

Chapter 5.48 ALCOHOLIC LIQUOR¹

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5.48.010 Definitions.

As used in this chapter, the words and phrases defined in this section shall have the following meanings, unless the context otherwise requires:

- A. "Alcohol" means the product of distillation in any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol;
- B. "Alcoholic liquor" includes the four varieties of liquor as defined herein, namely: alcohol, spirits, wine and beer and every liquid or solid, patented or not, containing alcohol, spirits, wine and beer, capable of being consumed as a beverage by a human being, but shall not include any beer or cereal malt beverage containing not more than 3.2 percent of alcohol by weight;
- C. "Beer," when its meaning is not enlarged, modified, or limited by other words, 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 and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.
- D. "Director" means the director of alcoholic beverage control of the department of revenue.
- E. "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer or alcoholic liquor, to contain and to convey any alcoholic liquor.
- G. "Retailer" means any person who sells at retail or offers for sale at retail, alcoholic liquors in the original package for consumption off the premises.
- H. "Person" includes individuals, firms, copartnerships, corporations, and associations.

¹ For statutory provisions regarding license fees and occupational tax for retailers of alcoholic liquor, see generally K.S.A. Chapter 41.

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- I. "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.
- J. "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(History: Ord. AL-1379 §1, 86; AL-1320 §1, 85; ABC-421 §1, 71)

5.48.020 Gallonage Tax Stamp or Crown Required on Original Package for Sale or Transport.

It is unlawful for any person, firm, partnership, or corporation to possess, sell, deliver, distribute, transport or use alcoholic liquor in any original package unless the package shall have affixed the stamps or crowns of the Kansas Gallonage Tax on alcoholic liquors.

(History: Ord. ABC-421 §2, 71)

5.48.030 Consumption of Alcoholic Liquor in Public Places - Unlawful Acts.

Repealed. See: 11.48.160.

(History: Ord. AL-1320 §9, 85; ABC-421 §3, 71)

5.48.040 Violation - Penalty.

Repealed. See 5.48.090.

(History: Ord. AL-1320 §9, 85; ABC-421 §4, 71)

5.48.050 Levy.

- A. There is levied a biennial license tax on each Retailer of Alcoholic Liquor, in the City who also has a Retailer's license issued by the Director in the sum of \$600.00. The tax levied in this Section shall be paid by the Retailer to the City Clerk before business is begun under an original state license and shall be paid within five days after any renewal of the state license.
- B. At the option of the licensee, the licensee shall submit to the City Clerk either:
 - 1. the full amount of the license tax set forth in Subsection A, above; or
 - 2. one-half of the full amount of the license tax set forth in Subsection A, above.
- C. If the licensee elects to pay only one-half of the license tax pursuant to Subsection B(2), the remaining one-half of the license tax plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The City Clerk may, at the Clerk's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this paragraph for not more

than 30 days beyond the date such payment is originally due. When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license for reasons other than suspension or revocation of the license for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee.

- D. There shall be no refund when the license is revoked or suspended for any cause provided for under this Chapter. The City Clerk is authorized to issue a prorated refund of the license tax paid for any period in which the licensee shall not use such license as the result of the license being canceled at the request of the licensee and for voluntary reasons.
- E. Payment of all taxes required to be paid pursuant to this Section may be made by personal, certified or cashier's check, money order, debit or credit card or cash, in a manner prescribed by the City Clerk.

(History: Ord. AL-2876 §1, 2010; AL-1320 §2, 85; AL-75 §1, 60)

5.48.060 Presentation of License to Pay Tax.

The holder of a license for the retail sale of alcoholic liquor, as aforesaid, issued by the Director shall present such license to the City Clerk when applying to pay the license tax levied in 5.48.050 and the tax shall be received and a receipt shall be issued for the period covered by the state license.

(History: Ord. AL-1320 §3, 85; AL-75 §2, 60)

5.48.070 Receipt to be Displayed.

Every licensee shall cause the City alcoholic liquor retailer's license tax receipt to be placed in plain view, next to or below the state license in a conspicuous place on the licensed premises.

(History: Ord. AL-1320 §4, 85; AL-75 §3, 60)

5.48.080 Hours for Selling - Minors - Persons Hired - Compliance with Sanitary Regulations.

- A. Hours of Operation. No retailer or his or her agent or employee shall sell any alcoholic liquor during the following times:
1. Before 9:00 a.m. or after 11:00 p.m. Monday through Saturday; or
 2. Before 12:00 p.m. (noon) or after 8:00 p.m. on Sunday; or
 3. On Easter Sunday, Thanksgiving Day or Christmas Day.
- B. Standards of Conduct. No retailer or his or her agent or employee shall:
1. Sell, give away, dispose of, exchange or deliver any alcoholic liquor to any person under the age of 21; or
 2. Knowingly sell, give away, dispose of, exchange or deliver any alcoholic liquor to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor; or

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3. Permit the consumption of alcoholic liquor in or about the place of business; or
4. Employ any person under the age of 21 in the dispensing of alcoholic liquor; or
5. Employ any person who has been convicted of a felony or any violation of the alcoholic liquor laws of this city or this state or any other city or state or of the United States.
6. Fail to comply with the sanitary, health, and fire safety regulations and ordinances of this city.

(History: Ord. AL-2566 §2, 2005; AL-2447 §1, 2003; AL-1874A §1, 94; AL-1874 §1, 94; AL-1320 §5, 85; AL-75 §4, 60; POC-625 §24, 72)

5.48.085 Private Clubs - Hours of Operation.

Repealed. See: 5.20.

(History: Ord. AL-1320 §9, 85; AL-859 §1, 75)

5.48.090 Penalties.

Any person having a retailer's license to sell alcoholic liquor, as provided in this chapter, who fails to pay the license tax herein levied and within the time prescribed herein, or who violates any other section in this chapter, shall upon conviction be fined not less than \$100 nor more than \$500 or by imprisonment for not more than 6 months, or by both such fine and imprisonment; provided nothing herein shall be construed to prohibit the city from collecting the license tax by any procedure authorized by law.

(History: Ord. AL-1320 §6, 85; ABC-421 §4, 71)

5.48.100 Separability.

If any part or parts of this ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this ordinance if it had known that such part or parts thereof would be declared invalid.

(History: Ord. AL-1320 §7, 85)

5.48.110 Savings Clause.

Neither the adoption of this ordinance nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

(History: Ord. AL-1320 §8, 85)

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