

State of Kansas
Department of Revenue-Alcoholic Beverage Control Division

Notice of Public Hearing on Proposed Administrative Regulations

February 20, 2018

A public hearing will be conducted on Friday, May 11, 2018, from 1:00 p.m. to 2:00 p.m. in the ABC Conference Room, 5th Floor of the Mills Building, 109 SW 9th Street, Topeka, Kansas to consider the adoption of the proposed rules and regulations of the Alcoholic Beverage Control Division, Department of Revenue, on a permanent basis.

This 60-day notice of public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Alcoholic Beverage Control Division, Mills Building, 109 SW 9th Street, P.O. Box 3506 Topeka, Kansas 66601 or by email to debby.beavers@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulation during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Debby Beavers at (785) 368-6290 (or TYY 1-800-766-3777). The public entrance to Mills Building is accessible. Handicapped parking is located in front of Mills Building.

A summary of the proposed regulation and its economic impact follow. (Note: Statements indicating that a regulation is “not anticipated to have any economic impact” are intended to indicate that no economic impact on the Department of Revenue, other state agencies, state employees, or the general public has been identified.)

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations can be viewed at the following website: ksrevenue.org/abcindex.html

K.A.R. 14-13-1: Definitions. The proposed amendment to this regulation coincide with the implementation of K.S.A. 2017 Supp. 41-212 (2017 House Sub. for SB 13), which shall be effective on or after April 1, 2019. The definition for “cereal malt beverage” is added to the existing regulation. There will be no foreseeable economic impact defining this term.

K.A.R. 14-13-2: Application for retail liquor license; requirements, conditions, and restriction on issuance of license. The proposed amendment to this regulation coincide with the implementation of K.S.A. 2017 Supp. 41-212 (2017 House Sub. for SB 13), which shall be effective on or after April 1, 2019. The proposed amendment to this regulation requires the

application for renewal of a retailer's license to include a statement of gross receipts from the previous 12-month period showing the sale of all goods and services other than cereal malt beverage and alcoholic liquor is not more than 20% of the retailer's total gross sales. The potential economic impact for this regulation will relate to retail liquor storeowners to have the ability to expand their sales, which will help to off-set the shift of some sales of beer from retail liquor stores to grocery and convenience stores holding a cereal malt beverage retailer license.

K.A.R. 14-13-10: Records of purchases and sales; retention of records; reports. The proposed amendment to this regulation coincides with the implementation of K.S.A. 2017 Supp. 41-212 (2017 House Sub. for SB 13). The proposed amendment to this regulation requires each retailer to keep all sales receipts involving the sale to any customer of all alcoholic liquor, cereal malt beverage and any other good or service, excluding the sales of lottery tickets and cigarette and tobacco products. There will be no foreseeable economic impact from defining this term.

K.A.R. 14-13-13: Prohibited conduct of retailer. The proposed amendment to this regulation is to prohibit a retailer's manager or employee to not *be* intoxicated while on duty for the licensee. Presently the regulation prohibits the retailer's manager or employee to not *become* intoxicated while on duty for the licensee. There is no economic impact related to this proposed amendment.

K.A.R. 14-25-1 to K.A.R. 14-25-6: Off-Premise Cereal Malt Beverage Retailers. These are proposed new regulations related to the implementation of K.S.A. 2017 Supp. 41-212 (2017 House Sub. for SB 13). Specifically, that the Director of the Alcoholic Beverage Control Division promulgate rules and regulations making applicable to cereal malt beverage retailers selling beer containing not more than 6% alcohol by volume such provision of the existing rules and regulations concerning industry trade practices as are necessary and appropriate. Effective April 1, 2019, on-premise cereal malt beverage retailers will also be able to expand their inventory to sell beer not more than 6% alcohol by volume in addition to the cereal malt beverage they currently sell.

K.A.R. 14-25-1: Definitions. This is a proposed new regulation to provide definitions for off-premise cereal malt beverage retailers.

K.A.R. 14-25-2: Trade practices; applicability. This is a proposed new regulation relates to the trade practices of off-premise cereal malt beverage retailers, and adopts by reference K.A.R. 14-10-17.

K.A.R. 14-25-3: Retailer's responsibility for conduct of business and employees. This is a proposed new regulation to identify the responsibilities of any person selling cereal malt beverage or beer containing not more than six percent alcohol by volume. This regulation is consistent with K.A.R. 14-13-5, which provides the responsibility for each retail liquor dealer.

K.A.R. 14-25-4: Recordkeeping. This is a proposed new regulation to provide notice of the required receipts and other documentation that shall be maintained for any retailer purchasing or selling cereal malt beverage or beer containing not more than six percent alcohol by volume.

This regulation is consistent with K.A.R. 14-13-10, which provides notice of the required receipts and other documentation for each retail liquor dealer.

K.A.R. 14-25-5: Transfer of retailer's inventory; application for permission; seizure and sale of abandoned inventory. This is a proposed new regulation to provide any person selling cereal malt beverage or beer containing not more than six percent alcohol by volume with guidance on the transfer of their stock of alcoholic liquor. This regulation is consistent with K.A.R. 14-13-8, which provides each retail liquor dealer with guidance on the transfer of his or her stock of alcoholic liquor.

K.A.R. 14-25-6: Prohibited conduct of retailer. This is a proposed new regulation to identify prohibited acts by any person selling cereal malt beverage or beer containing not more than six percent alcohol by volume. This regulation is consistent with K.A.R. 14-13-13, which identifies the prohibited acts each retail liquor dealer.

K.A.R. 14-26-1 to K.A.R. 14-26-8: On-Premise Cereal Malt Beverage Retailers. These are proposed new regulations related to the implementation of K.S.A. 2017 Supp. 41-212 (2017 House Sub. for SB 13). Specifically, that the Director of the Alcoholic Beverage Control Division promulgate rules and regulations making applicable to cereal malt beverage retailers selling beer containing not more than 6% alcohol by volume such provision of the existing rules and regulations concerning industry trade practices as are necessary and appropriate. Effective April 1, 2019, on-premise cereal malt beverage retailers will also be able to sell beer not more than 6% alcohol by volume in addition to the cereal malt beverage they currently sell.

K.A.R. 14-26-1: Definitions. This is a proposed new regulation to provide definitions for on-premises cereal malt beverage retailers.

K.A.R. 14-26-2: Trade practices; applicability. This is a proposed new regulation relates to the trade practices of on-premises cereal malt beverage retailers, and adopts by reference K.A.R. 14-10-17.

K.A.R. 14-26-3: Retailer's responsibility for conduct of business and employees. This is a proposed new regulation to identify the responsibilities of any person selling cereal malt beverage or beer containing not more than six percent alcohol by volume. This regulation is consistent with K.A.R. 14-21-11, which provides the responsibility for each drinking establishment.

K.A.R. 14-26-4: Refusal of right to enter or inspect licensed premises prohibited. This is a proposed new regulation to allow the inspection of the licensed premises of any drinking establishment selling cereal malt beverage or beer containing not more than six percent alcohol by volume.

K.A.R. 14-26-5: Minimum prices for drinks; acquisition cost. This is a proposed new regulation to prohibit a retailer from selling any drink to any person for less than the acquisition cost of that drink to the retailer selling cereal malt beverage or beer containing not more than six

percent alcohol by volume. This regulation is consistent with K.A.R. 14-21-15, which prohibits a drinking establishment from selling any drink to any person for less than the acquisition cost of that drink to the drinking establishment.

K.A.R. 14-26-6: Recordkeeping. This is a proposed new regulation to provide notice of the required receipts and other documentation that shall be maintained for any retailer purchasing or selling cereal malt beverage or beer containing not more than six percent alcohol by volume. This regulation is consistent with K.A.R. 14-21-10, which provides notice of the required receipts and other documentation for each retail liquor dealer.

K.A.R. 14-26-7: Storage of cereal malt beverage or beer containing nor more than six percent alcohol by volume; removal from licensed premises. This is a proposed new regulation that requires each retailer to store its cereal malt beverage or beer containing not more than six percent alcohol by volume on the licensed premises, unless there is prior approval from the director to do otherwise. This regulation is consistent with K.A.R. 14-21-12, which requires each retailer to store its cereal malt beverage or beer containing nor more than six percent alcohol by volume on the licensed premises, unless there is prior approval from the director to do otherwise.

K.A.R. 14-26-8: Transfers of retailer's application for permission; seizure and sale of abandoned inventory. This is a proposed new regulation to provide any person selling cereal malt beverage or beer containing not more than six percent alcohol by volume with guidance on the transfer of their stock of alcoholic liquor. This regulation is consistent with K.A.R. 14-13-8, which provides each retail liquor dealer with guidance on the transfer of his or her stock of alcoholic liquor.