouse must not have had a conviction of a felony or any other crime involving moral turpitude, drunkenness, DUI, or violation of the liquor laws of Kansas, any other state, or the United States, during the time that the spouse held such license. [Subsection (b)(10) of K.S.A. 41-2703]

Restrictions on Employees

Employees involved with the sale, serving or dispensing of CMB must have no convictions of a felony or an intoxicating liquor law of Kansas, any other state or of the United States. [Subsection (c)(6) of K.S.A. 41-2708]

Employees involved in dispensing or selling CMB must be at least 18 years of age. [Subsection (c)(5) of K.S.A. 41-2708]

Subsection (f)(1) of K.S.A. 41-2704 provides that a licensee's employee must be at least 18 years of age to dispense and sell CMB if the place of business holds a CMB license only for sale of CMB for off-premises consumption.

Subsection (f)(2) of K.S.A. 41-2704 provides that a licensee's employee must be at least 18 years of age to dispense and sell CMB if:

- the licensee is also a licensed food service establishment as defined by K.S.A. 36-501 (regulating food service and lodging establishments) and
- at least 50 percent of the licensee's gross receipts are derived from the sale of food for consumption on the licensed premises.

The CMB Act has no age restrictions on employees such as stock clerks who are not dispensing or selling CMB.

Hours and Days of Operation

The following applies to the sale of CMB for both on-premises and off-premises retailers. The CMB Act does not regulate the hours for consumption of CMB at businesses licensed for on-premises consumption.

Businesses licensed for on-premises consumption of CMB

Sales are permitted between 6 a.m. and 12 a.m. on the days indicated below. However, the hours are extended to 2 a.m. if the business also has a drinking establishment or club license. They are not required to be closed on any holiday.

- Every Monday through Saturday
- Every Sunday if the business:
 1. derives at least 30 percent of its gross receipts from the sale of food to be consumed on the licensed premises, and
 2. is located in a county or city where Sunday sales have been authorized by city ordinance (for premises in cities) or by county resolution (for premises in townships but not in a city).

[Subsections (b), (c) and (h) of K.S.A. 41-2704]

Special Event (Temporary) retailers' permit holders

Sales of CMB for consumption on the permitted premises are permitted between 6 a.m. and 12 a.m. on the days indicated below:

- Every Monday through Saturday
- Every Sunday if the permit holder:
 3. derives at least 30 percent of its gross receipts from the sale of food to be consumed on the permitted premises, and
 4. the special event is located in a county or city where Sunday sales have been authorized by city ordinance (for premises in cities) or by county resolution (for premises in townships but not in a city).

[Subsection (e) of K.S.A. 41-2703 and Subsections (b), (c) and (h) of K.S.A. 41-2704]

Businesses licensed for off-premises consumption of CMB

Sales are permitted as indicated below. Where Sunday sales have been approved, off-premises CMB licensees are not required to be closed on any holiday except Easter Sunday.

- Every Monday through Saturday, between 6 a.m. and 12 a.m.
- Every Sunday, except Easter, between 12 p.m. and 8 p.m., **if** located in a city or township where the days of sale of CMB in the original package has been expanded pursuant to K.S.A. 41-2911

[Subsections (b) and (c) of K.S.A. 41-2704]

When cities or counties expand the days of sale pursuant to K.S.A. 41-2911, they **must** include **both** liquor retail sales and CMB retail sales. They cannot expand one type of sales without the other. However, they may limit sales on Sundays to hours less than the 12 p.m. to 8 p.m. provided in the statute. It should also be noted that if a city or county chooses to expand the days of sale under K.S.A. 41-2911, they **may** then further restrict the days of sale to include additional holidays, but they **cannot** do so without first expanding to Sunday sales in general. [Attorney General Opinion No. 2006-2 issued Jan. 4, 2006; see also *City of Junction City v. Lee*, 216 Kan. 495, 501 (1975).]

The governing body may prescribe hours of closing more restrictive than state statute. [Subsection (a) of K.S.A. 41-2704]

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" located on the ABC webpage at: <https://www.ksrevenue.org/pdf/abcpm2016-1.pdf>.

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-generated 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 premises to attract customer attention to the products	No	Industry member or product May include retailer’s information	Industry member or retailer	No	No
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.

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.

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 CMB retailer or holder of a special event retailer’s permit may purchase CMB only from Kansas licensed beer distributors which are authorized by franchise agreements on file with the director to sell beer within the geographic area where the retailer is located. [Subsection (c)(2) of K.S.A. 41-307] The beer distributor may deliver the CMB to the retailer’s premises or to the special event premises. [Subsection (e) of K.S.A. 41-307]
- CMB may not be purchased from a distributor on credit. [K.S.A. 41-2707] If both the retailer and the beer distributor agree, payment may be made by electronic funds transfer. Payment must be made no later than the next banking business day after the date of delivery of the CMB. [Paragraph 3.c. of ABC Policy Memorandum 2001-2]

Authorized Activities

(The term “Retailers” in this section applies to special event permit holders and on-premises and off-premises licensees unless otherwise noted.)

Businesses also licensed under the Club and Drinking Establishment Act

CMB may be sold on premises which are licensed pursuant to both the CMB Act and Club and Drinking Establishment Act at any time when alcoholic liquor is allowed by law to be served on the premises. [Subsection (h) of K.S.A. 41-2704]

Access to law enforcement officers

Every licensed premises and special event shall be open to law enforcement officers at all times during business hours. [Subsection (e) of K.S.A. 41-2704]

Open to the public

Every licensed premise except clubs licensed under the Club and Drinking Establishment Act shall be open to the public at all times during business hours. [Subsection (e) of K.S.A. 41-2704]

Free food and/or entertainment

Retailers may offer free food (but not free CMB) and entertainment to its customers. [Subsection (b)(1) of K.S.A. 41-2722]

Gift certificates and cards

Retailers may **sell** gift certificates or gift cards that can be subsequently used to purchase CMB. [Ruling approved by the director on Jan. 25, 2005]

Reward programs

Retailers may offer customers a “mug club” or other reward program which results in a discount on CMB prices. [Subsection (b) of K.S.A. 41-2722]

Combination pricing

Retailers licensed for on-premise sales may offer specials including meals, entertainment and/or drinks of CMB for a single price. [Ruling by the director on July 23, 2012]

Pitchers

Retailers licensed for on-premise sales may sell and serve CMB in pitchers containing not more than 64 fluid ounces. [Subsection (b)(3) of K.S.A. 41-2722]

Charge different prices for CMB throughout the day

Retailers may charge different prices for CMB on the same day. [Subsection (b)(2) of K.S.A. 41-2722]

Prohibited Activities

(The term “Retailers” in this section applies to special event permit holders and on-premises and off-premises licensees unless otherwise noted.)

Private rooms or booths

Retailers shall not allow any private rooms or booths on the licensed premises or special event premises unless the business is also licensed as club or drinking establishment pursuant to the Club and Drinking Establishment Act. [Subsection (d) of K.S.A. 41-2704]

Alcoholic liquor

Retailers shall not sell to any person or allow any person to possess any alcoholic liquor, **except beer containing not more than 6% alcohol by volume on and after April 1, 2019**, on the licensed premises or special event premises unless the business is also licensed as club or drinking establishment pursuant to the Club and Drinking Establishment Act. [Subsection (g) of K.S.A. 41-2704 and subsection (a)(5) and subsection (b) of K.S.A. 41-2708]

Sales on credit, tab or barter

Retailers shall not sell CMB on credit, passbook (tab), or barter for goods or services. Payment must be made by cash, check or credit card. Any credit card used must be good for purchasing goods or services from at least 100 persons (or businesses) not related to the issuer of the credit card. [K.S.A. 41-2706]

Purchases from distributors

Retailers shall not purchase CMB from a distributor on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandize, in payment for services rendered; or by extension of credit of any kind, type or class. [K.S.A. 41-2707]

Intoxicated persons

Retailers shall not permit any intoxicated or drunk persons (owner, employees, patrons, etc.) to remain on the licensed premises or special event premises. [Subsection (a)(2) of K.S.A. 41-2708]

Sales to minors

Retailers shall not sell CMB to anyone under the age of 21 years. [Subsection (a)(3) of K.S.A. 41-2708]

Gambling

Retailers shall not permit any gambling on the licensed or special event premises. [Subsection (c)(4) of K.S.A. 41-2708]

Mixing of drinks

Retailers shall not permit anyone to mix drinks on the licensed or special event premises using materials purchased on the licensed or permitted premises or brought into the licensed or permitted premises for that purpose. [Subsection (a)(4) of K.S.A. 41-2708]

Keg registration act

Retailers shall not violate any provision of the Beer and Cereal Malt Beverage Keg Registration Act. [Subsection (a)(6) of K.S.A. 41-2708] Special event retailers' permit holders are exempt from the provisions of the Beer and Cereal Malt Beverage Keg Registration Act. [Subsection (f) of K.S.A. 41-2703]

Free CMB

Retailers shall not offer or serve free CMB to any person. [Subsection (a)(1) of K.S.A. 41-2722]

Minimum price

Retailers shall not offer or serve to any person CMB at a price less than the acquisition cost of the CMB to the retailer. [Subsection (a)(2) of K.S.A. 41-2722]

Unlimited number of drinks

Retailers shall not sell, offer or serve to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the general public. [Subsection (a)(3) of K.S.A. 41-2722]

Drinking games or contests

Retailers shall not encourage or permit any game or contest on the licensed premises which involved drinking CMB or the awarding of drinks as prized. [Subsection (a)(4) of K.S.A. 41-2722]

Advertising or promotion of prohibited activities

Retailers shall not advertise or promote, either on or off the licensed premises, any of the activities prohibited by subsection (a)(1) through (a)(4) above. [Subsection (a)(5) of K.S.A. 41-2722]

Providing price list upon request

Retailers shall not refuse to make available upon request a price list showing the retailer's current prices for all CMB beverages it sells. [Subsection (e) of K.S.A. 41-2722]

The CMB Act does not address the legality of patrons of an on-premises retailer taking their CMB drink off of the licensed premises. This practice should be controlled by county or city ordinance. The prohibition on alcoholic liquor (spirits, wine and "strong" beer) being taken off of the licensed premises which are also licensed for such beverages under the Club and Drinking Establishment Act are included in subsection (e) of K.A.R. 14-21-12. Also, K.S.A. 41-719 prohibits the consumption of alcoholic liquor (not including CMB) on public and private property except in a few specific situations specified in the statute.

Administrative Actions for Violations of Statutes

The governing body of the city or county (if the licensed premises is outside the city limits), in which the licensed or permitted premises is located may, with five days' notice to the retailer or permit holder, revoke or suspend the license or permit for any of the reasons provided in K.S.A. 41-2708(a).

The governing body of the city or county (if the licensed premises is outside the city limits), in which the licensed or permitted premises is located shall, with five days' notice to the retailer or permit holder, revoke or suspend the license or permit for any of the reasons provided in K.S.A. 41-2708(c).

A retailer or permit holder shall have 20 days after the order of the governing body of a city or the county commission suspending or revoking any CMB license or permit to appeal to the district court in the county where the licensed or special event premises is located. The license or permit shall stay suspended or revoked during the appeal. The district court shall have original jurisdiction over the matter. [Subsection (d) of K.S.A. 41-2708]

The Director, or any agent of the Director, may issue citations for violations of the Kansas Cereal Malt Beverage Act to any retailer regarding the sale, consumption or possession of beer containing not more than 6% alcohol by volume, and may impose a civil fine of up to \$1000 for such violations upon issuance of a written order and subject to the provisions of the Kansas Administrative Procedure Act. [See New Section 1 of 2018 House Bill 2502]

The Director may refuse to issue a CMB stamp if an applicant for licensure is not current in the payment of any fines imposed pursuant to the CMB Act, the Liquor Control Act or the Club and Drinking Establishment Act. [See Subsection (e) of K.S.A. 41-2702, as amended by 2018 House Bill 2502]

Criminal Prosecution

The county attorney or city attorney may prosecute any person for violation of the CMB Act within their jurisdiction. If found guilty, the person may be fined up to \$500 and/or be sentenced to a maximum of up to one year in prison. [K.S.A. 41-2711]