

KANSAS REGISTER

State of Kansas

BILL GRAVES
Secretary of State

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Secretary of State
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Phone: (913) 296-3489

State of Kansas
DEPARTMENT OF ADMINISTRATION
STATE EMPLOYEES HEALTH
CARE COMMISSION

NOTICE OF MEETING

The Kansas State Employees Health Care Commission will meet at 4 p.m. Thursday, May 5, in Room 220-S, State Capitol, Topeka.

H. EDWARD FLENTJE
 Chairman

Doc. No. 006489

State of Kansas
DEPARTMENT OF HUMAN RESOURCES
KANSAS COUNCIL ON
EMPLOYMENT AND TRAINING

NOTICE OF MEETING

The Kansas Council on Employment and Training (KCET) will meet from 8:30 a.m. to noon Friday, May 6, at the Ramada Hotel at Broadview Place, 400 W. Douglas, Wichita. The agenda will include Job Corps, subcommittee reports, and Evelyn Ganzglass of the National Governors' Association.

The meeting is open to the public.

DENNIS R. TAYLOR
 Secretary of Human Resources

Doc. No. 006488

State of Kansas
STATE HISTORICAL SOCIETY

NOTICE OF ACCEPTANCE OF
APPLICATIONS FOR
PRE-DEVELOPMENT GRANTS

Owners of National Register properties are advised that the Historic Preservation Department, Kansas State Historical Society, will accept applications until May 31 for federal Historic Preservation Fund grant assistance for pre-development projects, i.e., preparation of architectural plans, specifications, historic structure reports, or engineering studies.

Approximately \$18,700 is available and may be allocated to one or more projects. All grants must be matched dollar for dollar by the applicant, and only buildings or structures listed on the National Register of Historic Places are eligible.

For application blanks and additional information, contact the Historic Preservation Department, Kansas State Historical Society, 120 W. 10th, Topeka 66612, (913) 296-7080.

JOSEPH W. SNELL
 Executive Director

Doc. No. 006486

State of Kansas
ATTORNEY GENERAL

Opinion No. 88-56

Intoxicating Liquors and Beverages—Certain Prohibited Acts and Penalties—Sale at Retail; Forbidden on Certain Days. Senator Joseph C. Harder, 25th District, Moundridge, April 19, 1988.

1988 Senate Bill No. 598 contains no new provision which would allow cities or counties, by home rule, to permit Sunday sales of spirits for off-premise consumption. Cited herein: K.S.A. 1987 Supp. 19-101a; K.S.A. 41-712; Kan. Const., Art. 12, § 5; 1988 Senate Bill No. 598. JLM

ROBERT T. STEPHAN
 Attorney General

Doc. No. 006519

State of Kansas
BOARD OF NURSING

NOTICE OF HEARING
ON PROPOSED
ADMINISTRATIVE REGULATIONS

A public hearing will be held at 1 p.m. Thursday, May 19, in Room 108, Landon State Office Building, 900 S.W. Jackson, Topeka, on the following temporary and permanent regulations:

K.A.R. 60-15-101—K.A.R. 60-15-104. Performance of Selected Nursing Procedures in School Settings. The purpose of these regulations is to permit the delegation of certain selected nursing tasks to unlicensed persons in school settings for special students. The delegation of these tasks will enable the students to continue their education without interruption. The selected tasks involve, but are not limited to, activities of daily living, bathing, dressing, feeding, etc., normally performed by a family member.

These proposed regulations do not involve a fiscal impact for the Board of Nursing per se.

Public comments regarding the regulations may be given at the hearing or written comments may be submitted to the Board of Nursing. Complete copies of these regulations are available upon request from the Kansas State Board of Nursing, Suite 551-S, Landon State Office Building, Topeka 66612-1256.

LOIS RICH SCIBETTA, Ph.D., R.N.
 Executive Administrator

Doc. No. 006490

State of Kansas

**DEPARTMENT OF COMMERCE
TRAVEL AND TOURISM COMMISSION****NOTICE OF MEETING**

The Travel and Tourism Commission will meet at 3:30 p.m. Tuesday, May 3, in the conference room at the Boot Hill Museum, 500 W. Wyatt Earp, Dodge City.

LEWJENE SCHNEIDER
Director, Travel and Tourism
Development Division

Doc. No. 006518

State of Kansas

BOARD OF EXAMINERS IN OPTOMETRY**NOTICE OF EXAMINATION**

Pursuant to K.S.A. 74-1504, the Kansas State Board of Examiners in Optometry will examine applicants for certificates of optometric registration June 4-7 in Room 108, Landon State Office Building, 900 S.W. Jackson, Topeka. For additional information call (913) 367-4989.

HAROLD A. FRIEDEN, O.D.
Secretary-Treasurer

Doc. No. 006485

State of Kansas

**NORTHWEST KANSAS GROUNDWATER
MANAGEMENT DISTRICT NO. 4****NOTICE OF MEETING**

The Northwest Kansas Groundwater Management District No. 4 will meet at 10 a.m. C.D.T. Thursday, May 5, in the district office, 1175 S. Range, Colby. General administrative matters and other business will be discussed.

WAYNE A. BOSSERT
Manager

Doc. No. 006487

State of Kansas

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PURCHASES****NOTICE TO BIDDERS**

Sealed bids for the following items will be received by the Director of Purchases, Landon State Office Building, 900 Jackson, Room 102, Topeka, until 2 p.m. C.D.T. on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

Monday, May 9, 1988

#A-5828

Department of Corrections, Reception and Diagnostic Center—MAINTENANCE, LAUNDRY AND SUPPLY FACILITY

#27417

Department of Health and Environment—BLOOD PRODUCTS AND SERVICES FOR HEMOPHILIA PROGRAM

#27796-A

Department of Corrections—ALCOHOL AND DRUG ABUSE INTERMEDIATE TREATMENT PROGRAM

#27813

Department of Wildlife and Parks—UNIFORM GARMENTS

#73794

Department of Wildlife and Parks—FURNISH AND INSTALL ROOFING, Pratt

Tuesday, May 10, 1988

#27144

Statewide—WORK GLOVES

#27270

Wichita State University—INTERIOR PAINTING

#27432

Statewide—DAIRY PRODUCTS

#73738

University of Kansas—MICROCOMPUTERS WITH MONITORS

#73747

Kansas State Historical Society—TRACK LIGHTING EQUIPMENT

#73756

Department of Administration—AVIONICS EQUIPMENT

#73769

Kansas State University—GRAIN

Wednesday, May 11, 1988

#A-5734

Kansas Vocational and Rehabilitation Center—INSTALL WATER SOFTENING SYSTEM, Salina

#A-5786

Kansas Neurological Institute—REPLACE TWO CONDENSERS, Cottonwood Lodge

#27557

Kansas State University—JUNE (1988) MEAT PRODUCTS

#27808

Wichita State University—NATURAL GAS

#27812

Statewide—WINTER CLOTHING

#73768

University of Kansas Medical Center—SOUND CHAMBER

#73780

Department of Transportation—MOWERS AND CHAIN SAWS, various locations

Thursday, May 12, 1988

#A-5744(a)

Youth Center at Topeka—UPGRADE SECURITY OF VARIOUS BUILDINGS

#27624

Statewide—TELEPHONE WIRE

#73785

Department of Transportation—FLEXIBLE, DURABLE DELINEATOR POSTS

#73786

Wichita State University—OFFICE FURNITURE

Friday, May 13, 1988

#27175

University of Kansas Medical Center—PEST
CONTROL SERVICE

#73799

Department of Transportation—AUGERS, various
locations

#73800

University of Kansas—PROTOCOL ANALYZER

#73801

Kansas State University—LAB EQUIPMENT

#73802

Kansas State University—PLAIN PAPER COPIER

#73803

Department of Transportation—SHEEPFOOT
ROLLER, Chanute

#73804

Department of Transportation—WATER TANKS,
various locations

#73807

Department of Transportation—BITUMINOUS
MIXTURE, various locations

#73808

Department of Transportation—AGGREGATE,
various locations

#73809

University of Kansas Medical Center—HPLC

#73810

Kansas State University—PHOTOSYNTHESIS
SYSTEM

Monday, May 16, 1988

#A-5939

Kansas State University—CHILLER
REPLACEMENT

Tuesday, May 17, 1988

#27146

Statewide—TIRES AND TUBES

Wednesday, May 18, 1988

#27245

University of Kansas Medical Center and statewide—
OSTOMY PRODUCTS AND SUPPLIES (CLASS 17)

Tuesday, May 24, 1988

#73779

State Corporation Commission—CONSTRUCTION
OF THE INDIAN CREEK RECLAMATION
PROJECT, Linn CountyNICHOLAS B. ROACH
Director of Purchases

Doc. No. 006515

State of Kansas

UNIVERSITY OF KANSAS

NOTICE TO BIDDERS

Sealed bids for the item listed below will be received by the University of Kansas Purchasing Office, Lawrence, until 2 p.m. C.D.T. on the date indicated and then will be publicly opened. Interested bidders may call (913) 864-3416 for additional information.

Monday, May 9, 1988

#88 0808

Isocratic High Pressure Liquid Chromatography System.

GENE PUCKETT, L.C.P.M.
Director of Purchasing

Doc. No. 006498

State of Kansas

SOCIAL AND REHABILITATION SERVICES

PUBLIC NOTICE

The SRS open meeting previously scheduled for May 14 has been cancelled. The date of the June SRS open meeting has been changed to June 10 at 9 a.m. at the Staff Development conference room, Topeka State Hospital grounds. The meeting will be on telenet in the 17 area offices.

Social Service Block Grant Program

The draft social services block grant (SSBG) state plan for fiscal year 1989 is in the public comment period from May 5 to June 4. Copies of the draft plan will be available for review during that period of time at each of the 17 SRS area offices throughout Kansas.

Comments concerning the draft plan are to be submitted by June 4 to the Kansas Department of Social and Rehabilitation Services, Adult Service Commission, Adult Program Management Section, Biddle Building, First Floor, 2700 W. 6th, State Complex West, Topeka 66606. Copies of the draft plan are also available upon written request to the same address.

The social service block grant state plan is scheduled to be adopted by the Secretary of Social and Rehabilitation Services at the SRS open meeting on June 10.

Community Service Block Grant Program

The community service block grant (CSBG) 1989 state plan is available upon written request for review and comments by SRS area offices, grantees and other interested parties. The review and comment period ends June 30. State plan requests and comments should be sent to the following address: Kansas Department of Social and Rehabilitation Services, State Economic Opportunity Office, Adult Service Commission, Biddle Building, First Floor, 2700 W. 6th, State Complex West, Topeka 66606.

WINSTON BARTON
Secretary of Social and
Rehabilitation Services

Doc. No. 006522

State of Kansas

**DEPARTMENT OF HEALTH
AND ENVIRONMENT****NOTICE OF INTENT TO MODIFY HAZARDOUS
WASTE DISPOSAL FACILITY PERMIT**

The Kansas Department of Health and Environment (KDHE), Forbes Field, Topeka, is providing public notice that it may modify the hazardous waste disposal permit issued to Total Petroleum, Incorporated, Arkansas City. The modification would allow the diking surrounding the land treatment unit to be maintained at an elevation of 1070 NGVD.

Total Petroleum, Incorporated was issued a hazardous waste disposal facility permit on November 16, 1987. This permit required the diking surrounding the land treatment unit to be constructed and maintained at 1074 NGVD.

On October 17, 1985, KDHE received final authorization from EPA to implement the state's hazardous waste management program in lieu of the federal program. The state's final authorization included all portions of the Resource Conservation and Recovery Act (RCRA), except those covered by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The permit modification Total Petroleum, Incorporated has requested is not covered by HSWA. Thus, KDHE is solely authorized to modify the original KDHE permit.

Copies of the administrative record, which includes the draft modified permit, the modified permit application, and all information submitted by Total Petroleum, Incorporated, is available for public review at the EPA Region VII Headquarters, 726 Minnesota Ave., Kansas City, Kansas, from 7:30 a.m. to 4:30 p.m. weekdays; at KDHE, Building 730, Forbes Field, Topeka; and at the KDHE district office, 3244 E. Douglas, Wichita, from 8 a.m. to 4:30 p.m. weekdays.

Comments on the proposed permit modifications may be directed in writing to John Goetz, Hazardous Waste Section, KDHE, Forbes Field, Topeka 66620. Written comments must be submitted prior to June 12. Requests for additional information, including the fact sheet, may be made by contacting KDHE at (913) 296-1607.

A public hearing has not been scheduled; however, if requests are received which indicate a significant degree of public interest in this draft permit, a public hearing will be scheduled. Requests for a public hearing shall be in writing to the address listed for submittal of comments and shall state the nature of issues proposed to be raised at the hearing. Such requests shall be submitted prior to May 28.

After consideration of all comments received and of the requirements of RCRA and state statutes, KDHE will make a final permit decision. If the decision is made to issue the modified permit that is substantially unchanged from the draft made available for public comment as announced by this notice, the Secretary of Health and Environment will notify all persons submitting comments or requesting notice of final decision. If the draft modified

permit is substantially changed, the secretary will issue a public notice indicating the revised decisions.

STANLEY C. GRANT, Ph.D.
Secretary of Health
and Environment

Doc. No. 006491

State of Kansas

**DEPARTMENT OF ADMINISTRATION
DIVISION OF ARCHITECTURAL SERVICES****NOTICE OF COMMENCEMENT
OF NEGOTIATIONS
FOR TECHNICAL SERVICES**

Notice is hereby given of the commencement of negotiations for soil and subsurface investigation and testing services and compaction testing during construction for the proposed Educational Communications Center at Kansas State University, Manhattan.

Any questions or expressions of interest should be directed to Jack Nelson, Division of Architectural Services, 625 Polk, Topeka 66603, (913) 233-9367, prior to May 13.

EDWARD A. DE VILBISS, AIA
Director, Division of
Architectural Services

Doc. No. 006517

State of Kansas

**DEPARTMENT OF ADMINISTRATION
DIVISION OF ARCHITECTURAL SERVICES****NOTICE OF COMMENCEMENT
OF NEGOTIATIONS
FOR ARCHITECTURAL SERVICES**

Notice is hereby given of the commencement of negotiations for architectural services for a reroofing and masonry study of the Kansas Memorial Union, University of Kansas, Lawrence.

The intent of the study is to evaluate the existing condition of the roof systems and exterior masonry walls, develop a sequential plan of repair and replacement, and provide construction cost estimates.

Any questions or expressions of interest should be directed to Jack Nelson, Division of Architectural Services, 625 Polk, Topeka 66603, (913) 233-9367, prior to May 13.

EDWARD A. DE VILBISS, AIA
Director, Division of
Architectural Services

Doc. No. 006516

State of Kansas

**DEPARTMENT OF HEALTH
AND ENVIRONMENT****NOTICE OF MEETING AND
PUBLIC HEARING**

The Kansas Department of Health and Environment has scheduled two meetings of its technical committee, which is reviewing the clinical laboratory personnel credentialing application. An analysis meeting will be held May 18 and a public hearing will be held June 15.

Both will begin at 9 a.m. in Room 526-S, State Capitol, Topeka. For more information, contact Cathy Rooney at (913) 296-1281.

STANLEY C. GRANT, Ph.D.
Secretary of Health
and Environment

Doc. No. 006520

State of Kansas

**DEPARTMENT OF HEALTH
AND ENVIRONMENT****NOTICE CONCERNING KANSAS
WATER POLLUTION CONTROL PERMIT**

In accordance with state regulations 28-16-57 through 28-16-63 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for discharges to the waters of the United States and the state of Kansas for the applicants described below. The tentative determinations for permit content are based on preliminary staff review, applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization to discharge subject to certain effluent limitations and special conditions.

Name and Address of Applicant	Waterway	Type of Discharge
Mayor and City Council c/o City Clerk City Hall, P.O. Box 100 Lecompton, KS 66050 Douglas County, Kansas	Kansas River via Unnamed Tributary	Secondary Wastewater Treatment Facility

Kansas Permit No. M-KS33-0001 Federal Permit No. KS-0055581
Description of Facility: This facility is designed for the treatment of domestic sewage. This is an existing facility. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and are technology based.

Name and Address of Applicant
The Goodyear Tire and Rubber Company P.O. Box 1069 Topeka, KS 66601 Shawnee County, Kansas

Kansas Permit No. I-KS72-P002 Federal Permit No. KS-0001643
Description of Facility: Manufacturer of truck and earth-mover tires. Wastewater treatment includes oil-water separators, floor scrubber wastewater treatment, activated sludge treatment and a vertical tube coalescer. This is an existing facility and the previous limitations have been modified. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, Department of Health and Environment, Division of Environment, Bureau of Water Protection, Forbes Field, Topeka 66620. All comments received prior to May 27 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-88-25/26) and name of applicant as listed when preparing comments.

If no objections are received, the Secretary of Health and Environment will issue the final determination. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61.

The application, proposed permit, including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Division of Environment offices from 8 a.m. to 4:30 p.m. Monday through Friday. The documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice may also be obtained at the Division of Environment.

STANLEY C. GRANT, Ph.D.
Secretary of Health
and Environment

Doc. No. 006514

State of Kansas

DEPARTMENT OF TRANSPORTATION**NOTICE TO CONSULTING ENGINEERS**

The Kansas Department of Transportation is seeking a qualified engineering firm for bridge inspection for the following projects:

K-3448-01 and C-2709-01, statewide inspection of and report on each pin and hangar strip connection. There are 15 structures on the state highway system and 35 structures on city and county roads. The inspection will require ultrasonic testing equipment.

Firms expressing interest in these projects must respond in writing and complete the Consulting Engineers Qualification Questionnaire (if not already prequalified) by May 19.

It is the policy of K.D.O.T. to use the following criteria as the basis for selection of engineering consultant firms:

1. Size and professional qualification of firm.
2. Experience of staff.
3. Location of firm with respect to proposed project.
4. Work load of firm.
5. Firm's performance.

HORACE B. EDWARDS
Secretary of Transportation

Doc. No. 006492

State of Kansas

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS

Notice is hereby given that sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, until 10 a.m. C.D.T. May 19, 1988, and then publicly opened:

DISTRICT ONE—Northeast

Doniphan—20-22 K-3446-01—K-20, 2.2 miles east of the Doniphan/Brown county line, culvert replacement. (State Funds)

Douglas—23 K-1067-02—Marina at Clinton State Park, construct parking lot. (State Funds)

Douglas—40-23 K-3033-01—U.S. 40, California east to Main Street in Lawrence, 0.5 mile, grading and surfacing. (State Funds)

Douglas—10-23 M-1519-01—K-10, east city limits of Lawrence, then east 1.2 miles on eastbound lanes and 0.4 mile on westbound lanes, 1.2 miles, overlay. (State Funds)

Johnson—35-46 K-2434-04—I-35, Miami-Johnson county line, northeast 6.7 miles, pavement reconstruction. (Federal Funds)

Nemaha—36-66 K-3455-01—U.S. 36, Marshall-Nemaha county line east to the west city limits of Seneca, 9.0 miles, overlay. (State Funds)

Shawnee—75A-89 U-1152-01—U.S. 75A (Topeka Boulevard) and Independence in Topeka, traffic signal. (Federal Funds)

Shawnee—24-89 M-1521-01—U.S. 24, intersection of U.S. 24 and Kansas Avenue and U.S. 24 and Rochester Road in Topeka, 0.4 mile, overlay. (State Funds)

Wyandotte—105 U-1115-01—Minnesota-Fairfax viaduct in Kansas City, 0.2 mile, bridge replacement. (Federal Funds)

Wyandotte—70-105 M-1516-01—I-70, eastbound intercity viaduct bridge 31, east end of span 2, bridge repair. (State Funds)

DISTRICT TWO—Northcentral

Clay—24-14 K-3129-01—U.S. 24, Huntress Creek bridge 4, 12.5 miles east of Cloud-Clay county line, bridge painting. (State Funds)

Cloud—28-15 M-1493-01—K-28, 0.2 mile northwest of the junction of K-9 and K-28 at Wolf Creek, slide repair. (State Funds)

DISTRICT THREE—Northwest

Cheyenne—12 C-2311-01—County road, 7.5 miles north and 4.0 miles east of St. Francis, then east, 0.2 mile, bridge replacement. (Federal Funds)

Gove—32 C-2502-01—County road, 3.0 miles south of Quinter, then south, 1.3 miles, grading and bridge. (Federal Funds)

Phillips—74 C-2121-01—County road, 11.2 miles north of Agra, then north, 0.1 mile, bridge replacement. (Federal Funds)

DISTRICT FOUR—Southeast

Bourbon—69-6 M-1518-01—U.S. 69, bridge 14 over K-7 and Burlington Northern Railroad, 6.6 miles north of the Crawford-Bourbon county line, 0.2 mile, slide repair. (State Funds)

Coffey—16 C-2138-01—County road, 4.1 miles east of New Strawn, then east, 0.3 mile, bridge replacement. (Federal Funds)

Crawford—19 U-1063-01—U.S. 69 at Frontenac, then west, 1.0 mile, grading and surfacing. (Federal Funds)

Franklin—35-30 M-1517-01—I-35 and U.S. 59 bridge 22, ramp in northwest quadrant, 0.1 mile, slide repair. (State Funds)

Labette—166-50 M-1510-01—U.S. 166, Montgomery-Labette county line east 7.3 miles to the end of the new project, 7.3 miles, shoulders. (State Funds)

Montgomery—63 C-1795-01—County road, 0.4 mile north and 1.0 mile west of Dearing, then west, 0.2 mile, bridge replacement. (Federal Funds)

Montgomery—166-63 M-1509-01—U.S. 166, from the east junction of U.S. 166 and U.S. 169 east to the Montgomery-Labette county line, 3.5 miles, shoulders. (State Funds)

Montgomery—169-63 M-1508-01—U.S. 169, Verdigris River east and north to north of the north junction of U.S. 166 and U.S. 169, 0.5 mile, shoulders. (State Funds)

Neosho—67 U-1111-01—35th Street, from U.S. 169 west to the relocation of U.S. 169 in Chanute, 1.5 miles, surfacing. (Federal Funds)

Woodson—104 C-2332-01—County road, 0.8 mile east of Neosho Falls, then east, 0.3 mile, bridge replacement. (Federal Funds)

DISTRICT FIVE—Southcentral

Cowley—77-18 K-3130-01—U.S. 77, Timber Creek bridge 10, 0.7 mile north of U.S. 160, bridge painting. (State Funds)

Kingman—48 C-2153-01—County road, 3.5 miles north and 5.9 miles east of Kingman, then east, 0.1 mile, bridge replacement. (Federal Funds)

Kingman—48 C-2154-01—County road, 3.5 miles north and 7.0 miles east of Kingman, then east, 0.1 mile, bridge replacement. (Federal Funds)

Sedgwick—235-87 K-0805-01—I-235, bridges 77 through 82 over West Street, Missouri Pacific Railroad and The Atchison, Topeka and Santa Fe Railway, bridge widening. (Federal Funds)

DISTRICT SIX—Southwest

Finney—83-28 M-1506-01—U.S. 83, bridge 17 over U.S. 50B at Garden City, bridge repair. (State Funds)

Grant—25-34 K-3128-01—K-25, South Fork Cimarron River bridge 7, 11.1 miles south of U.S. 160, bridge painting. (State Funds)

Seward—54-88 M-1522-01—U.S. 54, Safety Rest Area, 4 miles southwest of Kismet, modifications. (State Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against

anyone because of race, age, religion, color, sex, handicap, or national origin in the award of contracts.

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid-approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the projects may be examined at the office of the respective county clerk or at the K.D.O.T. district office responsible for the work.

HORACE B. EDWARDS
Secretary of Transportation

Doc. No. 006472

State of Kansas

DEPARTMENT OF REVENUE
DIVISION OF ALCOHOLIC
BEVERAGE CONTROL

PERMANENT ADMINISTRATIVE
REGULATIONS

(Effective May 1, 1988)

Article 1.—DEFINITIONS

14-1-1. (Authorized by K.S.A. 41-210, 41-211; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked May 1, 1988.)

Article 2.—LICENSEES AND VENDORS

14-2-1. (Authorized by K.S.A. 41-211, as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-308(a); effective Jan. 1, 1966; amended May 1, 1986, revoked May 1, 1988.)

14-2-2. (Authorized by K.S.A. 41-211, as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-311; effective Jan. 1, 1966; amended May 1, 1986, revoked May 1, 1988.)

14-2-3. (Authorized by K.S.A. 41-211, 41-311, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-4. (Authorized by K.S.A. 41-211, 41-310, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-5. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-6. (Authorized by K.S.A. 1985 Supp. 41-211, as amended by L. 1986, Ch. 185, Sec. 4, K.S.A. 1985 Supp. 41-210; implementing K.S.A. 41-703, 41-713;

effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1987; revoked May 1, 1988.)

14-2-7. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-8. (Authorized by K.S.A. 41-211, 41-308, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-9. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-10. (Authorized by K.S.A. 41-211, 41-1101, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-11. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-12. (Authorized by K.S.A. 41-211, K.S.A. 1972 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-13. (Authorized by K.S.A. 41-211, 41-601, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-14. (Authorized by K.S.A. 41-209, 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-15. (Authorized by K.S.A. 41-211, 41-210 as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-315; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1986; revoked May 1, 1988.)

14-2-16. (Authorized by K.S.A. 41-211, 41-315, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-17. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-18. (Authorized by K.S.A. 41-211, 41-1102, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-19. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-2-20. (Authorized by K.S.A. 41-211, K.S.A. 1968 Supp. 41-210; effective Jan. 1, 1969; revoked May 1, 1988.)

14-2-21. (Authorized by K.S.A. 41-211, 41-326, K.S.A. 1971 Supp. 41-210; effective Jan. 1, 1972; revoked May 1, 1988.)

14-2-22. (Authorized by K.S.A. 41-211, K.S.A. 1971 Supp. 41-210; effective Jan. 1, 1972; revoked May 1, 1988.)

14-2-23. (Authorized by K.S.A. 41-209, 41-210; implementing K.S.A. 41-211, 41-905; effective May 1, 1978; amended May 1, 1982; revoked May 1, 1988.)

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Article 3.—RETAILERS

- 14-3-1.** (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-711; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-81-36, Dec. 10, 1980; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; revoked May 1, 1988.)
- 14-3-2.** (Authorized by K.S.A. 41-211, 41-710, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-3.** (Authorized by K.S.A. 41-211, 41-710, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-4.** (Authorized by K.S.A. 41-211, 41-318, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-5.** (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-712, 41-713; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1971; amended E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1983; revoked May 1, 1988.)
- 14-3-6.** (Authorized by K.S.A. 41-211, as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-712, effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1986; revoked May 1, 1988.)
- 14-3-7.** (Authorized by K.S.A. 41-211, 41-308, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-8.** (Authorized by K.S.A. 41-211, 41-722, K.S.A. 1965 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-9.** (Authorized by K.S.A. 41-211, 41-308, 41-717, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-10.** (Authorized by K.S.A. 41-211, 41-717, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-11.** (Authorized by K.S.A. 41-210, 41-211; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked May 1, 1988.)
- 14-3-12.** (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-13.** (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-708, K.S.A. 1983 Supp. 41-717; effective Jan. 1, 1966; amended Jan. 1, 1972; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; revoked May 1, 1988.)
- 14-3-14.** (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-15.** (Authorized by K.S.A. 41-210, 41-211, 41-308; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked May 1, 1988.)
- 14-3-16.** (Authorized by K.S.A. 41-210 and 41-211; implementing K.S.A. 41-713; effective Jan. 1, 1966; amended May 1, 1982; revoked May 1, 1988.)
- 14-3-17.** (Authorized by K.S.A. 41-211 as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-407; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Jan. 1, 1974; amended May 1, 1986; revoked May 1, 1988.)
- 14-3-18.** (Authorized by K.S.A. 41-211, as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-713; effective Jan. 1, 1966; amended May 1, 1986; revoked May 1, 1988.)
- 14-3-19.** (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-715; effective Jan. 1, 1966; amended May 1, 1982; amended May 1, 1983; revoked May 1, 1988.)
- 14-3-20.** (Authorized by K.S.A. 41-211, 41-308, K.S.A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1988.)
- 14-3-22.** (Authorized by K.S.A. 41-211, 41-712, 41-1101, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-23.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)
- 14-3-24.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)
- 14-3-25.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1969 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1970; revoked May 1, 1988.)
- 14-3-26.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-27.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-28.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 2, 1971; revoked May 1, 1988.)
- 14-3-29.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1988.)
- 14-3-30.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-31.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-32.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-33.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)
- 14-3-34.** (Authorized by K.S.A. 41-211, 41-702, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-3-35. (Authorized by K.S.A. 41-210 and 41-211 as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-308, 41-702; effective Jan. 1, 1966; amended Jan. 1, 1972; amended Feb. 15, 1977; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended May 1, 1986; revoked May 1, 1988.)

14-3-36. (Authorized by K.S.A. 41-211, K.S.A. 1971 Supp. 41-210; effective, E-66-1, Jan. 14, 1966; effective Jan. 1, 1967; revoked May 1, 1988.)

14-3-37. (Authorized by K.S.A. 41-210, 41-211, 41-308; effective Jan. 1, 1972; amended May 1, 1975; revoked May 1, 1988.)

14-3-38. (Authorized by K.S.A. 41-210, K.S.A. 1979 Supp. 41-211, 41-311; effective Jan. 1, 1974; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; revoked May 1, 1988.)

14-3-39. (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-714; effective Jan. 1, 1974; amended May 1, 1982; amended May 1, 1983; revoked May 1, 1988.)

14-3-40. (Authorized by K.S.A. 41-210, 41-211, 41-1117; effective Jan. 1, 1974; revoked May 1, 1988.)

14-3-41. (Authorized by K.S.A. 41-210, 41-717, K.S.A. 1979 Supp. 41-211; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-3-42. (Authorized by K.S.A. 41-210, 41-7033, 41-714, K.S.A. 1980 Supp. 41-211; effective May 1, 1981; revoked May 1, 1988.)

Article 4.—MANUFACTURERS; DISTRIBUTORS; NONBEVERAGE USERS

14-4-1. (Authorized by K.S.A. 41-211; implementing K.S.A. 41-402; effective Jan. 1, 1966; amended Jan. 1, 1968; amended May 1, 1986; revoked May 1, 1988.)

14-4-2. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-3. (Authorized by K.S.A. 41-211, 41-401, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-4. (Authorized by K.S.A. 41-211, 41-601, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-5. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-6. (Authorized by K.S.A. 41-211, 41-311, 41-316, 41-326, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-7. (Authorized by K.S.A. 41-210, 41-211; implementing 41-1112, 41-1118, 41-1119, 41-1120, 41-1121, 41-306, 41-1101, 41-1111, 41-1114, 41-1115, 41-1116, 41-1117; effective Jan. 1, 1966; amended, E-66-10, Aug. 8, 1986; amended Jan. 1, 1967; amended

Jan. 1, 1974; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1983; revoked May 1, 1988.)

14-4-8. (Authorized by K.S.A. 41-210, 41-1112, 41-1118, 41-1119, 41-1120, 41-1121, K.S.A. 1979 Supp. 41-211, 41-1101, 41-1111, 41-1114, 41-1115, 41-1116, 41-1117; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1983; revoked May 1, 1988.)

14-4-9. (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-308; effective Jan. 1, 1966; amended May 1, 1982; amended May 1, 1983; revoked May 1, 1988.)

14-4-10. (Authorized by K.S.A. 41-211; and amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-401; effective Jan. 1, 1966; amended May 1, 1986; revoked May 1, 1988.)

14-4-11. (Authorized by K.S.A. 1985 Supp. 41-1118; implementing K.S.A. 1985 Supp. 41-1101, K.S.A. 41-1112; effective Jan. 1, 1966; amended, E-66-11, Aug. 8, 1966; amended Jan. 1, 1967; amended Jan. 1, 1968; amended Jan. 1, 1971; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended, E-81-36, Dec. 10, 1980; modified, L. 1981, Ch. 418, May 1, 1981; amended May 1, 1985; amended May 1, 1987; revoked May 1, 1988.)

14-4-11a. (Authorized by K.S.A. 41-210, 41-1112, 41-1118, 41-1119, K.S.A. 1980 Supp. 41-211, 41-1101; effective May 1, 1981; revoked May 1, 1988.)

14-4-12. (Authorized by K.S.A. 41-1118, 41-1119, K.S.A. 1979 Supp. 41-1101; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; revoked May 1, 1988.)

14-4-13. (Authorized by K.S.A. 41-210, 41-211 as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-402, 41-405, 41-408, 41-701, 41-709, 41-1101, 41-1111, 41-1117, 41-1118, 41-1119; effective Jan. 1, 1966; amended, E-66-12, Aug. 8, 1966; amended Jan. 1, 1967; amended Jan. 1, 1970; amended Jan. 1, 1971; amended Jan. 1, 1972; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1983; amended May 1, 1986; revoked May 1, 1988.)

14-4-14. (Authorized by K.S.A. 41-211; implementing K.S.A. 41-402, 41-405, 41-408, 41-701, 41-708, 41-709, 41-712; effective Jan. 1, 1966; amended, E-73-21, June 29, 1973; amended Jan. 1, 1974; amended Feb. 15, 1977; amended, E-79-31, Nov. 21, 1978; amended May 1, 1980; amended, E-81-26, Dec. 10, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1985; amended May 1, 1986; revoked May 1, 1988.)

14-4-15. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-16. (Authorized by K.S.A. 41-210, 41-211, 41-702; effective Jan. 1974; amended May 1, 1975; revoked May 1, 1988.)

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14-4-18. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-19. (Authorized by K.S.A. 41-211, 41-602, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-20. (Authorized by K.S.A. 41-211, 41-602, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-21. (Authorized by K.S.A. 41-211, 41-602, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-4-22. (Authorized by K.S.A. 41-211, K.S.A. 1969 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1970; revoked May 1, 1988.)

14-4-23. (Authorized by K.S.A. 41-211, K.S.A. 1972 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked May 1, 1988.)

14-4-25. (Authorized by K.S.A. 41-210, 41-211, effective Jan. 1, 1974; amended Feb. 15, 1977; revoked May 1, 1988.)

14-4-26. (Authorized by K.S.A. 41-210, K.S.A. 1979 Supp. 41-211, 41-410; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked May 1, 1988.)

14-4-27. (Authorized by K.S.A. 41-211, as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-714; effective May 1, 1986; revoked May 1, 1988.)

14-4-28. (Authorized by K.S.A. 41-211, as amended by L. 1985, Ch. 170, Sec. 3; implementing K.S.A. 41-306, 41-408, 41-507, 41-709, 41-801; effective May 1, 1986; revoked May 1, 1988.)

Article 5.—TRANSPORTATION; CARRIERS; STORAGE

14-5-1. Alcoholic liquor (except beer) transported into state or federal area only by bonded carriers. (a) All alcoholic liquor, except beer, shipped into the state of Kansas shall be transported only by common, contract or private carriers that hold liquor carrier permits issued by the director.

(b) Except as provided in subsection (c), all alcoholic liquor that is taxable under the act and shipped into this state or a federal area in interstate commerce and that is consigned to a consignee or person located, residing, or stationed on or at a federal area shall be transported into this state or a federal area only by common, contract or private carriers that hold liquor carrier permits issued by the director.

(c) When a licensed distributor is the holder of a valid private carrier permit issued by the Kansas corporation commission and is also the holder of a valid liquor carrier permit issued by the director, the distributor may transport only alcoholic liquor owned exclusively by that distributor into the state of Kansas in compliance with the laws, rules and regulations of the interstate commerce commission and the Kansas corporation commission. (Authorized by K.S.A. 41-211, 41-210 as amended by L. 1987, Ch. 182, Sec. 10;

implementing K.S.A. 41-408 as amended by L. 1987, Ch. 182, Sec. 36, 41-501a; effective Jan. 1, 1966; amended, T-88-22, July 1, 1987; amended May 1, 1988.)

14-5-2. Carriers' permits; application; fees. (a) A common, contract or private carrier shall not transport alcoholic liquor within or into the state, for delivery within the state, without first having obtained a permit to do so from the director.

(b) Applications for permits to transport alcoholic liquor within or into the state shall be filed with the director and shall contain any information the director may require. A permit fee of \$5.00 shall be paid at the time of application. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-211; implementing K.S.A. 41-408 as amended by L. 1987, Ch. 182, Sec. 36; effective Jan. 1, 1966; amended Jan. 1, 1974; amended, T-88-22, July 1, 1987; amended May 1, 1988.)

14-5-3. (Authorized by K.S.A. 41-211, 41-501a, K.S.A. 1968 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1969; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-5-4. Storage of alcoholic liquor in transit in public liquor warehouses; reports of warehouseman. Whenever alcoholic liquor is transported into this state, consigned to a licensed distributor or licensed manufacturer of alcoholic liquor, the alcoholic liquor shall be considered to remain in transit until it is delivered to the bonded warehouse of the consignee. Alcoholic liquor may be stored in transit in a public bonded liquor warehouse within the state of Kansas, upon the following terms and conditions:

(a) Any public bonded liquor warehouse in which any alcoholic liquor is stored in transit shall, within 48 hours of receipt of the alcoholic liquor, give written notice to the director of the receipt, stating the names and addresses of the consignor and consignee, the description of the liquor, and the name of the carrier that delivered the liquor to that warehouse.

(b) Each public bonded liquor warehouse shall make delivery of the alcoholic liquor, or any part of it, only to a carrier that has been designated by the director as an alcoholic liquor carrier, for delivery by the carrier to a licensed manufacturer or licensed distributor who is the consignee of such liquor.

(c) Within 48 hours after the alcoholic liquor has been removed from the public bonded liquor warehouse for delivery to the consignee, the warehouse shall make written report to the director setting out the name of the carrier to which the liquor has been delivered, the name and address of the consignee, and a description of the liquor delivered. (Authorized by K.S.A. 41-211, 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-408 as amended by L. 1987, Ch. 182, Sec. 36; effective Jan. 1, 1966; amended, T-88-22, July 1, 1987; amended May 1, 1988.)

14-5-6. Required delivery of alcoholic liquor to distributor by common carrier. All alcoholic liquor transported into this state and consigned to a licensed

distributor or a licensed manufacturer of alcoholic liquor shall be delivered to the consignee in the state of Kansas and shall be received into the consignee's bonded warehouse. No part of the liquor shall remain in the hands of the carrier nor shall any carrier acquire any property rights in such alcoholic liquor. (Authorized by K.S.A. 41-211, 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-408 as amended by L. 1987, Ch. 182, Sec. 36; effective Jan. 1, 1966; amended, T-88-22, July 1, 1987; amended May 1, 1988.)

Article 8.—ADVERTISING

14-8-4. (Authorized by K.S.A. 41-211; implementing 1983 Supp. K.S.A. 41-714(d); effective Jan. 1, 1966; amended Jan. 1, 1971; amended Feb. 15, 1977; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1982; amended May 1, 1984; revoked May 1, 1988.)

14-8-5. (Authorized by K.S.A. 41-210, 41-714, K.S.A. 1980 Supp. 41-211; effective Jan. 1, 1966; amended Jan. 1, 1974; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1981; revoked May 1, 1988.)

14-8-11. (Authorized by K.S.A. 41-210, 41-714, K.S.A. 1979 Supp. 41-211; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1970; amended Jan. 1, 1972; amended Jan. 1, 1974; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; revoked May 1, 1988.)

Article 9.—SALESMEN'S PERMITS

14-9-1 to 14-9-9. (Authorized by K.S.A. 41-211, K.S.A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-9-10. (Authorized by K.S.A. 41-211, K.S.A. 1969 Supp. 41-210; effective, E-69-22, Sep. 16, 1969; effective Jan. 1, 1978; revoked May 1, 1988.)

Article 10.—TRADE PRACTICES

14-10-1. (Authorized by K.S.A. 41-211; implementing K.S.A. 41-211, 41-703, 41-714; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; amended May 1, 1985; amended May 1, 1986; revoked May 1, 1988.)

14-10-2. (Authorized by K.S.A. 41-210, 41-703, 41-714, K.S.A. 1979 Supp. 41-211; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked May 1, 1988.)

14-10-3. (Authorized by K.S.A. 41-210, 41-703, 41-714, K.S.A. 1980 Supp. 41-211; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; amended, E-81-36, Dec. 10, 1980; amended May 1, 1981; revoked May 1, 1988.)

14-10-4. (Authorized by K.S.A. 41-210, 41-703, 41-714, K.S.A. 1980 Supp. 41-211; effective, E-81-36, Dec. 10, 1980; effective May 1, 1981; revoked May 1, 1988.)

Article 13.—RETAIL LIQUOR DEALER

14-13-1. 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 cereal malt beverage.

(b) "Beer" means 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. 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, business 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) "Caterer" means a person licensed pursuant to Article 22 of these regulations.

(f) "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.

(g) "Church" means a building owned or leased by a religious organization and used exclusively as a place for religious worship and other activities ordinarily conducted by a religious organization.

(h) "Club" means the premises or person licensed pursuant to Articles 19 or 20 of these regulations.

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

(j) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 41-306 as amended by L. 1987, ch. 182, sec. 14; 41-307 as amended by L. 1987, ch. 182, sec. 17; L. 1987, ch. 182, sec. 15; and 41-2713 et seq., 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.

(k) "Drinking establishment" means the premises or person which has been licensed pursuant to Article 21 of these regulations.

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

(continued)

(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) illegal cohabitation;
- (9) adultery;
- (10) bigamy; or
- (11) a crime against nature.

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

(q) "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 those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. (Authorized by K.S.A. 41-210 as amended by L. 1987, ch. 182, sec. 10; implementing K.S.A. 41-102 as amended by L. 1987, ch. 182, sec. 1; effective May 1, 1988.)

14-13-2. Application for retail liquor license, contents, conditions and restrictions on issuance of license. (a) A retailer's license shall be issued by the director to each applicant who is determined by the director to have satisfied the requirements of the liquor control act and article 13 of these regulations.

(b) Each application for a retailer's license shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Each application for a retailer's license shall be accompanied by the following documents and all other documents the director deems necessary:

- (1) If a partnership, a copy of the partnership agreement;
- (2) 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 of the premises sought to be licensed;
- (3) 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 retail liquor store; or

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

(4) 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;

(5) 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.

(6) a bond in the sum of \$2,000 with corporate sureties, conditioned on the retailer's compliance with the provisions of these regulations, the liquor control act and payment of all taxes, fines and forfeitures assessed by the director against the retailer;

(7) a copy of the notice given to the city clerk, if the licensed premises are located within an incorporated city, or the clerk of the township board of trustees in which the licensed premises are located, if the licensed premises are located outside an incorporated city; and

(8) a description of the licensed premises. The description shall state the location of the licensed premises, the approximate dimensions of the licensed premises and enough detail to identify the licensed premises.

(A) Subject to the prior approval of the director, the licensed premises may include:

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

(ii) a detached storage area used exclusively for storage of alcoholic liquor by the retailer. The storage area shall be located within 100 meters of the licensed premises.

(B) The licensed premises shall not include:

(i) An inside entrance or opening which connects directly with any other place of business or with a residence; or

(ii) any premises which are located within 200 feet of any public or parochial school, college or church, unless such premises were licensed at the time the school, college or church was established.

(c) An individual or partnership shall not be issued a retailer's license if any individual, partner or spouse of that individual or partner:

(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 partner;

(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 shall not apply if the individual's or partner's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(9) has a beneficial interest in:

(A) A license allowing the manufacture, preparation or wholesale of alcoholic liquors;

(B) any club, drinking establishment or caterer licensed by the director;

(C) another retail liquor store licensed by the director; or

(D) a license allowing the manufacture, preparation or wholesale of cereal malt beverages.

(10) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of the individual or partner;

(11) has been a resident of the State of Kansas for less than four years immediately preceding the date of application. This shall not apply to the spouse of the individual or partner; and

(12) is employed in the capacity of an officer or a manager, or in connection with the mixing, serving, selling and dispensing of alcoholic liquor for a club, drinking establishment or caterer which is licensed by the director. This shall not apply to a retail licensee who is also an officer, director or board member of a class A club if the retail licensee does not sell alcoholic liquor to the class A club.

(d) 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 type of 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 have previously owned or operated any 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 to the state or the United States; or

(4) the application is for premises which were 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.

(e) For the purpose of determining qualification under subsections (c) and (d) of this regulation, any person who leases premises to a retailer upon terms which result in the lessor having a beneficial interest in the retailer's business shall be deemed to be a

partner in the retailer's business. A lessor shall be deemed to have a beneficial interest in a retailer's business if the lessor receives as rent, in whole or in part, a percentage of the retailer's gross receipts or profits from the sale of alcoholic liquor. Percentage rent provisions that exclude alcoholic liquor sales shall be subject to review and approval by the director. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-211, 41-301, 41-315, 41-710 as amended by L. 1987, Ch. 182, Sec. 50, 41-711; 41-310 as amended by L. 1987, Ch. 182, Sec. 20; 41-311 as amended by L. 1987, Ch. 182, Sec. 22; 41-312 as amended by L. 1987, Ch. 182, Sec. 23; 41-317 as amended by L. 1987, Ch. 182, Sec. 26, 41-703 as amended by L. 1987, Ch. 182, Sec. 48, 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; effective May 1, 1988.)

14-13-3. Application for renewal of license, short method. (a) Any retailer making application for the renewal of an existing license may file a certified statement that the information contained in the retailer's most recent complete application has not changed except for those items specifically identified by the retailer as having changed. In addition to this certified statement, the retailer shall provide the following items with each renewal application:

(1) If the licensed premises are leased, a copy of a written lease, with at least nine months remaining in its term from the date the license is issued;

(2) a certified statement that the renewal applicant is still qualified to obtain a license under the requirements of K.A.R. 14-13-2;

(3) 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;

(4) 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;

(5) the registration of all employees of the renewal applicant employed at the time of the renewal application; and

(6) a bond in the sum of \$2,000.

(b) Notwithstanding the provisions of subsection (a), each retailer shall file a new and complete application, as required by K.A.R. 14-13-2, at least every five years. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-211, 41-318, 41-327; effective May 1, 1988.)

14-13-4. Retailer must pay city or township license tax before making sales. A retailer shall not sell or offer for sale any alcoholic liquor until the retailer has paid the annual occupation or license tax imposed by the city or township in which the licensed premises are located. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-310 as amended by L. 1987, Ch. 182, Sec. 20; effective May 1, 1988.)

14-13-5. Retailers; registration of employees, responsibility for conduct of business and of employees.

(continued)

(a) Each retailer shall register all employees with the director before each employee begins work for the retailer and upon each renewal of the retailer's license. The registration shall be submitted on the forms provided by the director.

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

(c) A retailer shall not employ:

(1) Any person who is an employee of a licensed distributor or any person who is the spouse of an employee of a licensed distributor;

(2) any person who has been convicted of a felony; or

(3) any person who is under the age of 21 years. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-311 as amended by L. 1987, Ch. 182, Sec. 22, 41-312 as amended by L. 1987, Ch. 182, Sec. 23, 41-713; effective May 1, 1988.)

14-13-6. Change of location of business; application to director; permission to be endorsed on license. A retailer shall not change the location of the licensed premises until the director has endorsed the approval of the change on the license. Each application to change locations of the licensed premises shall be made to the director and shall contain:

(a) A description of the proposed licensed premises;

(b) proof of ownership of the licensed premises or a lease of the licensed premises with at least nine months remaining on its terms; and

(c) a statement of all other information which has changed following the last regularly filed application of the retailer. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing 41-315; effective May 1, 1988.)

14-13-7. 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 retailer to whom 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 K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-211; effective May 1, 1988.)

14-13-8. Transfer of stock of liquor of retailer whose license has terminated; applications for permission to director by seller and purchaser; inventory and reports. (a) When a retailer's license has expired or been revoked, that retailer shall apply to the director for permission to transfer the retailer's stock of alcoholic liquors to a qualified licensee. The retailer shall furnish the director with an inventory of the alcoholic liquors to be transferred. The licensee who

desires to purchase the stock of alcoholic liquor shall apply to the director for permission to make such a purchase and shall submit a written report to the director listing the quantity, brands, and types of alcoholic liquor purchased and the address to which it was actually delivered after the purchase. The alcoholic liquor shall not be sold or purchased by a retailer or other licensee until written permission is granted by the director.

(b) When a retailer's license has expired or been revoked and no appeal has been taken from the order of revocation, all alcoholic liquors in the possession of the retailer may be possessed by the director, pending a sale and transfer to another qualified licensee. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-1102; effective May 1, 1988.)

14-13-9. Transactions prohibited, agreements and deliveries by retailer for sale or resale off licensed premises, registration of vehicle. (a) Except as provided in subsection (c) of this regulation, each retailer shall sell and deliver alcoholic liquor only upon the licensed premises of the retailer for consumption off of the licensed premises.

(b) A retailer shall not sell any alcoholic liquor upon the following days or at the following times:

(1) During the hours the polls are open on any national, state, county or city election day, including primary elections;

(2) on Sunday;

(3) on Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day; and

(4) on any other day of the year prior to nine o'clock a.m. or after eleven o'clock p.m.

(c) Any retailer may sell and deliver alcoholic liquor to a club, drinking establishment or caterer if:

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

(2) all deliveries are made by a registered employee of the retailer;

(3) all deliveries are made in a registered vehicle of the retailer;

(4) the retailer provides a sales slip or voucher for each item delivered as required by K.A.R. 14-13-10;

(5) the retailer receives payment for all deliveries prior to or at the time of the deliveries;

(6) the retailer has first obtained a federal wholesale basic permit and displays a sign on the licensed premises that states the retailer is a "Wholesale Liquor Dealer Under Federal Law;" and

(7) all deliveries of alcoholic liquor are made on those days and during those hours that a retailer may sell alcoholic liquor as provided in subsection (b) of this regulation.

(d) Each retailer who desires to make deliveries to a club, drinking establishment or caterer shall register each vehicle to be used for such purpose with the director, upon forms provided by the director. The registered delivery vehicle may have displayed upon the front door panels of the vehicle the retail licensee's business name, address and phone number

in plain block lettering. Letters or figures in the sign shall not be more than four inches high or three inches wide. If more than one line is used, the lines shall not be more than one inch apart.

(e) Any retailer may sell alcoholic liquor to a temporary permit holder if:

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

(2) no deliveries are made to a temporary permit holder or an event sponsor; and

(3) the retailer provides a sales slip or voucher as required by K.A.R 14-13-10.

(f) Except as otherwise provided in this regulation, a retailer shall not engage, directly or indirectly, in any conspiracy, transaction or agreement having as its object the sale or resale, away from or off the licensed premises, of any alcoholic liquor owned, sold or delivered by that retailer. Retailers shall not sell or deliver any alcoholic liquor to any person with knowledge of, or with reasonable cause to believe, that the person to whom the liquor is sold or delivered has acquired the same for the purpose of peddling or reselling the alcoholic liquor in violation of these regulations, the liquor control act or the club and drinking establishment act.

(g) Retailers shall not engage, directly or indirectly, in any conspiracy, transaction or agreement having as its object the sale, resale or delivery of alcoholic liquor before the legal opening hour or after the legal closing hour or on any day when sales are prohibited.

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

(i) A retailer shall not sell any alcoholic liquor at less than the acquisition cost of the alcoholic liquor. This shall not apply to those retailers who have received a permit from the director to close out an item of alcoholic liquor, sell a damaged or deteriorated product or sell a retailer's inventory pursuant to a court order. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-308 as amended by L. 1987, Ch. 183, Sec. 1, 41-712, L. 1987, Ch. 182, Sec. 137; effective May 1, 1988.)

14-13-10. Records of purchases and sales; invoices or sales tickets to be furnished by distributor or retailer; retention of records; records subject to inspection; required reports to director. (a) Each retailer purchasing alcoholic liquor from a licensed distributor shall obtain a numbered invoice, purchase order, or sales ticket which contains the following information:

(1) The date of purchase;

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

(3) the name, address and license number of the distributor;

(4) the name of the individual making the purchase for the retailer;

(5) the brand, size, proof, and amount of each brand purchased;

(6) the unit cost and total price for each brand and size; and

(7) the subtotal of the cost of the alcoholic liquor purchased and the total cost of the order including delivery charge, if any.

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

(1) The date of purchase;

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

(3) the name, address and license number of the club, drinking establishment, caterer or temporary permit holder;

(4) the name of the individual making the purchase for the club, drinking establishment, caterer or temporary permit holder and that individual's position with the club, drinking establishment, caterer or temporary permit holder;

(5) the brand, size, proof, and amount of each brand purchased;

(6) the unit cost and total price for each brand and size; and

(7) the subtotal of the cost of the alcoholic liquor sold and the total cost of the order including enforcement tax and delivery charge, if any.

(c) Each retailer who holds a federal wholesale basic permit shall, between the 1st and the 15th day of each month, upon a form to be provided by the director, submit a certified report of all sales made to any licensed club, drinking establishment, caterer or temporary permit holder during the preceding month. The report shall include the following information for each order placed by and sold to a club, drinking establishment, caterer or temporary permit holder:

(1) The date of the order;

(2) the name, address and license number of the club, drinking establishment, caterer or temporary permit holder; and

(3) the total price paid for each order.

(d) The retailer shall keep a copy of each invoice, purchase order or sales ticket required by this regulation on the licensed premises for three years from the date the alcoholic liquor was sold. These records shall be available for inspection by the director or any agent or employee of the director or secretary upon request.

(e) Each retailer shall keep on its licensed premises for a period of three years receipts for all point-of-sale materials purchased by the licensee from a distributor under authority of K.A.R 14-10-1 et seq. (Authorized by K.S.A 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-308 as amended by L. 1987, Ch. 183, Sec. 1, 41-703 as amended by L. 1987, Ch. 182, Sec. 48, 41-708, 41-718 as amended by L. 1987, Ch. 182, Sec. 53; effective May 1, 1988.)

14-13-11. Retail advertising signs. (a) A retailer shall have one sign on the licensed premises. The sign shall be located on the corner of an exterior window or on the entrance door. The sign shall contain only the business name of the retailer, the license number and

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the words "Retail Liquor Store" in letters no more than four inches high or three inches wide.

(b) A retailer who is authorized by the Kansas lottery commission to sell lottery devices may display in the windows of the licensed premises an authorized lottery sales sign or decal. The sign or decal shall not be larger than 12 inches by 14 inches in size. Only one sign or decal may be displayed in each window or set of windows which face north, south, east or west. In no event shall more than four signs or decals be displayed.

(c) Other than the sign authorized by subsections (a) and (b) of this regulation, a retailer shall not place or permit the placing of any object on or within the front windows of the licensed premises which obstructs vision into the interior of the licensed premises. The placing of transparent, tinted window shades or other devices on the front windows of a licensed premises to shield against the morning or afternoon sun, if the shades or other device do not obstruct vision into the interior of the licensed premises, shall not be prohibited by this regulation.

(d) A retailer located in a shopping plaza or mall may list the retail liquor store on a shopping plaza or mall directory. Any listing on a shopping plaza or mall directory shall first be approved by the director. A request for approval of such a listing shall be submitted to the director with a diagram of the listing and a diagram of the location of the directory. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-308 as amended by L. 1987, Ch. 183, Sec. 1, 41-715 as amended by L. 1987, Ch. 182, Sec. 51; effective May 1, 1988.)

14-13-12. Defective liquor containers; repurchase by distributor; when allowed. (a) Liquor containers, except beer containers, that leak, contain foreign matter in the bottle, are short-filled, have broken federal seals, have badly soiled or stained labels, or which are not otherwise fit for resale to the general public shall not be knowingly sold by a retailer.

(b) Any retailer may:

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

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

(3) buy back or exchange, within 24 hours of delivery, any item of alcoholic liquor which is damaged, as described in subsection (a). (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-211, L. 1987, Ch. 182, Sec. 137; effective May 1, 1988.)

14-13-13. Prohibited conduct of retailer. Any retailer violating any subsection of this regulation shall be cited by the director and subject to the penalties as provided in K.A.R. 14-16-14 et seq.:

(a) A retailer shall not permit gambling or the possession of a gambling or gaming device of any kind or character on or in the licensed premises. However, a retailer may sell, operate, possess and offer to the

public lottery devices permitted by the Kansas lottery act if the retailer is authorized by the Kansas lottery commission to do so.

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

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

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

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

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

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

(h) A retailer shall not open or permit to be opened, on the licensed premises, any container or original package containing alcoholic liquor or cereal malt beverage. The presence of any unsealed container or original package containing alcoholic liquor or cereal malt beverage found on the licensed premises shall be presumed to have been opened on the licensed premises.

(i) A retailer shall not have or permit on the licensed premises any alcoholic liquor which does not have the Kansas identification stamp or strip affixed as required by law or rule and regulation of the director.

(j) A retailer shall not permit the drinking of alcoholic liquors or cereal malt beverage in, on, or about the licensed premises.

(k) A retailer shall not allow an intoxicated person to frequent, loiter, or be employed upon the licensed premises.

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

(m) A retailer shall not accept or receive from any licensed distributor's agent, servant, employee or any other person, any cash rebate or thing of value, or enter into or be a party to any agreement or transaction whatsoever with any licensed distributor, directly or indirectly, which would result in, or have as its purpose, the purchase of any alcoholic liquors by the retailer at a price less than the listed price which has been filed by the distributor in the office of the director.

(n) A retailer shall not sell, give or deliver any intoxicating liquor to any person under the age of 21 years.

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

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

- (1) Taking or giving post-dated check;
- (2) giving an insufficient funds check;
- (3) taking a check with knowledge that there are insufficient funds to pay the check upon presentment;
- (4) accepting delivery from a distributor without making payment for the alcoholic liquor when delivered or prior to delivery;
- (5) making delivery to a club, drinking establishment or caterer without receiving payment prior to or at the time of delivery;
- (6) allowing any alcoholic liquor to be removed from the licensed premises without receiving payment for the same; and
- (7) accepting a credit card in payment of alcoholic liquor.

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

(r) A retailer shall not do anything that is otherwise prohibited by any other provision of these regulations.

(s) A retailer who is authorized by the Kansas lottery commission to sell authorized lottery devices shall not commingle the proceeds from the sale of the lottery devices with the proceeds from the sale of spirits, wine or beer.

(t) A retailer shall not refill a package of alcoholic liquor and shall not sell alcoholic liquor in other than the original package. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; implementing K.S.A. 41-211, 41-308 as amended by L. 1987, Ch. 183, Sec. 1, 41-702 as amended by L. 1987, Ch. 182, Sec. 47, 41-703 as amended by L. 1987, Ch. 182, Sec. 48, 41-717 as amended by L. 1987, Ch. 182, Sec. 52, 41-718 as amended by L. 1987, Ch. 182, Sec. 53, 41-719 as amended by L. 1987, Ch. 182, Sec. 54; effective May 1, 1988.)

Article 16.—LICENSES; SUSPENSION, REVOCATION

14-16-1. (Authorized by K.S.A. 41-210, 41-320, 41-702, 41-709, 41-209, 41-211, 41-328; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; revoked May 1, 1988.)

14-16-3. (Authorized by K.S.A. 41-211, 41-320, 41-201, 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-16-4. (Authorized by K.S.A. 41-211, 79-4104, 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-16-5. (Authorized by K.S.A. 41-211, 41-323, 41-210; effective Jan. 1, 1966; revoked May 1, 1988.)

14-16-6. (Authorized by K.S.A. 41-210; implementing K.S.A. 41-321; effective Jan. 1, 1966; amended May 1, 1985; revoked May 1, 1988.)

14-16-9. (Authorized by K.S.A. 41-210, 41-320, 41-211; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked May 1, 1988.)

14-16-10. (Authorized by K.S.A. 1985 Supp. 41-210, K.S.A. 1985 Supp. 41-211, as amended by L. 1986, Ch. 185, Sec. 4; implementing K.S.A. 1985 Supp. 41-320; effective May 1, 1987; revoked May 1, 1988.)

14-16-11. (Authorized by K.S.A. 1985 Supp. 41-211, as amended by L. 1986, Ch. 185, Sec. 4; implementing K.S.A. 1985 Supp. 41-320; effective May 1, 1987; revoked May 1, 1988.)

14-16-12. (Authorized by K.S.A. 1985 Supp. 41-210, K.S.A. 1985 Supp. 41-211, as amended by L. 1986, Ch. 185, Sec. 4; implementing K.S.A. 1985 Supp. 41-320; effective May 1, 1987; revoked May 1, 1988.)

14-16-14. 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) "Involuntary cancellation" means permanent, involuntary termination of any license by the director pursuant to procedures stated in K.A.R. 14-16-15. There shall be no refund for that portion of the license fees paid during any period in which the license was not in use. The licensee, upon showing good cause for renewal or reinstatement of license, may apply for a new license pursuant to the statutory and regulatory requirements for licensing.

(b) "Revocation" means permanent, involuntary termination of any license by the director pursuant to the procedures stated in K.A.R. 14-16-15. There shall be no refund for that portion of the license fees paid during any period in which the license was not in use. The licensee and the licensed premises shall be ineligible for a new license.

(c) "Suspension" means temporary, involuntary termination of any license by the director pursuant to the procedures stated in K.A.R. 14-16-15. There shall be no refund for that portion of the license fees paid during any period in which the license was not in use. The suspension may be set aside by the director when

(continued)

the licensee has shown good cause and is in compliance with statutory and regulatory requirements.

(d) "Voluntary cancellation" means permanent, voluntary termination of a license upon the request of the licensee. The director shall refund that portion of the license fees paid for any period in which the license was not in use. The licensee may make a new application for a license pursuant to the statutory and regulatory requirements for licensing. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-314, 41-326, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77, 41-2629 as amended by L. 1987, Ch. 182, Sec. 80; effective May 1, 1988.)

14-16-15. Director may revoke, suspend or involuntarily cancel licenses for violations of act or regulations; citation to licensees; hearing. If after citation and hearing the director finds that any licensee is violating or has violated any relevant provision of the liquor control act, the club and drinking establishment act, the provisions of K.S.A. 41-2701 et seq. or regulations adopted pursuant to the authority granted in any of those statutes, the licensee's license may be suspended, revoked or involuntarily canceled. In addition to suspension, revocation or cancellation of a license, the licensee may be fined by the director. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-328 as amended by L. 1987, Ch. 182, Sec. 32, K.S.A. 41-326, 41-702 as amended by L. 1987, Ch. 182, Sec. 47, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77, 41-2633a as amended by L. 1987, Ch. 182, Sec. 84; effective May 1, 1988.)

14-16-16. Proceedings for involuntary cancellation, suspension or revocation of licenses; notice to licensee of time and place of hearing; right of licensee to appear at hearing. (a) All proceedings and hearings for the involuntary cancellation, suspension or revocation of licenses shall be before the director or the director's designee upon a citation issued by the director. The citation shall be in writing and shall state the charges or complaints the licensee is called upon to answer.

(b) The citation shall be served upon the licensee as provided by K.A.R. 14-16-21.

(c) The citations shall state the date, time and place where the proceeding and hearing will be held. The date of the hearing shall not be less than 10 days from the date of the mailing or service of the citation.

(d) The licensee may appear in person and by counsel at the hearing and produce witnesses and evidence that the licensee deems necessary or advisable. (Authorized by K.S.A. 41-201, 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-326, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-17. Hearing procedures; prehearing mo-

tions. (a) Upon receipt of a citation and notice of hearing pursuant to K.A.R. 14-16-16, any licensee or licensee's counsel may file with the director any prehearing motion authorized to be filed with the Kansas courts in actions pursuant to Chapter 61 of the Kansas Statutes Annotated.

(b) Motions shall be made within the following times:

(1) A motion by the licensee shall be filed within 10 days of receipt of the citation.

(2) Response to any motion of the licensee shall be filed by the agency within 10 days of receipt of a motion.

(3) The motion shall be acted on at least five days prior to the hearing on the citation.

(c) The director may grant such additional time as justice requires.

(d) Requests for continuances and other non-substantive motions may be submitted orally, unless required to be filed in writing by the director. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-18. Prehearing conference; availability; notice. A prehearing conference may be conducted by the director or the director's designee for the purpose of expediting the administrative proceeding. Such a prehearing conference may be conducted by telephone or other electronic means with each party having the opportunity to participate therein. Notice of the time, place and electronic means of conducting any prehearing conference shall be given by the director to all concerned parties. If a prehearing conference is not held, the director or the director's designee may issue a prehearing order based on the pleadings to regulate the conduct of the proceedings. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec., 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-19. Hearing procedures. The following procedures shall be used at all hearings before the director or the director's designee:

(a) The burden of proving all elements of any alleged offenses shall be upon the agency.

(b) The order for the hearing shall be:

- (1) Reading of the citation into the record;
- (2) announcement of appearances;
- (3) response of licensee to allegations;
- (4) presentation of evidence by the agency;
- (5) presentation of evidence by the licensee;
- (6) rebuttal evidence of the agency;
- (7) surrebuttal evidence by the licensee; and
- (8) closing arguments for both sides.

(c) The hearing officer may vary from the technical requirements of the rules of evidence when, in the hearing officer's opinion, such variation would be of assistance in determining the facts. Evidence need not be excluded solely because it is hearsay. (Authorized

by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-20. Default citation proceeding. (a) A licensee may elect not to appear and defend against a citation. If a licensee does not wish to appear and defend against a citation, the licensee shall notify the director thereof at least 20 days in advance of the scheduled hearing.

(b) Within five days of receipt of the notice provided by subsection (a) the licensee shall be given written notice by the director of the facts that support the allegations in the citation and the penalty to be imposed. The notice shall also state that a default order will be entered against the licensee at the scheduled hearing.

(1) The notice shall state that the director will consider the substance of the citation duly issued on a default basis.

(2) The licensee shall be advised of the penalty to be assessed, either in number of days of suspension or the amount of the monetary fine to be imposed.

(3) The licensee, after receiving such notice from the director, shall advise the director, in writing, at least five days in advance of the scheduled hearing, of the choice to proceed with the default process.

(c) If the notices required by subsections (a) and (b) have been given, administrative notice of the written request of the licensee shall be taken by the director at the time and place of the scheduled hearing. The penalty to be assessed shall be announced, and a written order shall be rendered by the director. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-328 as amended by L. 1987, Ch. 182, Sec. 32, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77, 41-2633a as amended by L. 1987, Ch. 182, Sec. 84; effective May 1, 1988.)

14-16-21. Service of orders, decisions, directives and notices of director regarding licensees and applicants for licenses; refusal to accept service. (a) All citations, orders, decisions, directives and notices of the director or secretary of revenue issued to or affecting a licensee or an applicant for a license shall be served upon the licensee or applicant by mailing, by certified mail properly addressed, to the licensee or applicant, a copy of the document signed by the director or the director's designee. If the service is to be made on a licensee, the document shall be mailed to the licensee at the address of the licensed premises. If the service is to be made on an applicant for a license, the document shall be mailed to the applicant at the address shown on the applicant for the license. No licensee shall refuse to accept or to sign for certified mail from the alcoholic beverage control division.

(b) In lieu of the mailing required by subsection (a), any citation or notice may be served upon the licensee or applicant:

(1) by the director;

(2) by any agent or employee of the director; or
(3) by the sheriff of the county in which the licensed premises are located in the manner provided by the code of civil procedure for the service of summons in civil actions, except for the provisions allowing service by first class mail. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-321 as amended by L. 1987, Ch. 182, Sec. 29, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-22. Operation of business while license is involuntarily canceled, suspended or revoked, forbidden; when order of involuntary cancellation, suspension or revocation is effective. Any person whose license has been involuntarily canceled, suspended or revoked shall not operate under such license during the period of involuntary cancellation, suspension or revocation, except as provided by these regulations. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-326, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

14-16-23. Schedule of fines and penalties. (a) A civil fine not to exceed \$1,000 for each violation of the liquor control act, the club and drinking establishment act, K.S.A. 41-2701 et seq., or these regulations may be imposed by the director.

(b) The following guidelines may be used to assure consistency in civil penalties in settling administrative charges for the violations specified. The schedule of fines and penalties do not consider mitigating or aggravating circumstances and shall not bind the director or the director's designee in imposing a penalty for violations. The circumstances when considered may increase or decrease the penalty accordingly. Usual mitigating or aggravating circumstances to be considered are:

(1) past record;

(2) whether the violation appears willful;

(3) participation or knowledge by the licensee, employees or both;

(4) events that led to the violation;

(5) prior verbal or written warnings by any law enforcement officer; and

(6) whether the licensee should have known that the act committed was a violation.

(c) For the purpose of imposing the penalties found in subsection (d), violations may be classified as follows:

(1) Category 1 violations, which include:

(A) operating under indefinite suspension;

(B) being subject to a morals charge on the licensed premises;

(C) selling to a minor;

(D) indirect selling to a minor;

(E) permitting consumption on the premises by a minor;

(F) denying immediate entry to any law enforcement agent or officer;

(continued)

- (G) operating without a local license;
 - (H) operating without a cereal malt beverage license;
 - (I) refilling original containers;
 - (J) acting as an agent of another;
 - (K) giving false information or statements to the alcoholic beverage control division;
 - (L) operating while ineligible for licensure due to residency; and
 - (M) operating with a forfeited corporate charter;
 - (2) Category 2 violations, which include:
 - (A) selling to an incapacitated person;
 - (B) employing a person convicted of a felony;
 - (C) employing a minor;
 - (D) allowing access by a non-member; and
 - (E) violating club membership regulations;
 - (3) Category 3 violations, which include:
 - (A) permitting access by an invalid guest of a member;
 - (B) permitting off-premises consumption;
 - (C) operating after legal hours;
 - (D) permitting an unlisted employee to work;
 - (E) failing to notify director of possession of a cereal malt beverage license;
 - (F) failing to display the state license;
 - (G) failing to display the IRS stamp;
 - (H) failing to retain sales slips;
 - (I) failing to submit required monthly reports;
 - (J) allowing a bond to become delinquent;
 - (K) possessing untaxed liquor on the premises;
 - (L) operating without a lease;
 - (M) having a conflicting beneficial interest;
 - (N) allowing enforcement or excise taxes to become delinquent; and
 - (O) selling after legal closing hours.
- (d) The following guidelines shall be used by the director when imposing penalties:
- (1) Category 1 violations may result in revocation or suspension or involuntary cancellation, and a civil fine up to \$1,000.
 - (2) Category 2 violations may result in a civil fine of \$300 for the first violation, \$600 for the second violation, \$1,000 for the third violation, and involuntary cancellation, suspension, or revocation for more than four violations in any consecutive twelve-month period.
 - (3) Category 3 violations may result in a civil fine of \$100 for the first violation, \$300 for the second violation, \$1,000 for the third violation, and involuntary cancellation, suspension, or revocation for more than four violations in any consecutive twelve-month period. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-328 as amended by L. 1987, Ch. 182, Sec. 32, 41-2633a as amended by L. 1987, Ch. 182, Sec. 84; effective May 1, 1988.)

14-16-24. Appeals to the secretary of revenue from orders of the director. (a) Definitions.

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

(2) "Secretary" means the secretary of the Kansas department of revenue.

(b) Filing notice of appeal. Any applicant or licensee who desires to appeal from the order of the director shall file with the secretary a notice of appeal. The notice shall be mailed to the secretary by certified mail, or filed with the secretary within 15 days after the date the order was mailed by the director. If the applicant or licensee appeals because the director has failed to enter an order on application for license, the appeal shall be filed within 15 days after the date an application for a license is deemed to have been refused as provided by law.

(c) Form of notice of appeal. The notice of appeal shall be type-written. The original and seven copies of the notice shall be filed on a form prescribed and furnished by the secretary.

(d) Signing of notices of appeals. All notices of appeal shall be personally subscribed:

(1) By the party appealing or by all the parties if there is more than one; or

(2) if the party appealing is a corporation, by an officer who is duly authorized to sign for the corporation.

(e) Director to be notified. Whenever any notice of appeal is filed, the director shall be notified by the secretary of the appeal in writing. Copies of the notice of appeal and bill of particulars shall be enclosed.

(f) Docketing, titling and numbering of appeals. Upon receipt of a proper notice of appeal, the notice shall be recorded in a docket. Each appeal shall be assigned a number and title and that number and title shall be used on all filings in the proceeding.

(g) Continuance of appeal. For good cause shown, continuances and extensions of time for hearings may be granted or denied by the secretary, subject to the limitations prescribed by law.

(h) Failure to appear at appeal. If any party or parties who have originated an appeal fail to appear personally or by attorney or agent at the time and place scheduled for the appeal, the appeal may be dismissed upon motion of the director, if the secretary finds that the party or parties appealing have been notified as provided by law.

(i) Stenographer. A certified court reporter shall be appointed by the secretary to attend all appeal hearings to take notes thereof and furnish a transcript of the proceedings for official filing. Any party, at the party's expense, may obtain copies of the transcript of the proceedings.

(j) Cross examination on appeal. After a witness has testified in chief, the witness may be cross-examined by the adverse party or parties.

(k) Rules of evidence. The technical rules of evidence or procedure shall not be binding on the secretary. The technical requirements may be waived or varied when, in the opinion of the secretary, the variation assists in ascertaining the facts. Inadmissible evidence may be excluded by the secretary. When an objection is made to admissibility of evidence or to the jurisdiction of the secretary, a ruling upon the question may be withheld and the hearing may proceed subject to a later ruling on the objection.

(l) Documentary evidence. Whenever any material offered in evidence is part of a book, paper or document which contains matters that are irrelevant and immaterial to the hearing, the party offering the evidence shall plainly designate the matter being offered as evidence. The relevant and materials parts of the matter shall be marked for identification and may be at the discretion of the secretary be read into and made part of the record. A true copy of the document may be accepted as an exhibit by the secretary. The original document shall be withdrawn after the original has been first marked for identification.

(m) Judicial notice. In all hearings, judicial notice may be taken by the secretary of the department's public records and those of the state and federal governments.

(n) Subpoenas for witnesses. If subpoenas for witnesses are desired by the party or parties appealing, the subpoenas shall be issued upon request to the secretary. The subpoenas shall be forwarded to the party requesting them with the requirement that the party becomes responsible for the service of the subpoenas and assumes the expense connected therewith. Each party shall bear the expense of all of the party's witnesses.

(o) Further evidence. During any hearing or after the close of the testimony, the director or the party or parties appealing may be required by the secretary to present further evidence. The evidence may be heard at the same hearing or at an adjourned hearing.

(p) Final arguments. At all hearings, the party or parties appealing may open and close the final arguments unless the secretary elects to depart from this order of procedure.

(q) Appellate hearing; when closed and submission of briefs. A hearing shall be closed and the matter submitted when the testimony of the parties has been introduced and oral arguments completed. Any party may be required to submit briefs and any party desiring to submit a brief may do so in all cases. The time in which briefs, and reply briefs, may be filed shall be fixed at the close of the hearing by the secretary. All briefs shall be served upon adverse parties on or before the date filing is required and proof of service of the briefs shall be filed with the secretary. Four copies of the briefs shall be filed with the secretary.

(r) Copy of appellate order; to whom furnished. A copy of the opinion, decision and order of the secretary deciding the appeal shall be served as provided in K.A.R. 14-16-21. (Authorized by K.S.A. 41-203 as amended by L. 1987, Ch. 182, Sec. 5, 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-321 as amended by L. 1987, Ch. 182, Sec. 29, 41-322 as amended by L. 1987, Ch. 182, Sec. 30, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

Article 18.—CLASS A AND CLASS B CLUBS

14-18-2. (Authorized by K.S.A. 41-2634; effective

Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-3. (Authorized by K.S.A. 1965 Supp. 41-2634; effective Jan. 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-4. (Authorized by K.S.A. 41-2634; implementing K.S.A. 1985 Supp. 41-2637; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1969; amended, E-82-22, Dec. 9, 1982; amended May 1, 1982; amended May 1, 1987; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-5. (Authorized by K.S.A. 1965 Supp. 41-2634; effective Jan. 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-6. (Authorized by K.S.A. 41-2609 and K.S.A. 1979 Supp. 41-2634, L. 1979, Ch. 151, Sec. 2; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-7. (Authorized by K.S.A. 1979 Supp. 41-102, 41-803, 41-2610, and 41-2634; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-8. (Authorized by K.S.A. 41-2608, 41-2621 and K.S.A. 1979 Supp. 41-2633, 41-2634; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-9. (Authorized by K.S.A. 1965 Supp. 41-2607, 41-2629, 41-2634; effective Jan. 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-10. (Authorized by K.S.A. 1984 Supp. 41-102, 41-803, 41-2610, 41-2634; implementing K.S.A. 41-2610; effective Jan. 1, 1966; amended Jan. 1, 1969; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-11. (Authorized by K.S.A. 41-2634; 1979, 41-2633(a); effective Jan. 1, 1966; amended May 1, 1981; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-12. (Authorized by K.S.A. 41-2634; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-13. (Authorized by K.S.A. 41-2634; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-14. (Authorized by K.S.A. 1965 Supp. 41-2634; effective Jan. 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-15. (Authorized by K.S.A. 1968 Supp. 41-2601(b)(2), 41-2634; effective Jan. 1, 1969; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-16. (Authorized by K.S.A. 1968 Supp. 41-

(continued)

2634; effective Jan. 1, 1969; E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-17. (Authorized by K.S.A. 41-301, 41-2621, and K.S.A. 1979 Supp. 41-102, 41-2634; effective May 1, 1981; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-18. (Authorized by K.S.A. 1968 Supp. 41-2634; effective Jan. 1, 1969; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-19. (Authorized by K.S.A. 41-301, 41-2621, and K.S.A. 1979 Supp. 41-102, 41-2634; effective May 1, 1981; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-20. (Authorized by K.S.A. 41-2622, 41-2634; effective Jan. 1, 1971; amended Jan. 1, 1974; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-21. (Authorized by K.S.A. 1970 Supp. 41-2634; effective Jan. 1, 1971; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-22. (Authorized by K.S.A. 41-301, 41-2621, and K.S.A. 1980 Supp. 41-102, 41-2634; effective, E-81-36, Dec. 10, 1980; effective May 1, 1981; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-23. (Authorized by K.S.A. 41-2634; implementing K.S.A. 41-2623, 41-2632; effective Jan. 1, 1974; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-25. (Authorized by K.S.A. 41-301, 41-2621, and K.S.A. 1979 Supp. 41-102, 41-2634; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-26. (Authorized by K.S.A. 41-2602, 41-2603, 41-2604 and K.S.A. 1979 Supp. 41-102, 41-803, 41-2611(c), 41-2623(d), 41-2634; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-28. (Authorized by K.S.A. 41-2634; implementing K.S.A. 41-2637; effective May 1, 1982; amended May 1, 1983; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-29. (Authorized by K.S.A. 41-2602, 41-2621 and K.S.A. 1979 Supp. 41-2601, 41-2632, 41-2637; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-30. (Authorized by K.S.A. 41-2621 and K.S.A. 1979 Supp. 41-211; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-32. (Authorized by K.S.A. 41-2624; implementing 1985 S.B. 126, Sec. 4; effective, T-86-28, Aug. 19, 1985; effective May 1, 1986; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-18-33. (Authorized by K.S.A. 41-2624; imple-

menting K.S.A. 1985 Supp. 41-2640 as amended by L. 1986, Chapter 185, Section 7; effective May 1, 1987; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

Article 19.—CLASS A CLUBS

14-19-8. (Authorized by K.S.A. 1976 Supp. 41-2634; effective Jan. 1, 1966; amended, E-77-15, March 19, 1976; amended Feb. 15, 1977; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-9. (Authorized by K.S.A. 1978 Supp. 41-2601, 41-2634; effective Jan. 1, 1966; amended, E-78-9, Feb. 17, 1977; modified, L. 1978, Ch. 452, May 1, 1978; amended, E-79-31, Nov. 21, 1978; amended May 1, 1979; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-11. (Authorized by K.S.A. 1978 Supp. 41-2601, 41-2634; effective, E-78-9, Feb. 17, 1977; effective May 1, 1978; amended, E-79-31, Nov. 21, 1978; amended May 1, 1979; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-12. (Authorized by K.S.A. 1978 Supp. 41-2601, 41-2634; effective, E-78-9, Feb. 17, 1977; effective May 1, 1978; amended, E-79-31, Nov. 21, 1978; amended May 1, 1979; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-13. (Authorized by K.S.A. 1978 Supp. 41-2601, 41-2634; effective, E-78-9, Feb. 17, 1977; effective May 1, 1978; amended, E-79-31, Nov. 21, 1978; amended May 1, 1979; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-19-14. 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 of 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 alcohol content.

(c) "Beneficial interest" means any ownership interest by a person or that person's spouse in a business, corporation, partnership, business 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 that 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. 41-306 as amended by L. 1987, Ch. 182, Sec. 14; 41-307 as amended by L. 1987, Ch. 182, Sec. 17; L. 1987, Ch. 182, Sec. 15; and 41-2713 et seq., 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) "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.

(i) "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.

(j) "Member" means an individual who is a corporate stockholder, partner, trust beneficiary or associate and members of the individual's family as provided in the class A club's organizing documents.

(k) "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) illegal cohabitation;
- (9) adultery;
- (10) bigamy; or
- (11) a crime against nature.

(l) "Nonprofit fraternal club" means a nonprofit corporation, partnership, business trust or association that:

- (1) Is a fraternal beneficiary society, order or association operating under the lodge system which provides for the payment of life, sickness, accident or other benefits to its members or their dependents; or
- (2) is organized for the exclusive benefit of the members of a fraternity operating under the lodge system.

(m) "Nonprofit social club" means a nonprofit corporation, partnership, business trust or association that:

- (1) Is organized and operated exclusively for the pleasure, recreation and other nonprofitable use of its shareholders, partners, beneficiaries or members; and
- (2) shall not distribute any of its net earnings to any shareholder, partner, beneficiary or member.

(n) "Nonprofit war veterans club" means a nonprofit corporation, partnership, business trust or association that:

(1) Is a post or organization of war veterans, an auxiliary unit or society of a post or organization of war veterans or a trust or foundation for a post or organization of war veterans;

(2) requires that 75% of its shareholders, partners, beneficiaries or members be war veterans and substantially all its other members are veterans, widows of veterans or widowers of veterans; and

(3) shall not distribute any of its net earnings to any shareholder, partner, beneficiary or member.

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

(p) "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.

(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, whiskey, 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 beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. (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; 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.)

14-19-15. Applications and renewals; documents required. Each application for a class A 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 A 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 corporation, organization or association 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 located upon property that is subject to the applicant's legal right to occupy the same, as approved

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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 officer, manager, trustee, director, stockholder owning a beneficial interest, beneficiary of a business trust owning a beneficial interest in the club, 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. 14-19-16; and

(8) disclosure of 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 not-for-profit corporation;

(2) a copy of the corporate bylaws; 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, not a corporation or partnership.

(c) Organizations or associations. In addition to the documents required by subsection (a), each application on behalf of an organization or association not incorporated shall include a copy of the constitution, articles of association, declaration of trust, or other documents setting forth the aims and purposes of the organization or association, setting forth the membership requirements and declaring the county in which the organization or association is to be located.

(d) 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. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2606 as amended by L. 1987, Ch. 182, Sec. 62; 41-2608 as amended by L. 1987, Ch. 182, Sec. 63; 41-2610 as amended by L. 1987, Ch. 182, Sec. 65; 41-2622 as amended by L. 1987, ch. 182, Sec. 74; 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; 41-2625 as amended by L. 1987, Ch. 182, Sec. 76; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-16. Requirements for class A club license.

(a) Corporations. A corporation shall not be issued a class A club license if any officer, manager, director, stockholder owning a beneficial interest in the 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;

(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.

Paragraph (5), above, shall not apply to an officer of a post home, a congressionally chartered service or fraternal organization or a benevolent association or society thereof;

(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 shall not apply if the officer's, director's, manager's or stockholder's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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. Any officer, manager, director, stockholder or spouse of these individuals may own a beneficial interest in a distributor or retailer if the club purchases no alcoholic liquor from that distributor or retailer; and

(10) has been an officer, manager or director or a stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

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

(b) Business trusts or associations. A business trust or association shall not be issued a class A club license if any officer, director, manager, owner who owns a beneficial interest in the business trust or association or a spouse of any 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;

(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;

Paragraph (5), above, shall not apply to an officer of a post home, a congressionally chartered service or fraternal organization or a benevolent association or society thereof.

(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 shall not apply if the officer's, director's, manager's or owner's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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. Any officer, director, manager, owner or spouse of the same may own a beneficial interest in a distributor or retailer if the club licensed by the director purchases no alcoholic liquor from the distributor or retailer; and

(10) has been an officer, manager, director or stockholder owning a beneficial interest of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

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

(c) Partnerships. A partnership shall not be issued a class A club license if any manager, partner or spouse of a manager or partner:

(1) Has been convicted of a felony under the laws of the 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 partner or manager;

(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; Paragraph (5), above, shall not apply to an officer of a post home, congressionally chartered service or fraternal organization or a benevolent association or society thereof;

(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 shall not apply if the manager's or partner's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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. A manager, partner or spouse of the same may own a beneficial interest in a distributor or retailer if the club licensed by the director purchases no alcoholic liquor from that distributor or retailer;

(10) has been an officer, manager, director or stockholder owning a beneficial interest of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

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

(11) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of the manager or partner;

(12) has been a resident of the state of Kansas for less than one year immediately preceding the date of application. This shall not apply to the spouse of the manager or partner; and

(13) is not a resident of the county in which the club is to be located. This shall not apply to the spouse of the manager or partner.

(d) Every corporate applicant shall be a Kansas domestic not-for-profit corporation.

(e) For the purpose of determining qualifications under subsections (a), (b) and (c) of this regulation, any person who leases premises to a class A club upon terms which result in the lessor having a beneficial interest in the club's business, shall be deemed to be a partner in the club's business. 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 club's gross receipts or profits from the sale of alcoholic liquor, other items to be mixed with alcoholic liquor, or club membership fees. Percentage rent provisions that exclude these items shall be subject to review and approval by the director. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-17. Issuance of license. (a) An annual class A club license shall be issued to each applicant deter-

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mined 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 under any type of 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 have previously owned or operated any 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 to the state or the United States; or

(4) 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. 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. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; and 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-18. 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.)

14-19-19. Change of club status. A class A club license shall not be converted to either a class B club or a drinking establishment license. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-20. 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 only be made 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; 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-21. 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. 14-19-23, 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 show the member's 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 K.S.A. 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-22. Roster of stockholders, partners, beneficiaries or associates. Each club shall maintain upon the licensed premises, a current roster of stockholders, partners, beneficiaries or associates who are entitled to access and use of the licensed premises and to services offered by the licensee club. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2610 as amended by L. 1987, Ch. 182, Sec. 65, 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-23. Agreement for reciprocal membership. (a) Any two or more class A 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 a 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.

(d) The provisions of this regulation shall not apply to a nationally chartered war veterans club which allows admission of its members to the various posts located within the state. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2637 as amended by L. 1987, Ch. 182, Sec. 86; effective T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-24. 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, before each 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 is 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; or

(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. This shall not apply to a distributor or a retailer who is an officer, director or board member of a class A club if the distributor or retailer sells no alcoholic liquor to the class A club. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2610 as amended by L. 1987, Ch. 182, Sec. 65; 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; 41-2632 as amended by L. 1987, Ch. 182, Sec. 82; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-25. 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, 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 as it appears on the club license;

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

(5) the subtotal of the cost of the alcoholic liquor 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 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 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. 14; 41-307 as amended by L. 1987, Ch. 182, Sec. 17; 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.)

14-19-26. 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.

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182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-27. Storage of liquor; removal from club premises prohibited. (a) Each club shall store its liquor only upon the licensed premises of the club unless it has received prior approval in writing from the director to do otherwise.

(b) A club shall not make any sales of alcoholic liquor for consumption off the licensed premises. All alcoholic liquor purchased on the club premises shall not be removed from the club 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.)

14-19-28. Nontaxed liquor and refilling of containers prohibited. (a) Alcoholic liquors shall only be dispensed from or stored in original containers bearing Kansas alcoholic liquor identification stamps. A licensed club shall not refill any such original container with any alcoholic liquor, or any other substance.

(b) A member, guest or reciprocal member may 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. 53; L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-29. 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 referenced 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.)

14-19-30. Minimum prices for drinks; how determined. (a) A licensed 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. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-31. Clubs charge the same price for the same drink all day; day defined. (a) A class A 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. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-32. Licensee must pay city or county license tax before making sales. A licensee shall not operate until the licensee has paid the 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. 41-2622 as amended by L. 1987, Ch. 182, Sec. 74; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-33. Federal retail stamp. Each club licensee 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. 41-2611 as amended by L. 1987, Ch. 182, Sec. 66; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-34. Excise tax shall be current. Each club that fails to register for an excise tax registration number with the director of taxation 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 and implementing 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-19-35. Suspension and revocation; grounds for; procedure; The license of any class A 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 no longer meets the criteria for a nonprofit social, fraternal or war veterans club;

(d) the licensee has engaged in a prohibited transaction;

(e) 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;

(f) 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;

(g) 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;

(h) 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

(i) 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.)

14-19-36. 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.)

14-19-37. Display of license. Each class A 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. 41-2612 as amended by L. 1987, Ch. 182, Sec. 67; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

Article 20.—CLASS B CLUBS

14-20-1. (Authorized by K.S.A. 1965 Supp. 41-2634; effective Jan. 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-20-2. (Authorized by K.S.A. 1965 Supp. 41-2634; effective Jan. 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-20-4. (Authorized by K.S.A. 1979 Supp. 41-2632, 41-2639; effective, E-80-28, Dec. 12, 1979; effective May 1, 1980; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-20-7. (Authorized by K.S.A. 41-2634; implementing K.S.A. 41-2601; effective Jan. 1, 1966; amended, E-80-28, Dec. 12, 1979; amended May 1, 1980; amended, E-82-13, June 17, 1981; amended May 1, 1982; amended, T-86-28, Aug. 19, 1985; amended May 6, 1986; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-20-8. (Authorized by K.S.A. 1965 Supp. 41-2634; effective Jan. 1, 1966; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-20-9. (Authorized by K.S.A. 1976 Supp. 41-2634; effective Jan. 1, 1966; amended, E-77-15, March 19, 1976; amended Feb. 15, 1977; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

14-20-10. (Authorized by K.S.A. 41-2634; implementing K.S.A. 1985 Supp. 41-2601(f); effective May, 1987; revoked, T-88-22, July 1, 1987; revoked May 1, 1988.)

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.

(continued)

(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, business 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. 41-306 as amended by L. 1987, Ch. 182, Sec. 14; 41-307 as amended by L. 1987, Ch. 182, Sec. 17; L. 1987, Ch. 182, Sec. 15; and 41-2713 et seq., 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) "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.

(i) "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.

(j) "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.

(k) "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) illegal cohabitation;
- (9) adultery;

(10) bigamy; or

(11) a crime against nature.

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

(m) "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.

(n) "Restaurant" means a licensed food service establishment, as defined by K.S.A. 36-501 and amendments thereto, which, as determined by the director, derives not less than 50% of its gross receipts in a 12-month period from the sale of food for consumption on the premises.

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

(p) "Wine" means any alcoholic beverage contained 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. 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; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

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 corporation, organization or association 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 located upon property that is subject to the applicant's legal right to occupy the same, 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 officer, manager, trustee, director, stockholder owning a beneficial interest, beneficiary of a business trust owning a beneficial interest in the club, 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) disclosure of 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, not a corporation or partnership.

(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) Individuals. In addition to the documents required by subsection (a), each application on behalf of an individual shall include that information required by the director on the appropriate application. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2606 as amended by L. 1987, Ch. 182, Sec. 62; 41-2608 as amended by L. 1987, Ch. 182, Sec. 63; 41-2610 as amended by L. 1987, Ch. 182, Sec. 65; 41-2622 as amended by L. 1987, Ch. 182, Sec. 74; 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; 41-2625 as amended by L. 1987, Ch. 182, Sec. 76; L. 1987, Ch. 182, Sec. 87; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

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

(a) Corporations. A corporation shall not be issued a class B club license if any officer, manager, director,

stockholder owning a beneficial interest in the 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;

(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 if the officer's, director's, manager's or stockholder's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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 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; and

(10) has been an officer, manager or director or a stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

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

(b) Partnerships. A partnership shall not be issued a class B club license if any manager, partner or spouse of a manager or partner:

(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;

(continued)

(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 manager or partner;

(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 shall not apply if the manager's or partner's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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 hereunder. This shall not apply to any manager, partner or spouse of the same 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 a licensed premises that is a restaurant and all of the individual's beneficial interests are in clubs or drinking establishments that are restaurants;

(10) has been an officer, manager or director or a stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

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

(11) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of the manager or partner;

(12) has been a resident of the state of Kansas for less than one year immediately preceding the date of application. This shall not apply to the spouse of the manager or partner; and

(13) is not a resident of the county in which the club is to be located. This shall not apply to the spouse of the manager or partner.

(c) Individuals. An individual shall not be issued a class B club license if the individual or individual's spouse:

(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;

(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 shall not apply if the individual's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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 individual or individual's 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 a licensed premises that is a restaurant and all of the individual's beneficial interests are in clubs or drinking establishments that are restaurants;

(10) has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

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

(11) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of the individual;

(12) has been a resident of the state of Kansas for less than one year immediately preceding the date of application. This shall not apply to the spouse of the individual; and

(13) is not a resident of the county in which the club is to be located. This shall not apply to the spouse of the individual.

(d) A trust or other business organization which is not a corporation or partnership shall not be issued a class B club license.

(e) Every corporate applicant shall be a Kansas domestic for-profit corporation.

(f) For the purpose of determining qualifications under subsections (a), (b) and (c) of this regulation, any person who leases premises to a class B club upon

terms which result in the lessor having a beneficial interest in the club's business shall be deemed to be a partner in the club's business. 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 gross receipts or profits from the sale of alcoholic liquor, other items to be mixed with alcoholic liquor, or club membership fees. Percentage rent provisions that exclude these items shall be subject to review and approval by the director. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

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 offices, directors, partners, registered agent, managers or owners have previously owned or operated any 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 have previously owned or operated any 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 to the state or the United States; or

(4) 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. 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. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

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

(continued)

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 each class B club that enters into a contract with a hotel to issue temporary memberships to that hotel's guests, shall keep a record of temporary memberships granted by the club to registered nonresident guests of that hotel. The term "hotel" shall have the meaning as provided in K.S.A. 36-501.

(2) Only clubs shall issue temporary memberships. The hotel 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 may handle billings if all funds are accounted to the club and if the hotel keeps a permanent record of all charges and payments due to the club which the hotel handles.

(3) The hotel shall provide to each guest who desires to become a temporary club member a pre-printed form or statement on hotel letterhead, signed by the desk clerk or other authorized hotel employee or official, setting forth the name of the hotel guest, the date or dates on which the bearer is a registered guest at the hotel and certifying that the guest does not permanently reside in the same county as the hotel 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) Records of all temporary memberships issued pursuant to subsections (a) and (b) shall be maintained on licensed club premises for a period of one year from date of issuance. (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.)

14-20-26. 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, before each 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 is 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. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2610 as amended by L. 1987, Ch. 182, Sec. 65; 41-2623 as amended by L. 1987, Ch. 182, Sec. 82; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

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 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 prohibited. (a) Each club shall store its liquor only upon the licensed premises of the club

(continued)

unless it has received prior approval in writing from the director to do otherwise.

(b) A club shall not make any sales of alcoholic liquor for consumption off the licensed premises. All alcoholic liquor purchased on the club premises shall not be removed from the club 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.)

14-20-30. 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 such 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 referenced 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 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. 41-2640 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. 41-2640 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. 41-2622 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. 41-2611 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, re-

voked 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. 41-2612 as amended by L. 1987, Ch. 182, Sec. 67; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

Article 21.—DRINKING ESTABLISHMENTS

14-21-1. 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, business trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or similar holding in any other form of business organization.

(d) "Bulk wine" means wine which is sold to a drinking establishment 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 alcoholic beverage control of the department of revenue.

(g) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 41-306 as amended by L. 1987, Ch. 182, Sec. 14; 41-307 as amended by L. 1987, Ch. 182, Sec. 17; L. 1987, Ch. 182, Sec. 15; and 41-2713 et seq., 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) "Licensed premises" means those areas described in an application for a drinking establishment license that are under the control of the applicant and that are intended as the area in which alcoholic liquor

(continued)

or cereal malt beverages are to be served pursuant to the applicant's license.

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

(j) "Morals charge" means any 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) illegal cohabitation;
- (9) adultery;
- (10) bigamy; or
- (11) a crime against nature.

(k) "Person" means any natural person, corporation, partnership or association. "Person" shall not mean the state of Kansas, any city in the state of Kansas or any county in the state of Kansas.

(l) "Restaurant" means a licensed food service establishment, as defined by K.S.A. 36-501 and amendments thereto, which, as determined by the director, derives not less than 50% of its gross receipts in each calendar year from the sale of food for consumption on the premises.

(m) "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.

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

(o) "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 those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. (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; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-2. Applications and renewals; documents required. Each application for a drinking establishment 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 all required information may be returned to the applicant without the application being considered on its merits.

(a) General requirements. Each application for a drinking establishment 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 corporation, partnership or individual of the premises sought to be licensed;

(2) a description of the drinking establishment premises, which shall clearly identify the licensed premises. The description may include those areas outside the main service area that are in close proximity to the main service area and located within or upon property that is subject to the applicant's legal right to occupy the same, as approved by the director. If an applicant is also a hotel, the applicant may include guest rooms, banquet rooms or other facilities as part of its licensed premises. For the purpose of determining the fee to be paid by the applicant which is also a hotel, the director shall consider the following:

(A) If the hotel describes its licensed premises as a part of the hotel premises that is located on one level, within a single building and contiguous, the license fee shall be \$1,000.00 per year; or

(B) if the hotel describes its licensed premises as more than the area described in paragraph (1) above, the license fee shall be \$3,000.00;

(3) a certified statement from the applicant that the licensed premises are zoned by either the city or county where the licensed premises are located to allow the operation of a drinking establishment or a certified statement that the licensed premises are located in an area where no zoning regulations have been adopted;

(4) 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;

(5) 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;

(6) a disclosure statement listing each officer, manager, trustee, director, owner, stockholder owning a beneficial interest in a corporation, partner, and the spouses of these individuals. The disclosure statement shall certify that all the individuals listed are not disqualified from obtaining a drinking establishment license as provided in K.A.R. 14-21-3;

(7) disclosure of all personnel who will be mixing or dispensing alcoholic liquor; and

(8) a statement of gross receipts showing the ratio of food sales to alcoholic beverage sales are not less than 30%.

(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; and

(3) an appointment of process agent together with a power of attorney authorizing said agent to conduct

the business of the drinking establishment and receive all service of process on behalf of the drinking establishment. The process agent shall be an individual, not a corporation or partnership.

(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) Individuals. In addition to the documents required by subsection (a), each application on behalf of an individual shall include that information required by the director on the appropriate application. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2606 as amended by L. 1987, Ch. 182, Sec. 62; 41-2608 as amended by L. 1987, Ch. 182, Sec. 63; 41-2610 as amended by L. 1987, Ch. 182, Sec. 65; 41-2622 as amended by L. 1987, Ch. 182, Sec. 74; 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; 41-2625 as amended by L. 1987, Ch. 182, Sec. 76; L. 1987, Ch. 182, Sec. 88; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-3. Requirements for drinking establishment license. (a) Corporations. A corporation shall not be issued a drinking establishment license if any officer, manager, director, stockholder owning a beneficial interest in the 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;

(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 shall not apply if the officer's, director's, manager's or stockholder's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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 officer, or manager, or director,

or 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 are a restaurant and all of the individual's beneficial interests are in clubs or drinking establishments which are restaurants; and

(10) has been an officer, or manager or director or a stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the club and drinking establishment act; or

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

(b) Associations. An association shall not be issued a drinking establishment license if any manager, officer, director, owner or members with a beneficial interest in the association or the 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;

(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 shall not apply if the officer's, director's, manager's or member's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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 officer, or manager, or director or owner or member with a beneficial interest in the association or the spouse of any of these individuals who owns a beneficial interest in another club or drinking establishment if:

(A) The application is for licensed premises located

(continued)

in a hotel and all of the individual's beneficial interests are in clubs or drinking establishments located in hotels;

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

(10) has been an officer, manager or director or stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the club and drinking establishment act; or

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

(c) Partnerships. A partnership shall not be issued a drinking establishment license if any manager, partner or spouse of a manager or partner:

(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 manager or partner;

(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 in this article would be ineligible for the license upon a first application. This shall not apply if the manager's or partner's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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 manager, partner 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 the licensed premises located in a restaurant and all of the individual's beneficial interests are in clubs or drinking establishments that are restaurants; and

(10) has been an officer, manager or director or a stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the club and drinking establishment act; or

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

(11) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of the manager or partner;

(12) has been a resident of the State of Kansas for less than one year immediately preceding the date of application. This shall not apply to the spouse of the manager or partner; and

(13) is not a resident of the county in which the drinking establishment is to be located. This shall not apply to the spouse of the manager or partner.

(d) Individuals. An individual shall not be issued a drinking establishment license if the individual or individual's spouse:

(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;

(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 shall not apply if the individual's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(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 individual or individual's 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 a licensed premises located in a restaurant and all of the individual's beneficial interests are in clubs or drinking establishments that are restaurants; and

(10) has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

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

(11) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of the individual;

(12) has been a resident of the State of Kansas for less than one year immediately preceding the date of application. This shall not apply to the spouse of the individual; and

(13) is not a resident of the county in which the club is to be located. This shall not apply to the spouse of the individual.

(e) Every corporate applicant shall be a Kansas domestic for-profit corporation.

(f) For the purpose of determining qualifications under subsections (a), (b), (c) and (d) of this regulation, any person who leases premises to a drinking establishment upon terms which result in the lessor having a beneficial interest in the drinking establishment's business shall be deemed to be a partner in the drinking establishment's business. A lessor shall be deemed to have a beneficial interest in a drinking establishment's business, if the lessor receives as rent, in whole or in part, a percentage of the licensee's gross receipts or profits from the sale of alcoholic liquor or other items to be mixed with alcoholic liquor. Percentage rent provisions that exclude these items shall be subject to review and approval by the director. The restrictions of this subsection shall not be applied if the lessor is a city, county, the state of Kansas or any department or agency thereof. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-4. Issuance of license. (a) An annual drinking establishment 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, officers, directors, partners, registered agent, trustees, managers or owners have previously owned or operated any type of 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, officers, directors, partners, registered agent, trustees, managers or owners have previously owned or operated any 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 to the state or the United States; or

(4) 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. 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. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; 79-41a07 as amended by L. 1987, Ch. 182, Sec. 122; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-5. 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 drinking establishment 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.)

14-21-6. Change of drinking establishment status.

(a) If a licensee desires to change its license from a drinking establishment to either a class A or class B club, 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. 14-21-7.

(b) If a drinking establishment fails an audit by the director or the secretary to derive at least 30% of its gross receipts from the sale of food, then that drinking establishment's license as a drinking establishment shall be canceled. The drinking establishment licensee shall have 10 days from the receipt of its notice of cancellation to make application to become a class B club. On the tenth day after receipt of notice of cancellation, the drinking establishment shall begin conducting business as a class B club pending the processing of the application or said class B club license. If the application for a class B club license is denied or if the applicant fails to process its application within 30 days, then the applicant shall discontinue operations under the club and drinking establishment act and surrender its license to the director. This provision shall not apply to any drinking establishment located in a county that has eliminated this requirement.

(c) If one of the drinking establishments owned by a licensee which holds multiple licenses pursuant to the provisions of K.A.R. 14-21-8, fails an audit by the director or the secretary to derive at least 50% of its gross receipts from the sale of food, then that drinking establishment's license as a drinking establishment

(continued)

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 drinking establishment 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 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. 88; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-7. Refund upon cancellation. If the license of any drinking establishment is canceled except through revocation or suspension, the drinking establishment 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.)

14-21-8. Restaurant drinking establishments; criteria for determination; gross receipts affidavit; estimates. (a) For purposes of multiple ownership of drinking establishments, a licensed drinking establishment shall be deemed to be a restaurant after a comparison by the director 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.

(b) Each drinking establishment licensee requesting restaurant status shall submit accurate figures for food sales, total gross sales, and any other pertinent information. The information shall be submitted on a form provided by the director at the time the licensee initially requests restaurant status, and upon each renewal of the licensee's license.

(c) Each drinking establishment 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 drinking establishment shall not utilize estimates if 40% or more of the successor corporation is owned by persons who were required to meet the license qualifications of the predecessor corporation. (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; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-9. Employees; registration of same; prohibitions. (a) Each drinking establishment shall register with the director all employees who will mix, sell, serve or dispense alcoholic liquor on forms supplied by the director, prior to each employee commencing work for the drinking establishment and upon each renewal of the drinking establishment's license.

(b) A drinking establishment 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. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2610 as amended by L. 1987, Ch. 182, Sec. 65; 41-2632 as amended by L. 1987, Ch. 182, Sec. 82; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-10. Purchase of alcoholic liquor and cereal malt beverages; requirements and restrictions. (a) Each drinking establishment shall purchase alcoholic liquor only from a retailer. However, any drinking establishment may buy bulk wine, beer and cereal malt beverages from a distributor.

(b) Any drinking establishment 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 drinking establishment 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 drinking establishment shall not warehouse any liquor on any retail liquor store premises.

(d) A drinking establishment 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 drinking establishment shall not warehouse its liquor on any distributor's premises.

(e) Each drinking establishment, when making alcoholic liquor purchases from retailers or distributors, shall obtain and keep, 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 drinking establishment;
- (4) the brand, size, and amount of all alcoholic liquor purchased; and
- (5) the subtotal of the cost of the alcoholic liquor and the total cost of the order including enforcement tax and delivery charge, if any.

(f) Each drinking establishment shall purchase alcoholic liquor through a registered employee of the licensed drinking establishment who shall be at least 21 years of age. The drinking establishment 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 is so registered.

(g) Each drinking establishment 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, K.S.A. 41-306 as amended by L. 1987, Ch. 182, Sec. 13; 41-307 as amended by L. 1987, Ch. 182, Sec. 16, 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.)

14-21-11. 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 drinking establishment;
- (b) an employee of any person contracting with the drinking establishment 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.)

14-21-12. Storage of liquor; removal from drinking establishment prohibited. (a) Each drinking establishment shall store its liquor only upon the licensed premises of the drinking establishment unless it has received prior approval in writing from the director to do otherwise.

(b) Each drinking establishment shall not make any sales of alcoholic liquor for consumption off the licensed premises. All alcoholic liquor purchased on the drinking establishment premises shall not be removed from the drinking establishment premises. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 88; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-13. 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 drinking establishment shall not refill any such original container with any alcoholic liquor or any other substance.

(b) An individual may be allowed to bring bottles onto the drinking establishment premises upon the following conditions:

- (1) A drinking establishment shall not warehouse any bottles upon the drinking establishment premises;
- (2) each person bringing any bottles onto the drinking establishment premises shall remove the bottles when departing from the drinking establishment 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, L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-14. Cereal malt beverages; sale allowed. (a) Any drinking establishment may sell cereal malt beverages upon the licensed premises if:

- (1) The drinking establishment notifies the director when it obtains a license for the retail sale of cereal malt beverages;
- (2) the drinking establishment notifies the director of each renewal of the license for the retail sale of cereal malt beverages; and

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

(b) Violation of any cereal malt beverage statute shall subject the drinking establishment 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.)

14-21-15. Minimum prices for drinks; how determined. (a) A licensed drinking establishment shall not sell any drink to any person for less than the acquisition cost of that drink to the drinking establishment.

(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

(continued)

(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 drinking establishment 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. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-16. Drinking establishments charge the same price for the same drink all day; day defined. (a) A licensed drinking establishment shall not sell a drink to any person for less than the price charged for that same drink to all other drinking establishment 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. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-17. 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. 41-2622 as amended by L. 1987, Ch. 182, Sec. 74; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-18. Federal retail stamp. Each drinking establishment licensee 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 and implementing 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; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-21-19. Excise tax shall be current. Any drinking establishment that fails to register for an excise tax registration number with the director of taxation shall be subject to cancellation of its license or fine by the director. Each drinking establishment 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 and

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.)

14-21-20. Suspension and revocation; grounds for; procedure. The license of any drinking establishment 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 act or 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 allow the director or any agent or employee of the director or 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.)

Article 22.—CATERER

14-22-1. 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 of 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 alcoholic content.

(c) "Beneficial interest" means any ownership interest by a person or that person's spouse in a business, corporation, partnership, business trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or similar holding in any other form of business organization.

(d) "Bulk wine" means wine that is sold to a caterer 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 alcoholic beverage control of the department of revenue.

(g) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 41-306 as amended by L. 1987, Ch. 182, Sec. 14; 41-307 as amended by L. 1987, Ch. 182, Sec. 17; L. 1987, Ch. 182, Sec. 15; and 41-2713 et seq., 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) "Event" means any occasion at which a licensed caterer will offer for sale, sell and serve alcoholic liquor to the general public in conjunction with the sale and service of food.

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

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

- (1) Prostitution;
- (2) procuring any person;
- (3) soliciting 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) illegal cohabitation;
- (9) adultery;
- (10) bigamy; or
- (11) a crime against nature.

(k) "Organization" means any nonprofit charitable organization that conducts charitable activities in the state.

(l) "Permitted premises" means those areas described in the notification of an event that are under the control of the caterer that are intended as the areas in which alcoholic liquor may be served to the public.

(m) "Person" means any natural person, corporation or partnership.

(n) "Principal place of business" means the place from which a caterer will conduct its business, other

than events, which is described in the caterer's application.

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

(q) "Sponsor" means the person or organization which contracts with a caterer to conduct an event.

(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 those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. (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; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-2. Applications and renewals; documents required. Each application for a caterer's license shall be made upon forms prepared by the director and shall contain all information as the director deems necessary. Any application which does not contain all required information may be returned to the applicant without the application being considered on its merits.

(a) General requirements. Each application for a caterer's 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 corporation, partnership or individual of the principal place of business sought to be licensed;

(2) 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;

(3) 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; and

(4) a disclosure statement listing each officer, manager, director, trustee, owner, partner, stockholder owning a beneficial interest in a corporate applicant, and the spouses of these individuals. The disclosure statement shall certify that all the individuals listed are not disqualified from obtaining a caterer's license as provided in K.A.R. 14-22-3.

(b) Corporations. In addition to the documents required under 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; and

(3) an appointment of process agent together with a

(continued)

power of attorney authorizing said agent to conduct the business of the caterer and receive all service of process on behalf of the caterer. The process agent shall be an individual, not a corporation or partnership.

(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) Individuals. In addition to the documents required by subsection (a), each application on behalf of an individual shall include that information required by the director on the appropriate application. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2606 as amended by L. 1987, Ch. 182, Sec. 62, 41-2610 as amended by L. 1987, Ch. 182, Sec. 65, 41-2622 as amended by L. 1987, Ch. 182, Sec. 74, 41-2623 as amended by L. 1987, Ch. 182, Sec. 75, 41-2625 as amended by L. 1987, Ch. 182, Sec. 76; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-3. Requirements for caterer's license. (a) Corporations. A corporation shall not be issued a caterer's license if any officer, manager, director or stockholder owning a beneficial interest in the 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;

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

(B) who is a law enforcement official; or

(C) who 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 shall not apply if the officer's, director's, manager's or stockholder's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(9) has a beneficial interest in the manufacture, preparation, wholesale or retail sale of alcoholic liquors;

(10) has been an officer, manager, director or stockholder owning a beneficial interest of a corporation which:

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

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

(b) Partnerships. A partnership shall not be issued a caterer's license if any manager, partner or spouse of the manager or partner:

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

(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 manager or partner;

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

(B) who is a law enforcement official; or

(C) who 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 shall not apply if the manager's or partner's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(9) has a beneficial interest in the manufacture, preparation, wholesale or retail sale of alcoholic liquors;

(10) has been an officer, manager, director or stockholder owning a beneficial interest of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

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

(11) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of the manager or partner; and

(12) has been a resident of the State of Kansas for less than one year immediately preceding the date of application. This shall not apply to the spouse of the manager or partner.

(c) Individuals. An individual shall not be issued a caterer's license if the individual or individual's spouse:

(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 op-

posed 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;

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

(B) who is a law enforcement official; or

(C) who 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 caterer's license would be ineligible for the license upon a first application. This shall not apply if the individual's spouse is ineligible upon the application for renewal;

(8) has had any license or permit issued by the director revoked;

(9) has a beneficial interest in the manufacture, preparation, wholesale or retail sale of alcoholic liquors;

(10) has been an officer, manager, director or stockholder owning a beneficial interest of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

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

(11) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of the individual; and

(12) has been a resident of the State of Kansas for less than one year immediately preceding the date of the application. This shall not apply to the spouse of the individual.

(d) A trust or other business organization which is not a corporation or partnership shall not be issued a caterer's license.

(e) Every corporate applicant shall be a Kansas domestic for-profit corporation.

(f) For the purpose of determining qualifications under subsections (a), (b) and (c) of this regulation, any person who leases premises to a caterer upon terms which result in the lessor having a beneficial interest in the caterer's business, shall be deemed to be a partner in the caterer's business. A lessor shall be deemed to have a beneficial interest in a caterer's business, if the lessor receives as rent, in whole or in part, a percentage of the caterer's gross receipts or profits from the sale of alcoholic liquor or other items to be mixed with alcoholic liquor. Percentage rent provisions that exclude these items shall be subject to review and approval by the director. The restrictions of this paragraph shall not be applied if the lessor is a city, county, the state of Kansas or any department or agency thereof. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-4. Issuance of license. (a) An annual caterer's license shall be issued to each applicant 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, officers, directors, partners registered agents, trustees, managers or owners have previously owned or operated any type of 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, officers, directors, partners, registered agent, trustees, managers or owners have previously owned or operated any type of 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 to the state or the United States; or

(4) 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. 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. 41-2605 as amended by L. 1987, Ch. 182, Sec. 61, 41-2623 as amended by L. 1987, Ch. 182, Sec. 75, 79-41a07 as amended by L. 1987, Ch. 182, Sec. 122, L. 1987, Ch. 182, Sec. 89; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-5. 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 caterer to whom 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. The caterer may request additional certified copies of its license for the purpose of conducting more than one function at a time at which the license is required to be displayed. Upon payment of the cost thereof, the director may issue such additional copies or duplicates of a caterer's license as it appears is necessary. (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.)

14-22-6. Events; filings; notice; food sales required. (a) Each caterer, under this article, shall be

(continued)

allowed to offer for sale, sell and serve alcoholic liquor for consumption at an event.

(b) For each event to be catered in an incorporated city, the caterer shall file with the law enforcement agency for the city in which the event will be held, a notice that an event will be held. The notice shall contain that information required by subsection (d).

(c) For each event to be catered outside an incorporated city, the caterer shall file with the sheriff of the county in which the event will be held, a notice that an event will be held. The notice shall contain that information required by subsection (d).

(d) Each notice required by subsections (b) and (c) shall contain:

(1) A copy of the catering contract, in force or proposed, with the sponsor of an event, if applicable;

(2) a clear description of the event premises which shall be in enough detail that the event premises are identifiable.;

(3) disclosure of all personnel who will be mixing or dispensing alcoholic liquor at the event; and

(4) a statement of the dates the event will be conducted and the hours of operation on each date.

(e) The licensee shall prominently display at each event, upon a poster or other device located at the entrance to the event premises:

(1) The caterer's name;

(2) the caterer's license;

(3) the name of the sponsor; and

(4) a copy of the notice required by subsections (b) or (c).

(f) A caterer shall not:

(1) Conduct an event upon licensed premises unless the caterer also holds the license for the licensed premises;

(2) conduct an event for longer than seven days, unless the director first approves the longer duration;

(3) deny access to an event to any law enforcement officer;

(4) operate an event between the hours of 2:00 A.M. and 6:00 A.M.; or

(5) sell cereal malt beverage at an event.

(g) For each event, the caterer shall keep records for three years which:

(1) Demonstrate the ratio of food sales to alcoholic beverage sales is not less than 30%. This shall not apply to events conducted in a county which has eliminated this requirement;

(2) demonstrate that all excise taxes have been paid; and

(3) demonstrate that all sales taxes have been paid. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, 79-3618, 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 41-2613 as amended by L. 1987, Ch. 182, Sec. 68, 41-2614 as amended by L. 1987, Ch. 182, Sec. 69, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 89, 79-3609, 79-41a07 as amended by L. 1987, Ch. 182, Sec. 122; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-7. Refund upon voluntary cancellation. If a caterer's license is cancelled, except through revoca-

tion or suspension, the licensee 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 that remains at the time of cancellation. The refund shall be made only upon application to the director. (Authorized by and implementing K.S.A. 41-2607, 41-2629 as amended by L. 1987, Ch. 182, Sec. 80; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-8. Drinking establishments/caterer criteria for determination; gross receipts affidavit; estimates.

Any drinking establishment may also obtain a license as a caterer under the provisions of the club and drinking establishment act and these regulations. Each person seeking both licenses shall comply with all the provisions of the club and drinking establishment act and these regulations and complete such forms required by the director. Each dual license holder shall maintain separately the records for the events it caters from those for the drinking establishment. Sales of food or beverage at a catered event shall not be included in the sales of the drinking establishment for the purposes of determining the gross receipts ratio of the drinking establishment. (Authorized by K.S.A. 41-2634 as as amended by L. 1987, Ch. 182, Sec. 85; implementing 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; L. 1987, Ch. 182, Sec. 89 and 90; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-9. Employees; registration of same; those prohibited. (a) Each caterer shall register the caterer's employees who will mix, sell, serve, or dispense alcoholic liquor with the director, on forms supplied by the director, prior to the employee commencing work for the caterer and upon each renewal of the caterer's license.

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

(1) Who is under the age of 18 years to serve alcoholic liquor;

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

(3) who is under the age of 21 years and is 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;

(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

(6) who is a manufacturer, distributor or retailer or an 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. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2610 as amended by L. 1987, Ch. 182, Sec. 65, 41-2632 as amended by L. 1987, Ch.

182, Sec. 82; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-10. Purchase of alcoholic liquor; requirements and restrictions. (a) Each caterer shall purchase alcoholic liquor only from a retailer. However, any caterer may purchase bulk wine and beer from a distributor.

(b) Any caterer may receive delivery of alcoholic liquor from a retailer and delivery of bulk wine or beer from a distributor to its principal place of business.

(c) A caterer 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 caterer shall not warehouse any liquor on any retail liquor store premises in accordance with K.A.R. 14-13-9(h).

(d) A caterer shall not purchase wine or beer 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 caterer shall not warehouse any liquor on any distributor's premises.

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

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

(f) Each caterer shall purchase alcoholic liquor through a registered employee of the licensed caterer who shall be at least 21 years of age. The caterer 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 caterer is so registered.

(g) Each caterer shall maintain at its principal place of business 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, K.S.A. 41-306 as amended by L. 1987, Ch. 182, Sec. 13, 41-307 as amended by L. 1987, Ch. 182, Sec. 16, 41-308 amended by L. 1987, Ch. 182, Sec. 18, 41-2611 as amended by L. 1987, Ch. 182, Sec. 66, 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.)

14-22-11. Caterer's responsibility for conduct of business and employees. Each caterer shall be responsible for the conduct of each event catered. Each caterer shall be responsible for all violations of the club and drinking establishment act by the following people while on the event premises:

- (a) An employee of the caterer;
- (b) an employee of any person contracting with the caterer to provide services or food at an event; or
- (c) any person serving or mixing alcoholic liquor at an event. (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.)

14-22-12. Storage of liquor. (a) At the time of application for a caterer's license, each caterer shall inform the director as to the location of the liquor storage area that the caterer plans to use at its principal place of business. A caterer shall not store its liquor in any place other than the principal place of business of the caterer unless the caterer has received prior approval from the director. All alcoholic liquor which has been opened at an event shall not be restocked or placed in the caterer's liquor storage area. For each event, the caterer shall make a record of the amount of unused alcoholic liquor and its disposition and keep the record with those records required by K.A.R. 14-22-10(g).

(b) Each caterer holding a license as a drinking establishment shall keep all alcoholic liquor intended for use at catered functions in separate storage facilities from that intended for use in the drinking establishment. (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.)

14-22-13. Removal of liquor from event premises prohibited; alcoholic liquor sales by caterer and drinking establishment licensees. A caterer shall not sell alcoholic liquor for removal from or consumption off of the event premises. The removal of alcoholic liquor sold by the caterer from the premises of an event or from the principal place of business of the caterer, other than transportation to an event, is prohibited. A caterer who also holds a license as a drinking establishment may sell alcoholic liquor upon the drinking establishment's licensed premises. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 89; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-14. Nontaxed liquor and individual alcoholic liquor on event premises prohibited. A caterer shall dispense alcoholic liquor from original containers bearing Kansas alcoholic liquor identification stamps. Any individual may be allowed to bring bottles onto the event premises upon the following conditions:

- (a) A caterer shall not warehouse any bottles upon the event premises;
- (b) each person bringing any bottles onto the event premises shall remove the bottles when departing from the event premises;

(continued)

(c) 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. 85; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 53, L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-16. Minimum prices for drinks; how determined. (a) A licensed caterer shall not sell any drink to any person for less than the acquisition cost of that drink to the caterer.

(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.

(3) In determining the minimum price, a caterer 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. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-17. Caterers charge the same price for the same drink all day; day defined. (a) A caterer shall not sell a drink to any person for less than the price charged for that same drink to all other 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 6:00 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. 41-2639, 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-18. Federal retail stamp. Each caterer licensee 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 at the caterer's principal place of business. (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; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-19. Excise tax shall be current. Any caterer that fails to register for an excise tax registration number with the director of taxation shall be subject to cancellation of its license or fine by the director. Any caterer 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. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 41-211; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-22-20. Suspension and revocation; grounds for; procedure. The license of any caterer 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 caterer has omitted or misstated a material fact in its application;

(b) the caterer has operated in a manner materially different from that represented in the application;

(c) the caterer has engaged in a prohibited act or transaction;

(d) the caterer has violated any provision of the liquor control act, the club and drinking establishment 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 upon the caterer's principal place of business or at an event;

(f) the caterer, its managing officers or any employee has purchased and displayed, on the event premises or at the principal place of business a federal wagering occupational stamp or a federal coin operated gambling device stamp issued by the United States treasury department;

(g) the caterer has refused to allow the director or any agent or employee of the director or secretary to inspect the permitted premises, any alcoholic liquor upon the permitted premises or any records required to be kept by these regulations; or

(h) the caterer has allowed a person who is under the age of 21 years to possess alcoholic liquor while on the permitted 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, effective, T-88-22, July 1, 1987; effective May 1, 1988.)

Article 23.—TEMPORARY PERMITS

14-23-1. 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 of 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 alcoholic content.

(c) "Beneficial interest" means any ownership in-

terest by a person or that person's spouse in a business, corporation, partnership, business trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or similar holding in any other form of business organization.

(d) "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.

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

(f) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 41-306 as amended by L. 1987, Ch. 182, Sec. 14; 41-307 as amended by L. 1987, Ch. 182, Sec. 17; L. 1987, Ch. 182, Sec. 15; and 41-2713 et seq., 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.

(g) "Event" means any occasion for which the applicant has received a temporary permit as required in these regulations and at which the applicant may offer for sale, sell and serve alcoholic liquor to the general public.

(h) "Licensed premises" means those facilities which have been licensed pursuant to the club and drinking establishment act as a club or a drinking establishment.

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

- (1) Prostitution;
- (2) procuring any person;
- (3) soliciting 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) illegal cohabitation;
- (9) adultery;
- (10) bigamy; or
- (11) a crime against nature.

(j) "Organization" means any nonprofit charitable organization that conducts charitable activities in the state.

(k) "Permit Holder" means a person granted a permit as required in this Article 23 of these regulations.

(l) "Permitted Premises" means the area in which alcoholic liquor is to be served pursuant to the temporary permit as described in the application.

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

(n) "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.

(o) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substance in solution. The term "spirits" in-

cludes brandy, rum, whiskey, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(p) "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 those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. (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, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-2. Applications, documents required: (a) Each application for a temporary permit shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Any application which does not contain all required information may be returned to the applicant without the application being considered on its merits.

(b) Each application shall be accompanied by the permit fee in the form of a certified check or cashier's check drawn on a Kansas bank, United States post office money order or cash. Personal or business checks shall not be accepted. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-3. Requirements for temporary permit. (a) Corporations. A corporation shall not be issued a temporary permit if any officer, manager, director or stockholder owning a beneficial interest in the corporation:

(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;

(5A) 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) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or a stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the club and drinking establishment act; or,

(B) has been convicted of a violation of the club and

(continued)

drinking establishment act or the cereal malt beverage laws of this state.

(b) Associations. An association shall not be issued a temporary permit if any manager, officer, director, owner or members with a beneficial interest in the association:

(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;

(5)(A) Appoints or supervises any law enforcement officer, other than 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) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or stockholder owning a beneficial interest of a corporation which:

(A) Has had a license revoked under the club and drinking establishment act; or

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

(c) Partnerships. A partnership shall not be issued a temporary permit if any partner:

(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.

(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 permit;

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or stockholder owning a beneficial interest of a corporation which:

(A) Has had a license revoked under the club and drinking establishment act; or

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

(d) Individuals. An individual shall not be issued a temporary permit if the individual:

(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.

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

(B) who is a law enforcement official; or

(C) who is an employee of the director;

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

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or a stockholder owning a beneficial interest in a corporation which:

(A) Has had a license revoked under the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75; L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-4. Issuance of permit. (a) A temporary permit shall be issued to each applicant 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, officers, directors, partners, registered agents, trustees, managers or owners have previously owned or operated any type of 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 applicant has been granted four permits in the 12 months immediately preceding the application;

(3) the applicant has designated an area for an event which was 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 temporary permit covering the premises is an attempt to avoid any possible remedial action taken by the director against the former licensee; or

(4) the applicant has had a license or permit revoked under the club and drinking establishment act or has been convicted of a violation of the club and drinking establishment act, the liquor control act, K.S.A. 41-2701 et seq. or K.S.A. 79-41a01 et seq. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-2623 as amended by L. 1987, Ch. 182, Sec. 75, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-5. Events; filings; notice; prohibitions. (a) Each permit holder shall be allowed to offer for sale, sell and serve alcoholic liquor for consumption at an event in accordance with the club and drinking establishment act and these regulations.

(b) The permit holder shall prominently display at each event upon a poster or other device located at the entrance to the permitted premises:

- (1) The temporary permit; and
 - (2) the name of the agent of the organization who is in charge of the event.
- (c) A temporary permit holder shall not:
- (1) Conduct an event upon licensed premises;
 - (2) conduct an event with a duration of longer than three days;
 - (3) deny access to an event to any law enforcement officer;
 - (4) operate an event between the hours of 2:00 A.M. and 9:00 A.M.;
 - (5) sell cereal malt beverages at an event;
 - (6) make any sales of alcoholic liquor at an event for consumption off the permitted premises; or
 - (7) refill any original container with alcoholic liquor or any other substance.

(d)(1) An individual permit holder shall be present at all times during an event or designate another individual who will be responsible for the conduct of the event in the permit holder's absence.

(2) an organization that is a permit holder shall designate one or more agents who shall be present at all times during an event who will be responsible for the conduct of the event. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 53, 41-2613 as amended by L. 1987, Ch. 182, Sec. 68, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-6. Refund upon voluntary cancellation. Temporary permit fees shall not be refunded by the director upon cancellation of a permit or event, regardless of the reason. (Authorized by and implementing K.S.A. 41-2607, 41-2629 as amended by L. 1987, Ch. 182, Sec. 80, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-7. Employees; prohibitions. Each temporary permit holder shall not employ or use the service of any person:

- (a) Who is under the age of 18 years to serve alcoholic liquor;

(b) who is under the age of 21 years to mix or dispense drinks containing alcoholic liquor;

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

(d) who has been convicted of a felony or of any crime involving a morals charge to dispense, mix or serve alcoholic liquor;

(e) 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. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-2610 as amended by L. 1987, Ch. 182, Sec. 65; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-8. Purchase of alcoholic liquor; requirements and restrictions. (a) Each temporary permit holder shall purchase alcoholic liquor only from a retailer.

(b) Temporary permit holders shall not receive delivery of alcoholic liquor from a retailer.

(c) Temporary permit holders shall not purchase alcoholic liquor from any retail liquor licensee 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." Temporary permit holders shall not warehouse any liquor on any retail liquor store premises. All liquor purchased on any one day shall be picked up at the retail liquor store on that same day.

(d) Each temporary permit holder, when making alcoholic liquor purchases from a retailer, shall obtain and keep, for a period of not less than one year 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;
- (3) the name and address of the permit holder as it appears on the permit;
- (4) the brand, size and amount of all alcoholic liquor purchased; and

(5) the subtotal of the cost of the alcoholic liquor and the total cost of the order including enforcement tax. (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, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-301, 41-307 as amended by L. 1987, Ch. 182, Sec. 16, 41-308 amended by L. 1987, Ch. 182, Sec. 18; L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-9. Permit holder's responsibility for conduct at event. Each permit holder shall be responsible for the conduct at an event. The permit holder shall be responsible for all violations of the club and drinking establishment act by the following people while on the permitted premises:

- (a) An employee of the permit holder;

(continued)

(b) any individual serving or mixing alcoholic liquor at an event; or

(c) any employee of any person contracting with the permit holder to provide services or food in connection with an event. (Authorized by L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-2604, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-10. Removal of liquor from event premises prohibited. A permit holder shall not sell alcoholic liquor for removal from or consumption off of the permitted premises. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2604, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-11. Nontaxed liquor; individual bringing alcoholic liquor on to permitted premises. (a) At an event, alcoholic liquor shall be dispensed from original containers bearing Kansas alcoholic liquor identification stamps.

(b) Any individual may be allowed to bring bottles onto the event premises upon the following conditions:

(1) A permit holder shall not warehouse any bottles upon the event premises;

(2) each individual bringing any bottles onto the event premises shall remove the bottles when departing from the event 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; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 53; L. 1987, Ch. 182, Sec. 91, L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-12. Minimum prices for drinks; how determined. (a) A permit holder shall not sell a drink to any person for less than the acquisition cost of that drink to the permit holder.

(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. (Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-13. Charge the same price for the same drink all day; day defined. (a) A permit holder shall not sell a drink to any person for less than the price charged for that same drink to all other persons 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. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-14. Federal retail stamp. Permit holders 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 at the event. (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; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

14-23-15. Suspension and revocation; grounds for; procedure. The director may revoke a permit or fine a permit holder 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 permit holder has omitted or misstated a material fact in its application;

(b) the permit holder has operated in a manner materially different from that represented in the application;

(c) the permit holder has engaged in a prohibited act or transaction;

(d) the permit holder has violated any provision of the liquor control act, the club and drinking establishment act or any regulation 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 permit holder, its managing officers or any employee has purchased and displayed, on the permitted premises, a federal wagering occupational stamp or a federal coin operated gambling device stamp issued by the United States treasury department;

(g) the permit holder refuses to allow the director or any agent or employee of the director or secretary to inspect the permitted premises, any alcoholic liquor upon the permitted premises or any records required to be kept by these regulations; or

(h) the permit holder has allowed a person who is under the age of 21 years to possess alcoholic liquor while on the permitted 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; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

TOM HANNA
Director, Division of
Alcoholic Beverage Control

Doc. No. 006347

(Published in the *Kansas Register*, April 28, 1988.)

NOTICE OF BOND SALE
\$166,000
City of Grenola, Kansas
General Obligation Refunding Bonds
Series 1988

Sealed Bids

Sealed bids for the purchase of \$166,000 principal amount of general obligation refunding bonds, Series 1988, of the city hereinafter described, will be received by the undersigned, city clerk of the city of Grenola, Kansas, on behalf of the governing body of the city at City Hall, Main Street, Grenola, until 7:30 p.m. C.D.T. on Tuesday, April 26, 1988. All bids will be publicly opened and read at said time and place and will be acted upon by the city immediately thereafter. No oral or auction bids will be considered.

Bond Details

The bonds will consist of fully registered bonds without coupons in the denomination of \$1,000 or any integral multiple thereof. The bonds will be dated May 1, 1988, and will become due serially on December 1 in the years as follows:

Year	Principal Amount
1988	\$ 3,000
1989	3,000
1990	4,000
1991	4,000
1992	4,000
1993	4,000
1994	5,000
1995	5,000
1996	6,000
1997	6,000
1998	6,000
1999	7,000
2000	8,000
2001	8,000
2002	9,000
2003	9,000
2004	10,000
2005	11,000
2006	12,000
2007	13,000
2008	14,000
2009	15,000

The bonds will bear interest at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on June 1 and December 1 in each year, beginning on December 1, 1988.

Place of Payment and Bond Registration

The principal of and interest on the bonds will be payable in lawful money of the United States of America by check or draft of the Kansas State Treasurer, Topeka, Kansas (the paying agent and bond registrar). The principal of the bonds will be payable at maturity or upon earlier redemption to the registered owners upon presentation and surrender of the bonds at the office of the paying agent. Interest on the bonds will be paid by check or draft mailed by the paying agent to the persons whose names the bonds are registered on the registration books maintained by the bond registrar at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date.

The city will pay for the fees of the bond registrar for registration and transfer of the bonds and will also pay for printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the bond registrar, will be the responsibility of the bondholders.

Redemption of Bonds Prior to Maturity

The bonds shall become due without option of prior payment.

Conditions of Bids

Proposals will be received on the bonds bearing such rate or rates of interest as may be specified by the bidders, subject to the following conditions: The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be a multiple of $\frac{1}{8}$ or $\frac{1}{20}$ of 1 percent. No interest rate shall exceed the index of treasury bonds published by the weekly *Credit Markets* in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus 2 percent. The difference between the highest rate specified and the lowest rate specified shall not exceed 1.5 percent. No supplemental interest payments will be authorized. No bid of less than the principal amount of the bonds and accrued interest thereon will be considered. Each bid shall specify the total interest cost to the city during the life of the bond issue on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the city on the basis of such bid. Each bid shall also specify the average annual net interest rate to the city on the basis of such bid. Bidders shall specify in the bid form the prices (exclusive of accrued interest), expressed as a dollar price, at which the bidder intends that each maturity amount of the bonds shall be initially offered to the public (the initial reoffering prices).

Basis of Award

The award of the bonds will be made on the basis of the lowest net interest cost to the city, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the city. If there is any discrepancy between the net interest cost and the average annual net interest rate specified, the specified net interest cost shall govern and the interest rates specified in the bid shall be adjusted accordingly. If two or more proper bids providing for identical amounts for the lowest net interest cost are received, the city shall determine which bid, if any, shall be accepted, and its determination shall be final.

Authorization, Purpose and Security for the Bonds

The bonds are being authorized and issued to refund an outstanding general obligation bond of the city. The bonds will be general obligations of the city payable as to both principal and interest from ad valorem taxes which may be levied without limitation upon all the taxable tangible property, real and personal, within the territorial limits of the city.

Internal Revenue Code of 1986

The Internal Revenue Code of 1986 imposes requirements on the city which must be met subsequent to the issuance of the bonds by the city and, as a result, the city will and does hereby covenant that it will diligently

(continued)

undertake those steps necessary to maintain the tax-exempt status of the bonds. The city's failure to comply with such requirements could adversely affect the tax-exempt status of the bonds. Purchasers of the bonds should be aware that should the bonds lose their status as tax-exempt obligations as a result of the city's failure to comply with such requirements, the bonds are neither callable nor will the rate of interest on the bonds be adjusted to reflect such circumstances.

The code includes interest on tax-exempt obligations, such as the bonds, in the adjusted net book income of certain corporations for taxable years beginning after December 31, 1986, and includes, through 1989, in the calculation of alternative minimum taxable income, one-half of the excess of a corporation's adjusted net book income over its alternative minimum taxable income (determined without regard to this adjustment and prior to reduction for certain net operating losses). After 1989, the use of "book income" will be replaced by "adjusted current earnings," with certain other adjustments. Furthermore, Section 59A of the code, as added by the Superfund Amendments and Reauthorization Act of 1986, provides for a new environmental tax generally based on corporate alternative minimum taxable income. The amount of the tax is equal to 0.12 percent of the excess of alternative minimum taxable income, without regard to net operating losses and the deduction for this tax, over \$2 million. The environmental tax is imposed whether or not the taxpayer is subject to the alternative minimum tax. The environmental tax, which is effective for taxable years beginning after December 31, 1986, may subject certain bondowners to additional taxation for interest earned on the bonds.

The code also requires property and casualty insurance companies, for taxable years beginning on or after January 1, 1987, to reduce the amount of their deductible underwriting losses by a percentage of the amount of tax-exempt interest received or accrued on obligations acquired after August 7, 1986.

With the exception of certain "qualified tax-exempt obligations," the code provides that banks and thrift institutions may not deduct any portion of the interest cost of purchasing or carrying tax-exempt obligations such as the bonds if such interest cost is incurred in taxable years ending after December 31, 1986, with respect to obligations acquired after August 7, 1986. The city does intend to designate the bonds as "qualified tax-exempt obligations" under Section 265 of the code.

Legal Opinion

The bonds will be sold subject to the legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the city, printed on the bonds and delivered to the successful bidder when the bonds are delivered. Said opinion will also state that in the opinion of bond counsel, assuming continued compliance by the city, with the provisions of the ordinance authorizing the issuance of the bonds and the code, under existing law, the interest on the bonds is exempt from federal income taxation.

Delivery and Payment

The city will pay for printing the bonds and will deliver the bonds, without cost to the successful bidder, properly

prepared, executed and registered, on or prior to May 25, 1988, at such bank or trust company in the contiguous United States of America as may be specified by the successful bidder. Said bidder will also be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the bonds and the usual closing documents, including a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity and a certificate regarding the completeness and accuracy of the official statement. Payment for the bonds shall be made in Federal Reserve funds, immediately subject to use by the city. The denominations of the bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the city and bond registrar not later than 10 a.m. C.D.T. on May 20, 1988. In the absence of such information, the city will deliver bonds in the denomination of each maturity registered in the name of the successful bidder.

The successful bidder shall furnish the city by 10 a.m. C.D.T. on May 23, 1988, a certificate acceptable to the city's bond counsel to the effect that (i) the successful bidder has made a bona fide public offering of the bonds at the initial reoffering prices, and (ii) a substantial amount of the bonds was sold to the public (excluding brokers and other intermediaries) at such initial reoffering prices. Such certificate shall state that (1) it is made on the best knowledge, information and belief of the successful bidder and (2) 10 percent or more in par amount of the bonds of each maturity was sold to the public at or below the initial reoffering prices (such amount being sufficient to establish the sale of a "substantial amount" of the bonds).

Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$3,320, payable to the order of the city to secure the city from any loss resulting from the failure of the bidder to comply with the terms of the bid. No interest will be paid upon the deposit made by the successful bidder. Said check shall be returned to the bidder if the bid is not accepted. If a bid is accepted, said check shall be held by the city until the bidder shall have complied with all of the terms and conditions of this notice, at which time said check shall be returned to the successful bidder or deducted from the purchase price at the option of the city. If a bid is accepted but the city shall fail to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check shall be returned to the bidder. If a bid is accepted but the bidder shall default in the performance of any of the terms and conditions of this notice, the proceeds of such check shall be retained by the city as and for liquidated damages.

CUSIP Numbers

CUSIP identification numbers will be printed on the bonds, but neither the failure to print such number on any bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds in accordance with the terms of this notice. All expenses in relation to

the assignment and printing of CUSIP numbers on the bonds will be paid by the city.

Bid Forms

All bids must be made on forms which may be procured from the city clerk. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid. The city reserves the right to waive irregularities and to reject any or all bids.

Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned city clerk and marked "Proposal for the Purchase of General Obligation Refunding Bonds." Bids may be submitted by mail or delivered in person to the undersigned at City Hall and must be received by the undersigned prior to 7:30 p.m. C.D.T. on Tuesday, April 26, 1988.

Official Statement

Upon the sale of the bonds, the city will adopt an official statement in substantially the form as the preliminary official statement, subject to minor amendments and supplementation. Copies of the city's preliminary official statement relating to the bonds may be obtained from the city clerk or the city's financial adviser, Mid-Continent Investments, Inc., Century Plaza, Suite 333, 111 W. Douglas, Wichita, KS 67202-2370, (316) 262-5161. Upon request, a reasonable number of copies of the official statement will be made available to the successful bidder without charge. Additional copies may be obtained at the expense of such bidder.

Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the city for the year 1987 is \$437,383. The total general obligation bonded indebtedness of the city as of the date of the bonds, including the bonds, is \$166,000. In accordance with the financial adviser's agreement with the city, the financial adviser will not be submitting a bid or participating in a group submitting a bid for the purchase of the bonds.

Dated April 26, 1988.

City of Grenola, Kansas
 Dixie Conklin
 City Clerk
 City Hall
 Main Street
 Grenola, KS 67346
 (316) 358-2860

Coupon bonds of \$5,000 denominations called in full, bearing CUSIP No. 795165 and suffix:

AH2	AN9	1021
281	547	1073
		1238
AJ8	AP4	1367
330	622	1479
		1504
AK5	AQ2	1507
409	707	2970
		3016
AL3	AR0	3176
470	801	3178
		3247
AM1	AW9	
540	879	

In addition to the coupon bonds listed above, the following fully registered bonds are called as shown below, bearing CUSIP No. 795165 and suffix:

Bond Number	Total Principal	Amount Called	Suffix
R 152	\$ 5,000	\$ 5,000	AN9
R 151	5,000	5,000	AQ2
R 102	75,000	70,000	AW9
R 132	80,000	15,000	AW9
R 143	90,000	25,000	AW9
R 154	100,000	5,000	AW9

On June 1, 1988, all bonds designated for redemption will become due and payable upon presentation thereof to the office of the paying agent.

Coupon bonds with the December 1, 1988 coupon and all subsequent coupons attached should be presented to the office of the paying agent, Continental Illinois National Bank and Trust Company of Chicago, Attention: Corporate Trust Operations, 30 N. LaSalle St., 16th Floor, Chicago, IL 60697.

Registered bonds should be presented to the paying agent, Continental Illinois National Bank and Trust Company of Chicago, Attention: Corporate Trust Operations, 30 N. LaSalle St., 16th Floor, Chicago, IL 60697.

Each holder whose bond has been redeemed in part will receive a new bond for the unredeemed portion. Interest on the bonds or portions of bonds called for redemption will cease to accrue on June 1, 1988.

Coupons for June 1, 1988 should be detached and presented in the usual manner.

Under the provisions of the Interest and Dividend Tax Compliance Act of 1983, paying agents making payments of interest or principal on corporate securities or making payments of principal on municipal securities may be obligated to withhold a 20 percent tax from remittances to individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the above described securities who wish to avoid the imposition of this tax should submit certified taxpayer identification numbers when presenting their securities for collection.

Dated April 29, 1988.

By: Continental Illinois National Bank and Trust Company of Chicago, Trustee

Doc. No. 006503

Doc. No. 006430

(Published in the Kansas Register, April 28, 1988.)

NOTICE OF REDEMPTION

Saline County, Kansas

Single Family Mortgage Revenue Bonds

1980 Series A

Serial Bonds Due December 1, 1988-1996

Term Bonds Due December 1, 2010

Notice is hereby given that \$235,000 principal amount of the bonds, as listed below, are called for redemption on June 1, 1988, at the redemption price of 100 percent of the principal amount being redeemed plus accrued interest thereon to the redemption date.

(Published in the *Kansas Register*, April 28, 1988.)

NOTICE OF REDEMPTION
Crawford County, Kansas
Single Family Mortgage Revenue Bonds
1980 Series A
Due December 1, 2011

Notice is hereby given that \$425,000 principal amount of the bonds, as listed below, are called for redemption on June 1, 1988, at the redemption price of 100 percent of the principal amount being redeemed plus accrued interest thereon to the redemption date.

The serial numbers of the coupon bonds to be redeemed are as follows:

CUSIP No. 224851AV7

1146	1356	1511	1606
1159	1364	1517	1611
1166	1376	1528	1617
1180	1380	1530	1626
1238	1388	1532	1635
1257	1392	1537	1645
1276	1399	1539	1647
1286	1400	1544	1653
1290	1467	1570	1655
1322	1474	1580	1656
1326	1476	1584	1663
1335	1480	1588	1669
1336	1482	1591	1672
1347	1487	1593	1674
1348	1498	1595	1676
1350	1510	1598	1682
			1683

The serial numbers of the registered bonds to be redeemed in whole or in part and the principal amount to be redeemed are as follows:

CUSIP No. 224851AV7

Bond Number	Total Principal	Amount Called
R108	25,000	15,000
R118	5,000	5,000
R119	5,000	5,000
R123	5,000	5,000
R124	15,000	15,000
R127	75,000	55,000

On June 1, 1988, all bonds designated for redemption will become due and payable upon presentation thereof at the address of the trustee given below. On and after June 1, 1988, interest on the principal amount called for redemption shall cease to accrue.

Bonds should be presented for payment in person or by mail at the following addresses:

Continental Illinois National Bank
 and Trust Company of Chicago
 Corporate Trust Operations
 30 N. LaSalle St., 16th Floor
 Chicago, IL 60697

Kansas State Bank and Trust Co.
 (Co-Trustee)
 Trust Department
 123 N. Market
 Wichita, KS 67202

Under the provisions of the Interest and Dividend Tax Compliance Act of 1983, paying agents making payments of interest or principal on corporate securities or making payments of principal on municipal securities may be obligated to withhold a 20 percent tax from remittances to individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the above described securities who wish to avoid the imposition of this tax should submit certified taxpayer identification numbers when processing their securities for collection.

Dated April 29, 1988.

By: Continental Illinois National Bank
 and Trust Company of Chicago, Trustee

Doc. No. 006502

(Published in the *Kansas Register*, April 28, 1988.)

NOTICE OF CALL FOR REDEMPTION
to the holders of
the City of Caney, Kansas
Industrial Revenue Bonds
Series A, 1978
(Judd Valve Company, Inc.)

Notice is hereby given that pursuant to the provisions of Section 5 of Ordinance No. 790 of the city, duly adopted June 5, 1978, those of the above-mentioned bonds maturing June 1, 1989 and thereafter, as described herein, and all unmatured coupons appertaining thereto, have been called for redemption and payment on June 1, 1988 at the office of Union Bank and Trust Company, Bartlesville, Oklahoma (the paying agent).

Bond Nos.	Maturity Date	Principal Amount	Interest Rate
26-30	June 1, 1989	\$25,000	7.50%
31-36	June 1, 1990	30,000	7.50%
37-42	June 1, 1991	30,000	7.50%
43-48	June 1, 1992	30,000	7.50%
49-55	June 1, 1993	35,000	7.50%
56-62	June 1, 1994	35,000	7.50%
63-70	June 1, 1995	40,000	7.50%
71-78	June 1, 1996	40,000	7.50%
79-87	June 1, 1997	45,000	7.50%
88-97	June 1, 1998	50,000	7.50%

On such redemption date there shall become due and payable, upon the presentation and surrender of each such bond, the redemption price thereof equal to 102.5 percent of the principal amount of each bond together with interest accrued to the redemption date, upon the presentation and surrender of appropriate coupons appertaining thereto. Interest shall cease to accrue on the bonds and all unmatured coupons appertaining thereto so called for redemption from and after June 1, 1988, in that sufficient funds for redemption are on deposit with the paying agent.

THE CITY OF CANEY, KANSAS
 By Union Bank and Trust Company
 Bartlesville, Oklahoma
 Bond Registrar and Paying Agent

Doc. No. 006521

(Published in the Kansas Register, April 28, 1988.)

(Published in the Kansas Register, April 28, 1988.)

**NOTICE OF REDEMPTION
to the holders of
Seward County, Kansas
Single Family Mortgage
Revenue Bonds
1979 Series A
Due December 1, 2004**

Notice is hereby given that pursuant to Section 3.01 of the indenture dated as of September 1, 1979, \$200,000 principal amount of the bonds has been drawn by lot from the bonds maturing December 1, 2004 for redemption at par on June 1, 1988.

Coupon bonds of \$5,000 denominations, called in full bearing CUSIP No. 818452AW4:

877	974	1068	1233
894	983	1071	1251
897	1010	1075	1256
901	1011	1082	1260
911	1013	1083	1271
917	1023	1125	1283
937	1027	1139	1337
954	1033	1155	1355
959	1044	1178	
965	1049		

In addition to the coupon bonds listed above, the following fully registered bond is called:

Bond No.	Bond Amount	Bond Called
R-36	\$70,000	\$15,000

Bonds with the December 1, 1988 coupons and all subsequent coupons attached should be presented to one of the offices of the paying agents:

Continental Illinois National Bank
and Trust Company of Chicago
Corporate Trust Operations
30 N. LaSalle St., 16th Floor
Chicago, IL 60697

Kansas State Bank & Trust Company
Trust Department
123 N. Market
Wichita, KS 67202

Coupons for June 1, 1988 interest should be detached and presented in the usual manner. Interest on the bonds called for redemption will cease to accrue on June 1, 1988.

Under the provisions of the Interest and Dividend Tax Compliance Act of 1983, paying agents making payments of interest or principal on corporate securities or making payment of principal on municipal securities may be obligated to withhold a 20 percent tax from remittances to individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the above described securities who wish to avoid the imposition of this tax should submit certified taxpayer identification numbers when presenting their securities for collection.

Dated April 30, 1988.

By: Continental Illinois National Bank
and Trust Company of Chicago, Trustee

Doc. No. 006500

**NOTICE OF REDEMPTION
to the holders of
Seward County, Kansas
Single Family Mortgage Revenue Bonds
1980 Series A
Due December 1, 2011**

Notice is hereby given that pursuant to Section 3.01 of the indenture dated as of April 1, 1980, \$465,000 principal amount of bonds has been drawn by lot for redemption at par on June 1, 1988 as follows:

Coupon bonds, called in full, \$5,000 each, bearing CUSIP No. 818452 and suffix:

BG8	251	533	844	1110	1223	1356
	110	266	547	860	1136	1224
		336	558	872	1153	1234
BH6	349	575	893	1154	1253	1399
	133	352	665	936	1170	1255
		364	688	940	1178	1270
BJ2	378	690	942	1188	1286	1434
	143	389	702	961	1190	1291
	145	414	703	1014	1198	1294
	162	443	733	1024	1199	1306
	197	481	768	1034	1200	1327
	198	504	788	1052	1206	1340
	215	506	839	1075	1212	1344
	222	518	840	1098	1219	1351
						1560

Bonds with the December 1, 1988 coupons and all subsequent coupons attached should be presented to one of the offices of the paying agents:

Continental Illinois National Bank
and Trust Company of Chicago
Attn: Corporate Trust Operations
30 N. LaSalle St., 16th Floor
Chicago, IL 60697

Security National Bank
of Kansas City
Attn: Bond Operations
One Security Plaza, P.O. Box 1250
Kansas City, KS 66112

Coupons for the June 1, 1988 interest should be detached and presented in the usual manner. Interest on the bonds called for redemption will cease to accrue on June 1, 1988.

Under the provisions of the Interest and Dividend Tax Compliance Act of 1983, paying agents making payments of interest or principal on corporate securities or making payment of principal on municipal securities may be obligated to withhold a 20 percent tax from remittances to individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the above described securities who wish to avoid the imposition of this tax should submit certified taxpayer identification numbers when presenting their securities for collection.

Dated April 30, 1988.

Seward County, Kansas
By: Continental Illinois National Bank
and Trust Company of Chicago, Trustee

Doc. No. 006499

(Published in the *Kansas Register*, April 28, 1988.)**NOTICE OF REDEMPTION**

**Labette County
and
Cowley County, Kansas
Single Family Mortgage Revenue Bonds
(Multiple Originators and Services)
1981 Series A**

Notice is hereby given that \$985,000 principal amount of the bonds, as listed below, are called for redemption on June 1, 1988, at the redemption price of 100 percent of the principal amount being redeemed plus accrued interest thereon to the redemption date.

Coupon bonds of \$5,000 denominations called in full, bearing CUSIP NO. 505385 and suffix:

AG9	3214	3692	4286	4886	5435	5906
319	3218	3696	4292	4888	5437	5912
	3229	3706	4304	4898	5475	5925
AH7	3239	3718	4305	4914	5498	5938
418	3251	3726	4314	4940	5504	5941
	3265	3755	4336	4960	5505	5945
AJ3	3284	3805	4344	4979	5538	5956
499	3286	3828	4426	4982	5557	5969
	3289	3845	4448	5009	5569	5980
AKO	3389	3864	4469	5010	5595	5985
605	3390	3881	4489	5013	5616	5987
	3397	3899	4504	5017	5635	6001
AL8	3432	3941	4530	5027	5646	6005
733	3441	3955	4562	5106	5662	6013
	3443	3974	4566	5133	5683	6016
AM6	3448	3982	4588	5139	5685	6050
964	3458	3985	4608	5141	5693	6065
1070	3499	3991	4670	5147	5717	6116
	3509	4005	4682	5216	5721	6132
AR5	3512	4013	4704	5238	5723	6147
3088	3520	4016	4709	5248	5776	6160
3089	3522	4021	4725	5249	5797	6166
3104	3589	4061	4734	5261	5804	6182
3113	3604	4089	4760	5280	5833	6196
3138	3617	4090	4767	5317	5844	6235
3150	3629	4136	4801	5323	5857	6242
3162	3637	4166	4822	5354	5882	6248
3165	3641	4200	4832	5413	5886	
3196	3642	4254	4865	5414	5897	
3210	3680	4256	4884	5428	5905	

In addition to the coupon bonds listed above, the following fully registered bonds due June 1, 2012 are called as shown below bearing CUSIP NO. 505385AR5.

Bond Number	Total Principal	Amount Called
R-39	\$15,000	\$5,000
R-45	30,000	5,000
R-132	5,000	5,000

On June 1, 1988, all bonds designated for redemption will become due and payable upon presentation thereof at the address of the trustee given below. On and after June 1, 1988, interest on the principal amount called for redemption shall cease to accrue.

Bonds should be presented for payment in person or by mail to the Continental Illinois National Bank and Trust Company of Chicago, Attention: Corporate Trust Operations, 30 N. LaSalle St., 16th Floor, Chicago, IL 60697.

Under the provisions of the Interest and Dividend Tax Compliance Act of 1983, paying agents making payments of interest or principal on corporate securities or making payments of principal on municipal securities may be ob-

ligated to withhold a 20 percent tax from remittances to individuals who have failed to furnish the paying agent with a valid taxpayer identification number. Holders of the above described securities who wish to avoid the imposition of this tax should submit certified taxpayer identification numbers when presenting their securities for collection.

Dated April 29, 1988.

By: Continental Illinois National Bank
and Trust Company of Chicago, *Trustee*

Doc. No. 006501

(Published in the *Kansas Register*, April 28, 1988.)**HOUSE BILL No. 3103**

AN ACT concerning the department of revenue; relating to the collection of delinquent taxes; authorizing the acquisition of an automated collections system; providing certain exemptions.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The secretary of revenue is hereby authorized to enter into contracts to acquire an automated collections system, including computer hardware and software therefor, for use in the collection of delinquent taxes and any interest and penalties thereon. Any automated collections system acquired by the secretary of revenue shall be operated by employees of the department of revenue. Any contracts entered into between the secretary of revenue and a vendor of automatic collections systems may provide for payment of fees for the automated collections system on the basis of a percentage of the amount of taxes, interest and penalties collected through use of the automated collections system. All contracts entered into under this section shall be entered into pursuant to procurement negotiating committee procedures as provided in K.S.A. 1987 Supp. 75-37,102 and amendments thereto. During each regular session of the legislature, the secretary of revenue shall submit a report to the committee on ways and means of the senate and the committee on appropriations of the house of representatives on the collections of delinquent taxes and any interest or penalties thereon during the preceding year through use of the automated collections system.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 31, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 8, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 19, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 19th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

HOUSE BILL No. 3046

AN ACT repealing K.S.A. 39-747 to 39-750, inclusive; relating to transitional provisions enacted to implement the orderly transfer of social welfare functions and responsibilities from the counties to the state.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 39-747 to 39-750, inclusive, are hereby repealed.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 29, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 6, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 18, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 18th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

SENATE BILL No. 525

AN ACT concerning school district finance; affecting certain definitions; relating to the determination of general state aid; imposing limitations on budgets per pupil for the 1988-89 school year; amending K.S.A. 1987 Supp. 72-7033, 72-7042, 72-7043 and 72-7055, and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 72-7033 is hereby amended to read as follows: 72-7033. (a) "Pupil" means any person who is regularly enrolled in a district and attending any of the grades kindergarten through 12 maintained by the district or who is regularly enrolled in the district and attending any of the grades kindergarten through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in the district and attending special education services provided for preschool-aged exceptional children by the district. A pupil who is not regularly enrolled full time shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the pupil's regular enrollment bears to full-time regular enrollment. A pupil enrolled in kindergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if such pupil's postsecondary education enrollment and attendance and regular enrollment and attendance in grade 12 is at least $\frac{5}{6}$ time, otherwise any such pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's on-postsecondary education enrollment and postsecondary education enrollment bears to full-time enrollment. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if such pupil's vocational

education enrollment and attendance and regular enrollment and attendance in any of grades nine through 12 is at least $\frac{5}{6}$ time, otherwise any such pupil shall be counted as that proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of the pupil's non-vocational education enrollment and vocational education enrollment bears to full-time enrollment. A pupil enrolled in a district and attending special education services, except special education services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education services for preschool-aged exceptional children provided for by the district shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in a district but housed, maintained, and receiving special education services at a state institution shall not be counted.

(b) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of ~~four~~ three years but are under the age of eligibility for attendance at kindergarten.

(c) "Enrollment" or "E" means the number of pupils regularly enrolled in a district on September 20.

(d) "Enrollment category" means a category established under the school district equalization act for grouping districts based on enrollments thereof.

(e) "Graph" means a bivariate frequency distribution.

Sec. 2. K.S.A. 1987 Supp. 72-7042 is hereby amended to read as follows: 72-7042. (a) "Local effort rate" means the rate of a district as determined under K.S.A. 72-7045, and amendments thereto.

(b) "District wealth" means, for the 1986-87 school year and for school years after the ~~1987-88~~ 1988-89 school year, the sum of the taxable income within the district for the most recent year for which such income figures are available and the adjusted valuation of the district for the same period; and for the 1987-88 and 1988-89 school year years, the quotient obtained by dividing by 1.75 the sum of the taxable income within the district for the most recent year for which such income figures are available and the adjusted valuation of the district for such year plus 75% of the taxable income within the district for the year preceding the most recent year for which such income figures are available and 75% of the adjusted valuation of the district for such preceding year.

(c) "Local effort" means the sum of (1) the product of a district's local effort rate and the district wealth; and (2) an amount equal to 85% of the amount the district receives in the current school year from the school district income tax fund; and (3) an amount equal to the amount credited to the general fund in the preceding school year from amounts distributed in that year to the district under the provisions of articles 17 and 34 of chapter 12 of Kansas Statutes Annotated and under the provisions of articles 10 and 51 of chapter 79 of Kansas Statutes Annotated; and (4) an amount equal to the *federal impact aid of a district*.

(d) "*Federal impact aid*" means an amount equal to the federally qualified percentage of the amount of moneys ~~the~~ a district received in the preceding school year, ~~or was entitled to receive if no application was made for such moneys~~, under the provisions of title I of public law 874 and congressional appropriations therefor (but excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program), except that, when the state board determines that a district will receive significantly less such moneys in the current school year than in the preceding school year and that inclusion in local effort of an amount of *federal impact aid* equal to the federally qualified percentage of the amount of moneys such district received in the preceding school year ~~will~~ would result in a significant increase in the district's tax levy for operating expenses, the amount of *federal impact aid* to be included in local effort shall be an amount equal to the federally qualified percentage of the amount the state board estimates the district will receive in the current school year, which amount shall subsequently be adjusted to reflect an amount of *federal impact aid* equal to the federally qualified percentage of the amount actually received in that year, such adjustment to be made in the current or next following school year as determined

(continued)

by the state board. The amount to be included in local effort under this provision, and referred to of federal impact aid defined herein as an amount equal to the federally qualified percentage of the amount of moneys provided for the district under title I of public law 874, shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

Sec. 3. K.S.A. 1987 Supp. 72-7043 is hereby amended to read as follows: 72-7043. (a) In February of each year, the state board shall determine the amount of general state aid each district is entitled to receive for the current school year by subtracting as provided in this section.

(b) The state board shall subtract the amount of the district's local effort from the amount of the district's legally adopted budget of operating expenses for the current school year. Subject to the other provisions of subsection (b) this section, the remainder is the amount of general state aid to which the district is entitled to receive for the current school year.

(b) Notwithstanding the provisions of subsection (a), the amount of general state aid each district shall be entitled to receive for the current school year shall be determined by

(c) The state board as follows shall:

(1) Determine the sum of an amount equal to 75% of the district's entitlement from the school district income tax fund and the amount of its general state aid entitlement the remainder obtained under subsection (a) (b).

(2) Determine the sum of an amount equal to the district's entitlement in for the 1972-73 school year of to general state aid under former K.S.A. 72-7010 and to supplemental state aid under former K.S.A. 72-7027, divided and divide the sum so determined by the number of pupils enrolled in the district on September 15, 1972.

(3) Multiply the amount determined in of the quotient obtained under provision (2) by the number of pupils enrolled in the district on September 20 of the current school year.

(4) If the product determined in obtained under provision (3) is greater than the amount determined in under provision (1), subtract the amount determined in under provision (1) from the product determined in obtained under provision (3):

(A) If the amount of general state aid each district which had a general fund tax rate equal to or exceeding the median general fund tax rate of all districts in the preceding school year, the amount of general state aid the district is entitled to receive for the current school year is the sum of the amount determined in of the remainder obtained under subsection (b) and the amount of the remainder obtained under this provision (4) and the amount of its general state aid entitlement under subsection (a);

(B) if the amount of general state aid each district which had a general fund tax rate less than the median general fund tax rate of all districts in the preceding school year, the amount of general state aid the district is entitled to receive for the current school year is the sum of the amount determined in of the remainder obtained under subsection (b) and the amount of the remainder obtained under this provision (4) less an amount equal to 10% of the product determined in obtained under provision (3) for each mill, or fraction thereof, that the district's general fund tax rate is less than such median and the amount of its general state aid entitlement under subsection (a).

(5) If the product determined in obtained under provision (3) is less than the amount determined in under provision (1), the amount of general state aid which the district is entitled to receive for the current school year is as determined in the amount of the remainder obtained under subsection (a) (b).

(6) The provisions of this subsection shall expire on June 30, 1988.

(d) Subject to appropriations for the purpose of implementing the provisions of this subsection, the amount of general state aid each district shall be entitled to receive for the 1988-89 school year shall be determined by the state board as follows:

(1) Determine the sum of an amount equal to the district's entitlement from the school district income tax fund and the amount of the remainder obtained under subsection (b).

(2) Determine the sum of an amount equal to the district's

entitlement in the 1987-88 school year from the school district income tax fund and the amount of the district's general state aid entitlement for such school year.

(3) If the sum obtained under provision (2) is greater than the sum obtained under provision (1), subtract the amount of the sum obtained under provision (1) from the amount of the sum obtained under provision (2) and divide the remainder by two:

(A) If the district had a general fund tax rate equal to or exceeding the median general fund tax rate of all districts in the 1987-88 school year, the amount of general state aid the district is entitled to receive for the 1988-89 school year is the sum of the amount of the remainder obtained under subsection (b) and the amount of the quotient obtained under this provision;

(B) if the district had a general fund tax rate less than the median general fund tax rate of all districts in the 1987-88 school year, the amount of general state aid the district is entitled to receive for the 1988-89 school year is the sum of the amount of the remainder obtained under subsection (b) and the amount of the quotient obtained under this provision less an amount equal to 10% of the amount of such quotient for each mill, or fraction thereof, that the district's general fund tax rate was less than such median.

(4) If the sum obtained under provision (2) is less than the sum obtained under provision (1), the amount of general state aid the district is entitled to receive for the 1988-89 school year is the amount of the remainder obtained under subsection (b).

(5) If the amount of appropriations for implementation of the provisions of this subsection is insufficient to pay in full the amount each district is determined to be entitled to receive under this subsection for the 1988-89 school year, the state board shall prorate the amount appropriated among all districts which are determined to be entitled to receive general state aid under the provisions of this subsection in proportion to the amount each district is determined to be entitled to receive.

(6) The provisions of this subsection shall expire on June 30, 1989.

Sec. 4. K.S.A. 1987 Supp. 72-7055 is hereby amended to read as follows: 72-7055. (a) Subject to the other provisions of this section, in any school year commencing after June 30, 1988 1989, no district shall budget or expend for operating expenses per pupil more than (1) the determinable percentage of the amount of its budget per pupil in the preceding school year or (2) one hundred three percent of the median budget per pupil, as determined by the state board in the preceding school year of districts within the same enrollment category as such district during such year, whichever of (1) or (2) is the lower amount per pupil. Notwithstanding the foregoing provisions of this subsection, any district may budget and expend for operating expenses per pupil not more than 103% of its budget per pupil in the preceding school year.

For the purposes of this subsection, the determinable percentage shall be the percentage equal to the percentage specified in provision (2) plus six percentage points.

(b) Subject to the other provisions of this section, in the school year commencing after June 30, 1987 1988, no district shall budget or expend for operating expenses per pupil more than (1) the determinable percentage of the amount of its budget per pupil in the preceding school year or (2) one hundred two percent of the median budget per pupil, as determined by the state board, in the preceding school year of districts within the same enrollment category as such district during such year, whichever of (1) or (2) is the lower amount per pupil. Notwithstanding the foregoing provisions of this subsection, any district may budget and expend for operating expenses per pupil not more than 102% of its budget per pupil in the preceding school year.

For the purposes of this subsection, the determinable percentage shall be the percentage equal to the percentage specified in provision (2) plus 1.5 two percentage points.

(c) In the school year commencing after June 30, 1987 1988, any district may increase the percentage increase in its budget per pupil authorized under subsection (b) by not more than one percentage point if the board determines that the amount the

district is permitted to budget for operating expenses per pupil under the limitations prescribed in this section is insufficient for such purposes and that an increase in its budget per pupil under this subsection is necessary. No district shall increase its budget per pupil under this subsection until a resolution authorizing such an increase is passed by the board and published once a week for three consecutive weeks in a newspaper having general circulation in the district. The resolution shall specify the amount and percentage of the proposed increase in the budget per pupil. After adoption of the resolution, the budget per pupil may be increased by the specified amount unless, within 30 days following the last publication of the resolution, a petition in opposition to the proposed increase, signed by not less than 5% of the qualified electors of the district, is filed with the county election officer of the home county of the district. In the event such a petition is filed, the budget per pupil shall not be increased without the question thereof having been submitted to and been approved by a majority of the qualified electors of the district voting at an election which shall be called for that purpose.

(d) In addition to the amounts authorized to be budgeted and expended under the provisions of this section, any district may budget and expend for operating expenses per pupil in any school year an amount which shall be determined by the state board by computing the amount of increase in expenditures paid from the general fund of the district in the preceding school year for the employer contribution required under K.S.A. 40-2305, and amendments thereto. Such amount of increase, less an amount equivalent to the percentage increase in the budget per pupil authorized in the preceding school year times the expenditure for the contribution in the second preceding school year, is the additional amount which may be included within the legally adopted budget of operating expenses in the current school year.

(e) In addition to the amounts authorized to be budgeted and expended under the provisions of this section, any district may budget and expend for operating expenses per pupil in any school year an amount which shall be determined by the state board by computing the amount of increase in expenditures paid from the general fund of the district in the preceding school year for the costs incurred for the supplying of water, heat and electricity to the district. Such amount of increase, less an amount equivalent to the percentage increase in the budget per pupil authorized in the preceding school year times the expenditure for the costs in the second preceding school year, is the additional amount which may be included within the legally adopted budget of operating expenses in the current school year.

(f) In addition to the amounts authorized to be budgeted and expended under the provisions of this section, any district may budget and expend for operating expenses per pupil in any school year an amount which shall be determined by the state board by computing the amount of increase in expenditures paid from the general fund of the district in the preceding school year for the purchase of insurance. Such amount of increase, less an amount equivalent to the percentage increase in the budget per pupil authorized in the preceding school year times the expenditure for the purchase of insurance in the second preceding school year, is the additional amount which may be included within the legally adopted budget of operating expenses in the current school year.

(g) Whenever a district's legally adopted budget of operating expenses in any school year was less than authorized under the provisions of article 70 of chapter 72 of Kansas Statutes Annotated, the district may add the amount that the budget was less than so authorized to its legally adopted budget of operating expenses of a later school year. Notwithstanding the other provisions of this subsection, no district shall budget or expend for operating expenses per pupil in any school year more than the determinable percentage of the amount of its budget per pupil in the preceding school year without an election as provided for in this section.

For the purposes of this subsection, the determinable percentage shall be the determinable percentage authorized for the current school year under the provisions of this section.

(h) If the enrollment in a district in the current school year

has decreased less than the percentage applicable to the district under this subsection from the enrollment in the preceding school year, the amount which the district may budget and expend under this section may be computed on the basis of the enrollment in the preceding school year. If the enrollment in a district in the current school year has decreased more than the percentage applicable to the district under this subsection from the enrollment in the preceding school year, the amount which the district may budget and expend under this section may be computed on the basis of the enrollment in the preceding school year less the number of pupils by which the enrollment decrease in the current school year exceeds the number of pupils equal to the percentage of enrollment applicable to the district under this subsection. The percentage applicable to a district for the purpose of this subsection is 10% for districts in the first and second enrollment categories and 4% for districts in the fourth and fifth enrollment categories. The percentage applicable to districts in the third enrollment category shall be determined in accord with a schedule prepared annually by the state board. Such schedule shall be based upon an accepted mathematical formula and shall provide a linear transition between the percentage applicable to districts in the first and second enrollment categories and the percentage applicable to districts in the two largest enrollment categories.

(i) Notwithstanding any of the foregoing provisions of this section, any district may budget and expend for operating expenses per pupil any amount which is not in excess of an amount which has been submitted to and approved by the electors of the district at a general or primary election of the district or at a special election called for the purpose. The election shall be held in the manner provided by article 20 of chapter 25 of Kansas Statutes Annotated for elections on questions submitted in the district.

(j) The provisions of this section apply to the school district created by K.S.A. 72-5333a, and amendments thereto.

Sec. 5. K.S.A. 1987 Supp. 72-7033, 72-7042, 72-7043 and 72-7055 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 17, 1988.

SENATE adopted Conference Committee report April 8, 1988.
ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended March 18, 1988.

HOUSE adopted Conference Committee report April 7, 1988.
JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 19, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 19th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

HOUSE BILL No. 2797

AN ACT relating to political and taxing subdivisions of the state; concerning procedures for the consolidation of operations, procedures and functions of offices and agencies of such subdivisions; amending K.S.A. 12-3903 and 12-3904 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-3903 is hereby amended to read as follows: 12-3903. Whenever the governing body of any political or taxing subdivision of this state shall by resolution determine that duplication exists in the operations, procedures or functions of any of the offices or agencies of such subdivision or that the operations, procedures or functions of any of the offices or agencies thereof can be more efficiently and effectively exercised or provided as a consolidated activity performed by a single office or agency, or whenever the governing body of any two or more political or taxing subdivisions of this state shall by the passage of identical resolutions determine that duplication exists in the operations, procedures or functions of offices or agencies of such subdivisions or that the operations, procedures or functions of any of the offices or agencies thereof can be more efficiently and effectively exercised or provided as a consolidated activity performed by a single intergovernmental office or agency or by a single office or agency of one of the participating political or taxing subdivisions, such governing body or governing bodies are hereby authorized to consolidate any or all of the operations, procedures or functions performed or carried on by such offices or agencies by the passage of a resolution or identical resolutions setting out the time, form and manner of consolidation and designating the surviving office or agency. The elimination of an elective office by consolidation under the provisions of this act shall be subject to the approval of a majority of the electors of the political or taxing subdivision served by such office, voting at an election called and held for such purpose, in the manner provided by the general bond law in the next regular general election of the county in which the office of governor is elected. Any such proposed consolidation which eliminates any such elective office shall provide that the elimination of such office shall become effective upon the date of normal expiration of the term of such office. Any such proposed consolidation which eliminates any such elective office shall not be voted on by the governing body of the political or taxing subdivision until a special public hearing is held within the political or taxing subdivision. Notice of such special hearing shall be published in a newspaper of general circulation in the political or taxing subdivision once each week for two consecutive weeks prior to the hearing. The first publication shall not be less than 21 days prior to such hearing. Any elected officer whose office would be eliminated in such consolidation and any other interested party shall be given an opportunity to appear and offer testimony at any of such hearings.

Sec. 2. K.S.A. 12-3904 is hereby amended to read as follows: 12-3904. Whenever a petition, signed by not less than ten percent (10%) 10% of the qualified electors of any political or taxing subdivision of this state or any two or more political or taxing subdivisions of this state, shall be filed with the governing body of such subdivision or subdivisions requesting that a proposition for the consolidation of specified operations, procedures and functions of designated offices or agencies of such subdivision or subdivisions be submitted to the electors thereof, such governing body or governing bodies shall submit such proposition at an election called and held for such purpose in the manner provided by the general bond law. If such proposition eliminates an elective office by consolidation, the governing body of such subdivision or subdivisions shall provide for the hearing and submit such proposition at the next regular general election of the county in which the office of governor is elected in accordance with K.S.A. 12-3903, and amendments thereto.

Sec. 3. K.S.A. 12-3903 and 12-3904 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 17, 1988.

HOUSE concurred in SENATE amendments April 4, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 1, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 18, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 18th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

HOUSE BILL No. 3090

AN ACT concerning the uniform commercial code; relating to fees for the provision of information concerning filings under article 9 of chapter 84 of the Kansas Statutes Annotated; amending K.S.A. 1987 Supp. 75-3170a and 84-9-411 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 84-9-411 is hereby amended to read as follows: 84-9-411. (1) The secretary of state shall provide information concerning filings under article 9 of chapter 84 of the Kansas Statutes Annotated to persons with an interest in the information that is related exclusively to the purposes of that article.

(2) The secretary of state or a register of deeds may adopt one or more of the following methods of providing information concerning filings under article 9 of chapter 84 of the Kansas Statutes Annotated to persons with an interest in the information that is related exclusively to the purposes of that article:

- (a) Telecopier access by interested parties and offices of registers of deeds to filings in the office of the secretary of state;
- (b) subscription periodic written summaries; or
- (c) copies of microfilm;
- (d) data storage material;
- (e) access to data processing functions; or
- (f) any other appropriate method of disseminating the information.

(3) A register of deeds may adopt one or more of the following methods of providing information concerning filings under article 9 of chapter 84 of the Kansas Statutes Annotated to persons with an interest in the information that is related exclusively to the purposes of that article:

- (a) Telecopier access by the office of the register of deeds to filings in the office of the secretary of state;
- (b) subscription periodic written summaries; or
- (c) any other appropriate method of disseminating the information.

(4) If a search request is made and information provided by telecopier access, a fee in addition to the fee established under K.S.A. 84-9-407 and amendments thereto shall be collected from the requesting party. The additional fee for a statement of filings shall be an amount fixed by rules and regulations adopted by the secretary of state of not to exceed \$5 and the additional fee per page for copies of financing statements or related statements

shall be an amount fixed by rules and regulations adopted by the secretary of state of not to exceed \$2. The additional fees in effect on the day preceding the effective date of this act shall continue in effect until the secretary of state adopts rules and regulations fixing different fees. If the request is made by a register of deeds, the register of deeds shall remit to the county treasurer, for deposit in the county general fund, \$2 of each fee collected under this subsection.

(3) The secretary of state or a register of deeds may charge a reasonable fee for the information on file in that office provided pursuant to this section. In establishing the fees, the secretary of state or register of deeds may take into account the costs incurred in establishing and maintaining the information system as well as other costs.

(4) If information regarding filings in the office of the secretary of state is provided by a register of deeds pursuant to this section, the fee to be collected from the customer shall be an amount fixed by rules and regulations adopted by the secretary of state. The rules and regulations adopted by the secretary of state shall specify the amount the register of deeds shall remit to the county treasurer for deposit into the county general fund. The register of deeds shall remit at least monthly the remainder of all such fees collected to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and shall credit 20% of the amount to the state general fund and the remainder to the uniform commercial code fee fund.

(5) Except with respect to willful misconduct, the state, counties and filing officers, and their employees and agents, are immune from liability for damages resulting from errors or omissions in information supplied pursuant to this section.

(6) The fees in effect under this section on the day preceding the effective date of this act shall continue in effect until the secretary of state or the register of deeds establishes different fees, as the case may be.

Sec. 2. K.S.A. 1987 Supp. 75-3170a is hereby amended to read as follows: 75-3170a. (a) The 20% credit to the state general fund required by K.S.A. 1-204, 2-2609, 2-3008, 9-1703, 16-609, 16a-2-302, 17-1271, 17-2236, 17-5609, 17-5610, 17-5612, 17-5701, 20-1a02, 20-1a03, 34-102b, 44-324, 44-926, 47-820, 49-420, 55-131, 55-155, 55-609, 55-711, 55-901, 58-3074, 65-6b10, 65-1718, 65-1817a, 65-2011, 65-2418, 65-2855, 65-2911, 65-4610, 66-1, 155, 66-1503, 74-715, 74-1108, 74-1405, 74-1503, 74-1609, 74-2704, 74-2902a, 74-3903, 74-5805, 74-7009, 74-7506, 75-1119b, 75-1308 and 75-1509 and K.S.A. 1986 1987 Supp. 65-5413 and, 65-5513, 84-9-411 and 84-9-413 and acts amendatory of any of the foregoing including amendments by other sections of this act is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services, and any and all other state governmental services, which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

(b) Nothing in this act or in the sections amended by this act or referred to in subsection (a) of this section, shall be deemed to authorize remittances to be made less frequently than is authorized under K.S.A. 75-4215 and amendments thereto.

(c) Notwithstanding any provision of any section referred to in or amended by this act or referred to in subsection (a) of this section, whenever in any fiscal year such 20% credit to the state general fund in relation to any particular fee fund is \$200,000, in that fiscal year the 20% credit no longer shall apply to moneys received from sources applicable to such fee fund and for the remainder of such year the full 100% so received shall be credited to such fee fund, except as otherwise provided in subsection (d) of this section.

(d) Notwithstanding any provision of K.S.A. 2-2609 and 2-3008 and amendments thereto or any provision of any section referred to in subsection (a) of this section, the 20% credit to the state general fund no longer shall apply to moneys received from sources applicable to the Kansas wheat commission fund, the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund, as specified for each such fund by this subsection, and for the remainder of a fiscal year the full 100% of the moneys so received shall be

credited to the appropriate fund of such funds, whenever in any fiscal year:

(1) With respect to the Kansas wheat commission fund, such 20% credit to the state general fund in relation to such fund in that fiscal year is equal to that portion of \$200,000 that bears the same proportion to \$200,000 as the amount credited to the Kansas wheat commission fund during the preceding fiscal year bears to the total of the amounts credited to the Kansas wheat commission fund, the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund during the preceding fiscal year;

(2) with respect to the Kansas corn commission fund, such 20% credit to the state general fund in relation to such fund in that fiscal year is equal to that portion of \$200,000 that bears the same proportion to \$200,000 as the amount credited to the Kansas corn commission fund during the preceding fiscal year bears to the total of the amounts credited to the Kansas wheat commission fund, the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund during the preceding year;

(3) with respect to the Kansas grain sorghum commission fund, such 20% credit to the state general fund in relation to such fund in that fiscal year is equal to that portion of \$200,000 that bears the same proportion to \$200,000 as the amount credited to the Kansas grain sorghum commission fund during the preceding fiscal year bears to the total of the amounts credited to the Kansas wheat commission fund, the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund during the preceding fiscal year; and

(4) with respect to the Kansas soybean commission fund, such 20% credit to the state general fund in relation to such fund in that fiscal year is equal to that portion of \$200,000 that bears the same proportion to \$200,000 as the amount credited to the Kansas soybean commission fund during the preceding fiscal year bears to the total of the amounts credited to the Kansas wheat commission fund, the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund during the preceding fiscal year.

Sec. 3. K.S.A. 1987 Supp. 75-3170a and 84-9-411 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 30, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 8, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 19, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 19th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

SENATE BILL No. 651

AN ACT concerning corrections; relating to work by certain inmates; amending K.S.A. 75-52,116 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 75-52,116 is hereby amended to read as follows: 75-52,116. (a) The director of ~~honor camps any correctional institution~~, with the approval of the secretary of corrections, may extend the limits of confinement of ~~inmates of correctional honor camps inmates who are classified minimum security or less~~ to work for any state agency, federal agency, city, county, school district or nonprofit organization organized for charitable purposes if such work is in furtherance of public service and public welfare or charitable objectives within the community and results in minimal negative impact on the private sector workforce. ~~The~~ Such inmates shall remain under the legal custody of the secretary of corrections with the actual limits of confinement extended and without actual supervision of correctional officials. Those persons observing, supervising, managing, controlling and reporting back to correctional officials regarding such inmates in their work shall be agents of the state and of the secretary of corrections for that purpose only but shall not, solely by reason of the agency, have law enforcement powers.

(b) Compensation of inmates working pursuant to this section shall be normal inmate incentive pay rendered to other inmates working within correctional institutions pursuant to K.S.A. 75-5211 and amendments thereto.

Sec. 2. K.S.A. 75-52,116 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 25, 1988.

SENATE concurred in HOUSE amendments April 8, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended March 23, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 19, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

HOUSE BILL No. 2563

AN ACT concerning the Kansas age discrimination in employment act; extending coverage thereof; amending K.S.A. 44-1112, 44-1113 and 44-1118 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 44-1112 is hereby amended to read as follows: 44-1112. As used in this act:

(a) "Age" means an age of 40 18 or more years but less than 70 years.

(b) "Commission" means the commission on civil rights created pursuant to K.S.A. 44-1003 and amendments thereto.

(c) "Employee" does not include any individual employed by the individual's parents, spouse or child.

(d) "Employer" means any person in this state who employs four or more persons and any person acting directly or indirectly for such a person, and includes the state and all political subdivisions of the state.

(e) "Employment agency" includes any person or governmental agency undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees.

(f) "Firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

(g) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.

(h) "Law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses against the criminal laws of Kansas or of offenses against any ordinance or resolution which imposes criminal sanctions and is adopted by a city, county or other political subdivision of Kansas, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purposes of this subsection, "detention" includes the duties of employees assigned to guard individuals incarcerated in any penal institution.

(i) "Person" means individual, partnership, association, organization, corporation, legal representative, trustee, trustee in bankruptcy or receiver.

Sec. 2. K.S.A. 44-1113 is hereby amended to read as follows: 44-1113. (a) It is an unlawful employment practice based on age to engage in any of the following acts in any manner which would limit, deprive or tend to deprive any person of employment opportunities or otherwise adversely affect the person's status as an employee or applicant for employment:

(1) For an employer, because of the age of a person, to refuse to hire or employ the person, to bar or discharge the person from employment or to otherwise discriminate against the person in compensation or in terms, conditions or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards regard to employees because of age; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation because of age without a valid business motive.

(2) For an employer to reduce the wage rate of any employee or otherwise alter the terms or conditions of any employee's employment in order to comply with this act, unless the reduction is with the employee's express or implied consent For an employer to reduce the wage rate of any employee in order to comply with the Kansas age discrimination in employment act.

(3) For a labor organization, because of the age of a person, to exclude or to expel the person from its membership or to discriminate in any way against any of its members or against an employer or any person employed by an employer because of age.

(4) For any employer, employment agency or labor organiza-

tion to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, or any intent to make any such limitation, specification or discrimination.

(5) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because the person has opposed any practices or acts forbidden under this act or has filed a complaint, testified or assisted in any proceeding under this act.

(6) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of age to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to age.

(7) For an employer, labor organization, employment agency or school which provides, coordinates or controls apprenticeship, on-the-job or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of age, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

(8) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or attempt to do so.

(9) For an employer, employment agency, labor organization or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits:

(A) In the case of a benefit plan, the cessation of an employee's benefit accrual or the reduction of the rate of an employee's benefit accrual, because of age; or

(B) in the case of a contribution plan, the cessation of allocations to an employee's account or the reduction of the rate at which amounts are allocated to an employee's account, because of age.

Nothing in this subsection (a)(9) shall be construed to prohibit an employer, employment agency or labor organization or any combination thereof from observing any provision of an employee pension benefit plan to the extent that such provision imposes, without regard to age, a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

(b) It shall not be an unlawful employment practice to:

(1) Fill vacancies in such way as to eliminate or reduce imbalance with respect to age;

(2)(1) Take any action on the basis of age, which is otherwise prohibited under subsection (a), if age is a bona fide occupational qualification necessary to the normal operation of the particular business or if the differentiation is based on necessary factors other than age;

(3)(2) observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of article 10 of chapter 44 of Kansas Statutes Annotated, except that no such employee benefit plan shall excuse the failure to hire any individual and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual;

(4) observe a mandatory retirement age of 70 years or above or minimum age of employment; or

(5)(3) observe the provisions of a retirement, pension or benefit plan permitted by state or federal law or by ordinance or resolution; or

(4) Before January 1, 1994, for this state or any political subdivision of this state, or any agency or instrumentality thereof, or any interstate agency, to fail or refuse to hire or to

discharge any individual because of such individual's age if such action is taken:

(A) With respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable state or local law on March 3, 1983, and

(B) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purpose of this act.

Sec. 3. K.S.A. 44-1118 is hereby amended to read as follows: 44-1118. (a) The provisions of this act shall be construed liberally for the accomplishment of its purposes.

(b) Nothing in this act shall be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel, or discharge qualified or competent personnel.

(c) Nothing in this act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age and who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least \$44,000.

(d) Nothing in this act shall be construed to prohibit, before January 1, 1994, compulsory retirement of any employee who has attained 70 years of age and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education.

New Sec. 4. (a) This act and the amendments made by this act shall take effect on the effective date of this act, except that, with respect to any employee who is subject to a collective bargaining agreement, such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first, if such collective bargaining agreement:

(1) Is in effect prior to the effective date of this act;

(2) terminates on or after the effective date of this act;

(3) has any provision which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)); and

(4) contains any provision that would be superseded by such amendments, but for the operation of this section.

(b) This section shall be a part of and supplemental to the Kansas age discrimination in employment act.

Sec. 5. K.S.A. 44-1112, 44-1113 and 44-1118 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 31, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 7, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 19, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 19th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

SENATE BILL No. 677

AN ACT relating to insurance; authorizing certain associations of health care providers to establish mutual insurance companies under the assessment plan; providing for the regulation and operation of such companies; authorizing public hospitals to invest in and acquire insurance from such companies; amending K.S.A. 13-14b11, 14-605 and 80-2511 and K.S.A. 1987 Supp. 19-4610 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in this act: (a) "Health care provider" means any person licensed to practice any healing art by the board of healing arts or any hospital licensed under the provisions of K.S.A. 65-425 *et seq.*, and amendments thereto, or a private psychiatric hospital authorized under K.S.A. 75-3307b and amendments thereto;

(b) "person" means an individual, corporation, partnership, association, joint stock company, trust, unincorporated organization or any similar entity;

(c) "affiliate" means a person that directly or indirectly, through one or more intermediaries, employs, controls or is controlled by, or is under common control with a health care provider;

(d) "commissioner" means the commissioner of insurance; and

(e) "association" means any organization whose income is exempt from taxation pursuant to section 501(a) of the internal revenue code of 1986, and amendments thereto, as in effect on the effective date of this act, due to such association's compliance with section 501(c)(6) of such code, and amendments thereto, as in effect on the effective date of this act.

New Sec. 2. (a) Except as otherwise provided in this act, the provisions of article 12 of chapter 40 of the Kansas Statutes Annotated shall control the formation and operation of companies organized under this act.

(b) Any association of health care providers domiciled within the state of Kansas which has been in existence for three years or more, may, as provided in this act, form an insurance company for the purpose of issuing contracts of insurance providing liability insurance for health care providers which are members of the association, the member's employees, directors, professional associations and affiliates upon the assessment plan.

(c) Any two or more such associations of health care providers, may form an insurance company for the purpose of issuing contracts of insurance providing liability insurance for such association's respective members, the member's employees, directors, professional associations and affiliates upon the assessment plan.

New Sec. 3. The affairs of the company shall be managed by a board of directors of not less than five nor more than 25 persons selected by the association or associations forming the company. Directors shall not be required to be policyholders. The persons named as directors in the charter shall constitute the directors for the first year, and, at their first meeting, they shall select a president, secretary and treasurer and such other officers as may be necessary. Thereafter, directors shall be selected in accordance with the bylaws.

New Sec. 4. The persons proposing to form any such company shall subscribe, acknowledge and file with the commissioner articles of incorporation specifying:

(a) The name, which shall contain the word "mutual," the names of persons initially associated, the method by which other persons may be admitted to the company as members, the purposes for which the company is organized, the amount of the initial assessment which has been paid into the company, the method of assessment thereafter and the location of such company's principal or home office, which shall be within this state. The articles of incorporation shall provide for bylaws and for the amendment of the articles of incorporation and the bylaws.

(b) The names and addresses of those persons composing the board.

(c) The names and addresses of the incorporators.

New Sec. 5. The bylaws shall provide for a governing body for the company, the manner of election thereof, and the specific kinds of insurance or indemnification which will be offered and

may provide that assessments, in such amounts as determined by the board to be fair and equitable, may be made. The bylaws may provide for the transfer of risks to other insurance companies or for reinsurance.

New Sec. 6. Any company organized under the provisions of this act shall be empowered to make contracts of insurance as provided herein and to cede to any insurer or accept from any insurer reinsurance on any portion of any such risk for the following kinds of insurance:

(a) Against loss or liability arising out of the performance of professional services rendered or which should have been rendered by an insured.

(b) Against loss or liability to persons or property for which the insured may be liable or have assumed liability, including but not limited to liability of any person who is a director or officer of a health care provider arising out of acts performed or which should have been performed by such director or officer.

(c) Against loss or liability to persons or property resulting from the ownership, maintenance or use of any ambulance, aircraft or other vehicle used by an insured in connection with rendering professional services.

New Sec. 7. The commissioner shall issue a certificate of authority when any company, organized under this act, has fully complied with the following conditions:

(a) The company holds bona fide applications for insurance upon which it shall issue at least 20 policies to at least 20 members. If the company is in compliance with all other provisions of this act, the commissioner shall not revoke or refuse to renew the certificate of authority because membership has declined to less than 20 members.

(b) No insurance company organized pursuant to this act shall expose itself to loss on any one risk or hazard to an amount exceeding 20% of its surplus unless the excess is reinsured.

(c) It shall have collected, in accordance with the method provided in the articles of incorporation or the bylaws, the full consideration according to its filed rate on each contract for which application has been made. The total of such consideration shall be held in cash or securities in which such insurance companies are authorized to invest, or one or more clean and irrevocable letters of credit, and it shall possess and thereafter maintain a surplus of lawful assets or letters of credit over and above liabilities in an amount not less than the capital and surplus required of a domestic stock insurance company transacting the same kinds of insurance. The company shall deposit with the state treasurer and commissioner, as joint custodians, securities in which such insurance companies are authorized to invest, or one or more clean and irrevocable letters of credit, for the benefit of the state treasurer and commissioner, in an amount not less than the minimum capital stock required of a domestic stock insurance company. For the purpose of this act, letters of credit shall be in the form allowed by K.S.A. 40-221a(b)(2), and amendments thereto, drawn on the account of a health care provider for the benefit of the company, or for the benefit of the state treasurer and commissioner if the letter of credit is on deposit in accordance with this section.

New Sec. 8. No insured shall be liable for any amounts other than the annual premium and all assessments as provided in the articles of incorporation or bylaws. The business of the company shall be conducted so as to preclude any distribution of income, profit or property of the company to the individual members thereof except in payment of dividends, debts, claims or indemnities or upon the final dissolution of the company.

New Sec. 9. Each company organized pursuant to this act shall file an annual statement each year in accordance with the requirements for domestic insurers writing the same kind of insurance. Any company organized pursuant to this act may state its liabilities for losses and loss adjustment expenses on a present value basis in any statement or report which the company is required to file so long as the company's surplus as reported upon such basis remains above \$1 million, unless the commissioner determines the method used by the company to arrive at the present value of its liabilities for losses and loss adjustment expense is based upon unreasonable assumptions.

Sec. 10. K.S.A. 13-14b11 is hereby amended to read as fol-

lows: 13-14b11. The board of trustees shall have exclusive control of the management and operation of the hospital and shall make and adopt such rules and regulations for the government of the hospital as may be deemed expedient for the economical and proper conduct thereof. *Provided*, The board of hospital trustees is authorized to establish and fund pension and deferred compensation plans for hospital employees and to procure contracts insuring hospital employees, their dependents, or any class or classes thereof under a policy or policies of life, disability income, health, accident, accidental death and dismemberment, and hospital, surgical and medical expense insurance. The employee's contribution, if any, to the plan and to the premium for such insurance may be deducted by the employer from the employee's salary when authorized in writing by the respective employee ~~so to do~~. *The board is authorized to invest in any mutual insurance company organized by an association of health care providers to which the hospital belongs, enter into contracts with such company, pay any assessments pursuant to such contracts and arrange for the issuance of a letter of credit by any bank chartered by this state or which is a member bank of the federal reserve system.* The board may also expend funds deemed necessary in the recruitment of professional staff. No member of the board of trustees shall receive any compensation for his or her services. On or before July fifteenth of each year the board shall file with the governing body of the city, a written report of the management of ~~said the~~ hospital, together with a statement of all receipts and expenditures during the year ending June thirtieth.

Sec. 11. K.S.A. 14-605 is hereby amended to read as follows: 14-605. The ~~said~~ trustees shall, within ~~ten~~ 10 days after their appointment or election, qualify by taking the oath of civil officers, and organize a board of hospital trustees by the election of one of their number as ~~chairman~~ chairperson, one as secretary and one as treasurer; but no bond shall be required of any of them ~~save~~ except the treasurer, who, before entering upon ~~his or her~~ the treasurer's duties, shall give an official bond, to be approved by the governing body, in a sum approximating: (a) If a personal bond, twice the amount of the funds that may be confided in ~~his or her~~ such treasurer's care at any one time; or if a corporate surety bond issued by a surety company authorized to do business in this state, the highest amount of the funds that may be confided to ~~his or her~~ such treasurer's care at any one time; signed by sureties approved by the governing body, and filed in the office of the city clerk.

The treasurer shall receive and pay out all the moneys under the control of ~~said the~~ board as ordered by it, but shall receive no compensation from such board. No trustee shall receive any compensation for ~~his or her~~ such trustee's services, performed, but a trustee may receive reimbursement for any cash expenditures actually made for personal expenses incurred as such trustee, and an itemized statement of all such expenses and money paid out shall be made under oath by each of such trustees and filed with the secretary, and allowed only by the affirmative vote of a majority of the board.

The board of hospital trustees shall make and adopt such bylaws, rules and regulations for their own guidance and for the government of the hospital as may be deemed expedient for the economical and proper conduct thereof not inconsistent with this act and the ordinances of the city. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the hospital fund and the purchase of site or sites, the purchase or construction of any hospital building or buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased or set apart for that purpose. *Provided, That* All money received for such hospital shall be deposited in the treasury of the board of trustees and paid out only by claims and warrants or warrant checks as provided by K.S.A. 10-801 to 10-806 inclusive, 12-105a and 12-105b, and amendments thereto. *Said The board is authorized to invest in any mutual insurance company organized by an association of health care providers to which the hospital belongs, enter into contracts with such company, pay any assessments pursuant to such contracts and arrange for the issuance of a letter of credit by any bank chartered by this state or which is a member bank*

of the federal reserve system. The board of hospital trustees shall have power to appoint a suitable administrator and necessary assistants, and fix their compensation, and shall have power to remove such appointees, and to do all and everything necessary to properly conduct ~~said such~~ hospital. *Provided*, The board of hospital trustees is authorized to establish and fund pension and deferred compensation plans for hospital employees and to procure contracts insuring hospital employees, their dependents, or any class or classes thereof under a policy or policies of life, disability income, health, accident, accidental death and dismemberment, and hospital, surgical and medical expense insurance. The employee's contribution, if any, to the plan and to the premium for such insurance may be deducted by the employer from the employee's salary when authorized in writing by the respective employee ~~so to do~~. The board may also expend funds deemed necessary in the recruitment of professional staff.

Such board of hospital trustees shall hold meetings at least once each month and shall keep a complete record of all its proceedings. One of ~~said such~~ trustees shall visit and examine ~~said the~~ hospital at least twice each month, and the board shall, during the first week in January of each year, file with the governing body of ~~said the~~ city, a report of the proceedings with reference to such hospital and a statement of all receipts and expenditures during the year, and shall at such time, certify the amount necessary to maintain, equip and improve ~~said the~~ hospital for the ensuing year.

Sec. 12. K.S.A. 1987 Supp. 19-4610 is hereby amended to read as follows: 19-4610. (a) The board shall make and adopt such bylaws and rules and regulations for the management and control of the hospital as it deems necessary so long as the same are not inconsistent with this act, the statutes of the state of Kansas, the resolutions of the county and, if the hospital is located in a city, the ordinances of the city in which the hospital is located. The board shall have the exclusive control of the expenditures of all hospital moneys, except hospital moneys acquired through the issuance of revenue bonds, and all expenditures shall be subject to the approval of a majority of all the members of the board. *The board is authorized to invest in any mutual insurance company organized by an association of health care providers to which the hospital belongs, enter into contracts with such company, pay any assessments pursuant to such contracts and arrange for the issuance of a letter of credit by any bank chartered by this state or which is a member bank of the federal reserve system.* The board is charged with the supervision, care and custody of all hospital property. The board is authorized to appoint an administrator, to fix the compensation thereof, and to remove such administrator. The board may also require personal or surety bonds of all hospital employees entrusted with the handling of hospital moneys, such bonds to be in an amount to be determined and approved by the board.

(b) The board may establish and fund pension and deferred compensation plans and any other employee benefit plans for hospital employees and may procure contracts insuring hospital employees, their dependents, or any class or classes thereof, under a policy or policies covering one or more risks including, but not limited to, a policy or policies of life, disability income, health, accident, accidental death and dismemberment, and hospital, surgical and medical expense insurance or may provide for a plan of self-insurance for such purposes. The employee's contribution, if any, to the plan and to the premiums for insurance or for the expenses incurred by the board under a plan of self-insurance may be deducted by the employer from the employee's salary when authorized in writing by the employee ~~to do so~~.

Sec. 13. K.S.A. 80-2511 is hereby amended to read as follows: 80-2511. The board shall make and adopt such bylaws, rules and regulations for the management and control of the hospital as it deems necessary so long as the same are not inconsistent with this act, the statutes of the state of Kansas and the ordinances or resolutions of any political subdivision included in the area which constitutes the taxing district of the hospital. The board shall have the exclusive control of the expenditures of all hospital moneys and all expenditures shall be

(continued)

subject to the approval of a majority of the members of the board. The board is authorized to invest in any mutual insurance company organized by an association of health care providers to which the hospital belongs, enter into contracts with such company, pay any assessments pursuant to such contracts and arrange for the issuance of a letter of credit by any bank chartered by this state or which is a member bank of the federal reserve system. The board is charged with the supervision, care and custody of all hospital property. The board is authorized to appoint an administrator, to fix the compensation thereof, and to remove such administrator. The board may expend funds for the recruitment of staff and such expenditures may include the expenditure of funds for the provision of loans or scholarships to aid in financing the education of persons who agree, upon completion of their education, to become members of the staff. The board may require personal or surety bonds of all hospital employees entrusted with the handling of hospital moneys, such bonds to be in an amount to be determined and approved by the board. The board may establish and fund pension and deferred compensation plans and any other employee benefit plans for hospital employees and may procure contracts insuring hospital employees, their dependents, or any class or classes thereof, under a policy or policies covering one or more risks including, but not limited to, a policy or policies of life, disability income, health, accident, accidental death and dismemberment, and hospital, surgical and medical expense insurance or may provide for a plan of self-insurance for such purposes. The employee's contribution, if any, to the plan and to the premiums for insurance and for any expenses incurred by the board under a plan of self-insurance may be deducted by the employer from the employee's salary when authorized in writing by the employee to do so.

Sec. 14. K.S.A. 13-14b11, 14-605 and 80-2511 and K.S.A. 1987 Supp. 19-4610 are hereby repealed.

Sec. 15. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 3, 1988.

SENATE concurred in HOUSE amendments April 5, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 4, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 20, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the Kansas Register, April 28, 1988.)

SENATE BILL No. 466

AN ACT concerning counties; relating to the Johnson county park and recreation district; amending K.S.A. 1987 Supp. 19-2868 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 19-2868 is hereby amended to read as follows: 19-2868. The board shall have power:

(a) To finance, operate, improve and maintain the parks and playgrounds of the district as provided in this act;

(b) to accept by gift or devise, to purchase, lease and to condemn real estate for use as parks and playgrounds for the district, and to sell any improvements of any real estate so acquired not usable for park purposes or to take down such improvements and use or dispose of the salvage and use any of the proceeds thereof for park purposes without regard to budget limitations. To contract with school boards for joint use and improvement of school lands for park and playground purposes;

(c) to improve the parks and playgrounds for the recreation, amusement and enjoyment of the inhabitants of the district;

(d) to levy taxes for the acquisition of lands and improvements and operation, improvement and maintenance of the parks and playgrounds as authorized and limited by this act;

(e) to issue bonds of the district for acquiring real estate and the improvement thereof for park and playground purposes upon authorization of the qualified electors of the district by election and within the limitations provided by this act;

(f) to appoint park and recreation supervisory personnel and employ such other employees, servants, police and agents as may be necessary for the proper and adequate operation, improvement and maintenance of the park and recreation district, and may appoint, employ or retain attorneys, engineers, landscape architects, surveyors and other professional or technical persons or firms for a period or for specified projects and pay the necessary compensation therefor;

(g) to adopt, promulgate and enforce reasonable rules and regulations for the operation and use of the parks and playgrounds and the conduct of persons using such parks and playgrounds as provided by this act;

(h) to sell or salvage equipment found to be worn out or beyond repair or dangerous to use or to trade it in as part payment on new equipment, and the proceeds when resold or the trade-in value shall not be charged against the budget but may be in addition to the amount authorized for expenditure by the budget;

(i) to sell and convey real estate acquired by purchase, condemnation, gift or devise when it appears such property is no longer needed for park, playground or recreational purposes, or is poorly situated for such purposes, or is poorly suited for such purposes, with the proceeds of such sale to be deposited in the land acquisition fund authorized by K.S.A. 19-2873b, and amendments thereto. No such sale shall be made except upon authorization of the majority of the votes cast by the qualified electors of the district at an election called and held for such purpose as provided by this act. If the instrument of gift or devise vests fee title in the district or authorizes the district to sell the real property, such property may be sold by the procedure herein provided. The board may, when in its judgment deemed advisable and to the best interests of the district, by proper conveyances, may exchange any tract of land for lands similar in value, or exchange money and land for other land suitable for park or recreation purposes, or exchange land for land and money totaling the value of the land conveyed, provided that the money involved does not exceed 25% of the total value of the land involved, without vote of the qualified electors of the park district, subject to a public hearing having first been held with respect to such proposed exchange of lands, after notice of the time, place and purpose thereof, including a legal description of said lands, published once each week for two consecutive weeks prior thereto, in the official county paper, and subject further to the final approval of such proposed exchange of lands, by the board of county commissioners of Johnson county, Kansas. The board may by proper conveyance exchange, transfer, sell, or lease any

tract of district land with or without improvements to the state of Kansas, a political subdivision thereof, or an agency of the United States government, if the board determines that such property can properly be maintained and operated as park, playground, or recreational facilities by such governmental agency, or that such property may be utilized in whole or part in a contract with said governmental agencies in, on, or around other property of such governmental units, all or any part of which is located within boundaries of such district;

(j) to adopt, change and modify a seal for the district and to use such seal in attestations by the secretary and in all other cases where a seal is required or advisable; *and*

(k) to cooperate with the Kansas department of wildlife and parks and with Miami county in the operation, improvement and maintenance of Hillsdale state park and to enforce rules and regulations for the operation of such park land; *and*

(l) to do and perform all other things provided by this act or amendments thereto and to have all the powers prescribed by this act, and to carry out and exercise the powers of the district as its governing body.

Sec. 2. K.S.A. 1987 Supp. 19-2868 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 3, 1988.

SENATE concurred in HOUSE amendments April 5, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 4, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 19, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

SENATE BILL No. 643

AN ACT relating to state officers and employees; concerning a drug screening program for certain state officers and employees and certain applicants for state office or employment.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The director of the division of personnel services of the department of administration shall have the authority to establish and implement a drug screening program for persons taking office as governor, lieutenant governor or attorney general and for applicants for safety sensitive positions in state government, but no applicant for such a position shall be required to submit to a test as a part of such program unless the applicant is first given a conditional offer of employment. The director also shall have the authority to establish and implement a drug screening program for persons currently holding the office of governor, lieutenant governor or attorney general or safety sen-

sitive positions in state government, based upon reasonable suspicion of illegal drug use by any such person.

(b) Any public announcement or advertisement soliciting applications for employment in a safety sensitive position in state government shall include a statement of the requirements of the drug screening program established under this section for applicants for and employees holding such position.

(c) No person shall be terminated solely due to positive results of a test administered as a part of a program authorized by this section if: (1) The employee has not previously had a valid positive test result; and (2) the employee undergoes a drug evaluation and successfully completes any education or treatment program recommended as a result of the evaluation. Nothing herein shall be construed as prohibiting demotions, suspensions or terminations pursuant to K.S.A. 1987 Supp. 75-2949e or 75-2949f, and amendments thereto.

(d) The results of any test administered as a part of a program authorized by this section shall be confidential and shall not be disclosed publicly.

(e) The secretary of administration may adopt such rules and regulations as necessary to carry out the provisions of this section.

(f) "Safety sensitive positions" means state law enforcement officers who are authorized to carry firearms, state correctional officers, heads of state agencies who are appointed by the governor and employees on the governor's staff.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 31, 1988.

SENATE adopted Conference Committee report April 9, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 5, 1988.

HOUSE adopted Conference Committee report April 8, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 15, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 15th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER, April 28, 1988.)

HOUSE BILL No. 3078

AN ACT concerning immunity from liability for volunteers; amending K.S.A. 1987 Supp. 60-3601 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 60-3601 is hereby amended to read as follows: 60-3601. (a) As used in this section:

(1) "Nonprofit organization" means those nonprofit organizations exempt from federal income tax pursuant to section 501(c) of the Internal Revenue Code of 1986, as in effect on the effective date of this act.

(2) "Compensation" does not include actual and necessary expenses that are incurred by a volunteer in connection with the services that the volunteer performs for a nonprofit organization and that are reimbursed to the volunteer or otherwise paid.

(3) "Volunteer" means an officer, director, trustee or other person who performs services for a nonprofit organization but does not receive compensation, either directly or indirectly, for those services. Volunteer does not include a person who delivers health care services to patients in a medical care facility as defined in K.S.A. 65-425 and amendments thereto.

(b) If a nonprofit organization carries general liability insurance coverage, a volunteer of such organization shall not be liable for damages in a civil action for acts or omissions as such volunteer unless: (1) Such conduct constitutes willful or wanton misconduct or intentionally tortious conduct; or (2) such volunteer is required to be insured by law or is otherwise insured against such acts or omissions but, in such case, liability shall be only to the extent of the insurance coverage.

(c) If a nonprofit organization carries general liability insurance coverage, a volunteer of such organization shall not be liable for damages in a civil action for the actions or omissions of any of the officers, directors, trustees, employees or other volunteers of the nonprofit organization unless: (1) The volunteer authorizes, approves, ratifies or otherwise actively participates in the action or omission and the action or omission constitutes willful or wanton misconduct or intentionally tortious conduct; or (2) such volunteer is required to be insured by law or is otherwise insured against such acts or omissions but, in such case, liability shall be only to the extent of the insurance coverage.

(d) Nothing in this section shall be construed to affect the liability of a nonprofit organization for damages caused by the negligent or wrongful act or omission of its volunteer and a volunteer's negligence or wrongful act or omission, when acting as a volunteer, shall be imputed to the nonprofit organization for the purpose of apportioning liability for damages to a third party pursuant to K.S.A. 60-258a and amendments thereto.

(e) The provisions of this act shall apply only to causes of action accruing on or after July 1, 1987.

Sec. 2. K.S.A. 1987 Supp. 60-3601 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 15, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 1, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 14, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 14th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the Kansas Register, April 28, 1988.)

SENATE BILL No. 707

AN ACT authorizing the state board of regents to sell certain real estate in Wichita, Kansas; imposing conditions thereon.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The state board of regents is hereby authorized and empowered, for and on behalf of the university of Kansas, to sell and convey all of the rights, title and interest in the following described real estate located in the city of Wichita, Kansas: A tract of land located in the north half of lot 7 and all of lot 8 and one-half of the vacated alley on the east side, block "B", H.L. and A.M. Taylor addition to the city of Wichita, Kansas; and lot 17 and one-half of the vacated alley on the west side, block "B", H.L. and A.M. Taylor addition to the city of Wichita, Kansas. Conveyance of such rights, title and interest in such real estate shall be in accordance with the procedures prescribed therefor by the state board of regents and shall be executed in the name of the state board of regents by its chairperson and executive officer. When the sale is made, the proceeds thereof shall be paid to the Kansas university endowment association to fund scholarships in engineering and the fine arts.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 28, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 7, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Clerk of the House.

APPROVED April 19, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

HOUSE BILL No. 2966

AN ACT relating to the farm assistance, counseling and training referral program; amending K.S.A. 1987 Supp. 74-545 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 74-545 is hereby amended to read as follows: 74-545. (a) The secretary of the state board of agriculture with the cooperation of the director of extension of Kansas state university shall coordinate a farm assistance, counseling and training referral program. For the purposes of providing such assistance and program, the secretary shall utilize the services of the director and division of extension of Kansas state university, other state agencies, county extension personnel, municipal and community services organizations and personnel and private business and professional agencies or services available for such purpose. The secretary shall compile a directory of programs and services which may be utilized in providing the assistance contemplated by this act. Staff required by the secretary for the purposes of implementing this act shall be employed by the secretary with the approval of the director of extension and shall serve in the offices of the division of extension at Kansas state university. Personnel employed by the secretary for the purpose of implementing this act shall be employed as special project employees and shall be in the unclassified service under the Kansas civil service act. The personnel employed by the secretary for this purpose and county extension personnel shall be utilized in: (1) Receiving requests for assistance; (2) determining the eligibility of persons requesting assistance; and (3) determining if such assistance can best be provided by staff or by referral to an appropriate public or private agency or party for direct assistance. Personnel receiving requests for assistance will provide where possible such assistance or refer the person requesting such assistance to an agency or person qualified to provide such assistance in the home community or county of the person requesting such assistance.

(b) Persons shall be eligible to receive assistance pursuant to this act if they: (1) Are primarily engaged in the business of farming, ranching, agribusiness or other agriculture-related activities; and (2) will be unable to continue in such business or activity or be seriously handicapped in such continued operation without the assistance provided pursuant to this act.

(c) The assistance to be made available to eligible persons by staff, by contract or by referral to appropriate persons or agencies shall include farm management, legal assistance, legal advice and referrals, financial planning, employment services, business planning and other, voluntary mediation and personal and family support counseling. The secretary may provide legal assistance through a contract for legal services with any private or corporate law firm.

(d) Meetings in which mediation assistance is provided through the voluntary mediation service authorized under subsection (c) shall be closed and shall not be subject to the provisions of K.S.A. 75-4317 to 75-4320, inclusive, and amendments thereto. The record of information relating to the finances of individual borrowers and creditors created, collected and maintained by the mediation service shall not constitute a public record and shall not be open for inspection under the open records act. Mediation sessions shall be confidential and the secretary shall ensure that all lenders and borrowers of agricultural loans receive adequate notification of the mediation service.

(e) The secretary is hereby authorized to negotiate and enter into contracts for the performance of the powers, duties and functions of the program established under this section and under K.S.A. 74-544 and amendments thereto. All such contracts shall be exempt from the competitive bid requirements of K.S.A. 75-3739 and amendments thereto.

(f) The secretary is hereby authorized to receive grants, gifts or donations from the United States government, or its agencies, or any other source whatsoever for the purposes of the program established under this section and under K.S.A. 74-544 and

amendments thereto, and any moneys so received shall be deposited in the state treasury and credited to the FACTS gifts and contributions fund which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the state board of agriculture or a person designated by the secretary.

(d) (g) A creditor of a farm borrower, when notifying a farm borrower of intent to accelerate or call such note or, in the event none of the above notices has occurred, before filing suit to foreclose on a deed of trust or mortgage on agricultural land, shall notify the borrower of the availability of the mediation service as contracted by the secretary, and shall prominently include on or with the notice the address and telephone number of such mediation service unless the borrower and creditor have previously been involved with each other in mediation through such mediation service. A copy of the notice, including names, addresses and phone numbers of creditor and borrower, shall be sent to the mediation service at the same time it is mailed to the borrower, if the borrower consents thereto in writing.

(h) The provisions of this act shall expire on July 1, 1990.

Sec. 2. K.S.A. 1987 Supp. 74-545 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 9, 1988.

HOUSE concurred in SENATE amendments April 4, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 1, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 18, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 18th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

SENATE BILL No. 743

AN ACT concerning acquisition of land under fish and wildlife coordination act; amending K.S.A. 74-3308a and 74-3308b and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-3308a is hereby amended to read as follows: 74-3308a. (a) Prior to acquiring land under a license with the United States Army Corps of Engineers pursuant to the fish and wildlife coordination act, the ~~director of the fish and game commission~~ *secretary of wildlife and parks* shall give notice of the proposed acquisition to the board of commissioners of every county in which such land is located. The board of county commissioners shall call and hold a public hearing on the proposed acquisition. If the land is located in two or more counties, a joint public hearing may be held if approved by a majority of the boards of county commissioners of such counties. Notice of the time, date and location of such hearing shall be published once each week for two consecutive weeks in the official county newspaper. The second publication shall be no sooner than 10 days prior to the public hearing. At such hearing, the ~~director of the fish and game commission~~ *secretary of wildlife and parks* or the ~~director's~~ *secretary's* designee shall give a description of the land proposed to be acquired and the reasons for such acquisition. After the public hearing, the ~~director~~ *secretary* may enter into the license to acquire the land.

(b) The provisions of this section shall not apply to land acquired pursuant to the wildtrust program *nor to licenses entered into with respect to Hillsdale reservoir project lands.*

Sec. 2. K.S.A. 74-3308b is hereby amended to read as follows: 74-3308b. On or before the 30th calendar day of each regular legislative session, the ~~director of the fish and game commission~~ *secretary of wildlife and parks* shall transmit to the house of representatives and the senate of this state, and to the secretary of state, copies of each license entered into with the United States Army Corps of Engineers pursuant to the fish and wildlife coordination act, since the 30th day of the next preceding regular legislative session. The copies transmitted to the secretary of state shall be available for public inspection during regular business hours. At any time after the 30th calendar day of the regular legislative session when a license is transmitted as provided in this section, the legislature may disapprove and revoke such license by adoption of a concurrent resolution so providing. No such license shall be subject to revocation by the legislature after the 90th calendar day of such regular legislative session. *The provisions of this section shall not apply to licenses entered into with respect to Hillsdale reservoir project lands.*

Sec. 3. K.S.A. 74-3308a and 74-3308b are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 29, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 5, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Clerk of the House.

APPROVED April 19, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)

SENATE BILL No. 739

AN ACT relating to Kansas, Inc.; concerning the funding of activities; amending K.S.A. 1987 Supp. 74-8009 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 74-8009 is hereby amended to read as follows: 74-8009. In the first year of operation, the legislature will fund the activities of Kansas, Inc. In subsequent years, state funds will be matched by ~~other funds~~ on a 66 $\frac{2}{3}$ % state and 33 $\frac{1}{3}$ % other basis. *The fair market value of property and services received by donation in kind to Kansas, Inc., as determined in accordance with a consistent, written policy adopted by the members of Kansas, Inc., may be considered for the purpose of fulfilling up to 20% of the nonstate matching requirements hereunder.* Nonstate matching funds, *property and services* may be raised and received throughout the fiscal year for which state funds are appropriated. Kansas, Inc. shall have the responsibility to raise the matching funds.

Sec. 2. K.S.A. 1987 Supp. 74-8009 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 31, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 5, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Clerk of the House.

APPROVED April 19, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the Kansas Register, April 28, 1988.)

HOUSE BILL No. 2763

AN ACT concerning the department of social and rehabilitation services; authorizing certain fees for home care services; providing for the disposition thereof.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The secretary of social and rehabilitation services is hereby authorized to fix, charge and collect reasonable fees for providing home care services to recipients served under the medicaid home and community based services program.

(b) All moneys received for fees collected pursuant to subsection (a) shall be remitted to the state treasurer at least monthly. Upon receipt of each remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit such amount to the SRS temporary deposit fund.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 23, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 6, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 18, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 18th day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the Kansas Register, April 28, 1988.)

SENATE BILL No. 758

AN ACT making and concerning appropriations for the fiscal years ending June 30, 1988, and June 30, 1989, for the judicial branch, department of corrections and Kansas state penitentiary; authorizing certain transfers, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the foregoing.

Be it enacted by the Legislature of the State of Kansas:

Section 1. For the fiscal years ending June 30, 1988, and June 30, 1989, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, receipts, disbursements, and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

Sec. 2.

JUDICIAL BRANCH

(a) There is appropriated for the above agency from the state general fund for the fiscal years specified, the following:

Table with 2 columns: Fiscal Year 1988, Fiscal Year 1989. Row: Administration of justice—district courts. Values: \$65,408, \$1,711,074. Includes provided clause.

(b) On the effective date of this act, the position limitation established by section 46(d) of chapter 37 of the 1987 Session

Laws of Kansas for nonjudicial personnel of the judicial branch is hereby increased from 1,412.5 to 1,442.5.

Sec. 3.

JUDICIAL BRANCH

(a) Expenditures may be made by the above agency for the fiscal year ending June 30, 1989, from moneys appropriated by this act in the administration of justice—district courts account of the state general fund for salaries and wages for positions established for court service officers and support personnel for the above agency and all such positions shall be in addition to any limitation imposed on the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from any appropriations for the fiscal year ending June 30, 1989, made by any other appropriations act of the 1988 regular session of the legislature for the judicial branch, except that the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from moneys appropriated for the fiscal year ending June 30, 1989, by this act in the administration of justice—district courts account of the state general fund shall not exceed 83.0 nonjudicial personnel positions equated to full-time, except upon approval of the state finance council.

Sec. 4.

DEPARTMENT OF CORRECTIONS

(a) There is appropriated for the above agency from the state general fund for the fiscal years specified, the following:

Table with 3 columns: Item, Fiscal Year 1988, Fiscal Year 1989. Rows include Central management, Inmate community custody program, Community services, Design and construction management services, Inmate programs, and Renovation of correctional institutions. Includes provided clauses and a Total row.

(b) On the effective date of this act, the position limitation established for the department of corrections by section 31(c) of chapter 37 of the 1987 Session Laws of Kansas is hereby increased from 574.3 to 605.3.

Sec. 5.

DEPARTMENT OF CORRECTIONS

(a) Expenditures may be made by the above agency for the fiscal year ending June 30, 1989, from moneys appropriated by this act in the central management account, inmate community custody program account, and community services account of the state general fund for salaries and wages for positions estab-

(continued)

lished for parole officers and support personnel for the above agency and all such positions shall be in addition to any limitation imposed on the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from any appropriations for the fiscal year ending June 30, 1989, made by any other appropriations act of the 1988 regular session of the legislature for the department of corrections, except that the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from moneys appropriated for the fiscal year ending June 30, 1989, by this act in the central management account, inmate community custody program account and community services account of the state general fund shall not exceed 49.0 positions equated to full-time, except upon approval of the state finance council.

Sec. 6.

KANSAS STATE PENITENTIARY

(a) There is appropriated for the above agency from the state general fund for the fiscal years specified, the following:

	Fiscal Year 1988	Fiscal Year 1989
Operating expenditures	\$42,403	\$508,845
<i>Provided</i> , That any unencumbered balance in excess of \$100 as of June 30, 1988, is hereby reappropriated for fiscal year 1989.		

(b) On the effective date of this act, the position limitation established by section 13 of chapter 21 of the 1987 Session Laws of Kansas for the Kansas state penitentiary is hereby increased from 623.0 to 635.0.

Sec. 7.

KANSAS STATE PENITENTIARY

(a) Expenditures may be made by the above agency for the fiscal year ending June 30, 1989, from moneys appropriated by this act in the operating expenditures account of the state general fund for salaries and wages for positions established for medical staff personnel for the above agency and all such positions shall be in addition to any limitation imposed on the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from any appropriations for the fiscal year ending June 30, 1989, made by any other appropriations act of the 1988 regular session of the legislature for the Kansas state penitentiary, except that the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from moneys appropriated for the fiscal year ending June 30, 1989, by this act in the operating expenditures account of the state general fund shall not exceed 12.0 positions equated to full-time, except upon approval of the state finance council.

Sec. 8. *Appeals to exceed position limitations.* The limitations imposed by this act on the full-time equivalent number of full-time and regular part-time positions, excluding seasonal and temporary positions, paid from appropriations made in this act or in any appropriations act of the 1987 regular session of the legislature or in any other appropriations act of the 1988 regular session of the legislature may be exceeded upon approval of the state finance council.

Sec. 9. *Appeals to exceed expenditure limitations.* Upon written application to the governor and approval of the state finance council, expenditures from special revenue funds may exceed the amount specified in this act.

Sec. 10. *Savings.* Any unencumbered balance in any special revenue fund, or account thereof, which is not otherwise specifically appropriated or limited by this or any other appropriations act of the 1988 regular session of the legislature, is hereby reappropriated for the same use and purpose as the same was heretofore appropriated.

Sec. 11. Any transfers of money during the fiscal year ending June 30, 1989, from any special revenue fund of any state agency named in this act or in any other appropriations act of the 1988 regular session of the legislature to the audit services fund of the division of post audit under K.S.A. 46-1121 and amendments thereto shall be in addition to any expenditure limitation imposed on any such fund for the fiscal year ending June 30, 1989.

Sec. 12. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body April 7, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 8, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Clerk of the House.

APPROVED April 21, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 28, 1988.)(Published in the *Kansas Register*, April 28, 1988.)

HOUSE BILL No. 3083

AN ACT concerning state institutions under the jurisdiction of the secretary of social and rehabilitation services; relating to charges for treatment of patients; amending K.S.A. 59-2006b and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 59-2006b is hereby amended to read as follows: 59-2006b. (a) *At least annually*, the secretary of social and rehabilitation services shall ~~annually on July 1, or as soon thereafter as practicable, but not later than October 1,~~ establish the basic maximum rate of charge for treatment of patients in each state institution, except that such rates shall not exceed projected hospital costs of the state institution, including the allocated costs of services by other state agencies, as determined by application of generally acceptable hospital accounting principles. In determining these rates, the secretary shall compute the average daily projected operating cost of treatment of all patients in each state institution and shall set a basic maximum rate of charge for each and every patient in each state institution and each such patient's responsible relatives at the average daily projected operating cost of each institution so computed. When established pursuant to this section, each such rate shall be published in the *Kansas register* by the secretary and thereafter, until a subsequent rate is published as provided in this section, the rates last published shall be the legal rate of charge. All courts in this state shall recognize and take judicial notice of the procedure and the rates established under this section.

(b) In lieu of the procedure for computing the basic maximum rate of charge established under subsection (a), the secretary of social and rehabilitation services may authorize any state institution to compute an individual patient charge on the basis of rates for services based on cost incurred by such state institution as determined by application of generally acceptable hospital accounting principles.

(c) As used in this section, "state institution" means the Topeka state hospital, Osawatomie state hospital, Rainbow mental health facility, Larned state hospital, including the state security hospital, Norton state hospital, Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

Sec. 2. K.S.A. 59-2006b is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the *Kansas register*.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 22, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 8, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

SENATE BILL No. 712

AN ACT concerning the state fairgrounds; authorizing agreement for certain capital improvements and the grant or obtaining of certain easements.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The state fair board is hereby authorized to enter into agreements for capital improvements on the state fairgrounds for the purposes of racing under the Kansas pari-mutuel racing act and the operation of such racing, for which purposes the right to make such capital improvements on state property is hereby granted. Any such agreement shall have received prior approval by the secretary of administration and the plans and specifications for such capital improvements shall have received prior approval by the director of architectural services. No such agreement shall be approved by the secretary of administration and no such plans and specifications for capital improvements shall be approved by the director of architectural services until the secretary and the director have first advised and consulted with the joint committee on state building construction on such agreement and such capital improvements. Such capital improvements shall become the property of the state upon completion and acceptance by the secretary of administration.

Sec. 2. Subject to approval by the secretary of administration, the state fair board is hereby authorized, as the board determines necessary or desirable to carry out its powers and duties, to: (a) Grant easements to, or obtain easements from, the city of Hutchinson, Kansas; or (b) deed defined and described real property for street and roadway purposes to, or receive real property deeded from, the city of Hutchinson, Kansas, in Reno county.

Sec. 3. This act shall take effect and be in force from and after its publication in the *Kansas register*.

I hereby certify that the above BILL originated in the SENATE, and passed that body April 1, 1988.

SENATE concurred in HOUSE amendments April 9, 1988.
ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 8, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 21, 1988.

MIKE HAYDEN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

KANSAS REGISTER
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