

Summary of K.A.R. 14-19-40, 14-20-42, and 14-21-23

With the passage of 2015 HB 2223 (Section 5), drinking establishment, club, and public venue licensees are authorized to allow the use of automated devices for the customer self-service of wine. These regulations provide guidelines for the use of these automated devices, with the primary goal of preventing service to minors and overconsumption of alcohol. It should be noted that all three regulations are identical. This is because ABC has separate regulatory articles for each licensee type, so an identical regulation will be placed in the article for drinking establishment licensees, Class A club licensees, and Class B club licensees. ABC does not currently have regulations for public venue licensees, but since they are licensed under the Kansas Club and Drinking Establishment Act, K.S.A. 41-2601, *et seq.*, they are treated as drinking establishments as an internal policy.

Generally, the regulations create definitions for the terms “automated device” and “business day,” as they are used throughout the regulations. In addition, the regulations include the following provisions:

- Licensees must provide written or electronic notification of their intent to use an automated device at least 48 hours before such automated device may be used.
- Automated devices must be constantly video monitored at all times during which the licensee is open to the public. Licensees must keep recorded footage from such monitoring for at least 60 days, and must provide the footage to law enforcement upon request.
- Compensation used to dispense wine from the automated devices must be in the form of programmable prepaid access cards.
- Customers may only have one “active” access card at any time.
- To obtain an access card, or to use an access card for the first time in any business day, a customer must show a valid identification proving they are at least 21 years of age. Regardless of the amount of money placed on an access card, it can only be used to

dispense up to 15 ounces of wine. At that point, the access card becomes inactive.

Customers may “reactivate” the access card by once again displaying valid ID to an employee of the licensee.

- Access cards will also become inactive at the end of each business day.

14-19-40. Class A clubs; automated devices. (a)(1) “Automated device” shall mean any mechanized device capable of dispensing wine directly to a customer in exchange for compensation that a licensee has received directly from the customer.

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

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

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

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

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

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

(e) In order to obtain a prepaid access card from a licensee, each customer shall produce a valid driver's license, identification card, or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least 21 years of age. Each access card shall be programmed to require the production of the customer's valid identification before the access card can be used for the first time during any business day or for any subsequent reactivation as provided in subsection (f). Each access card shall become inactive at the end of each business day.

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

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

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

14-20-42. Class B clubs; automated devices. (a)(1) “Automated device” shall mean any mechanized device capable of dispensing wine directly to a customer in exchange for compensation that a licensee has received directly from the customer.

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

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

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

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

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

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

(e) In order to obtain a prepaid access card from a licensee, each customer shall produce a valid driver's license, identification card, or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least 21 years of age. Each access card shall be programmed to require the production of the customer's valid identification before the access card can be used for the first time during any business day or for any subsequent reactivation as provided in subsection (f). Each access card shall become inactive at the end of each business day.

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

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

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14-21-23. Drinking establishments; automated devices. (a)(1) “Automated device” shall mean any mechanized device capable of dispensing wine directly to a customer in exchange for compensation that a licensee has received directly from the customer.

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

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

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

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

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

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

(e) In order to obtain a prepaid access card from a licensee, each customer shall produce a valid driver's license, identification card, or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least 21 years of age. Each access card shall be programmed to require the production of the customer's valid identification before the access card can be used for the first time during any business day or for any subsequent reactivation as provided in subsection (f). Each access card shall become inactive at the end of each business day.

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

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

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Nick Jordan, Secretary
Dean Reynoldson, Director

Sam Brownback, Governor

**KANSAS DEPARTMENT OF REVENUE,
ALCOHOLIC BEVERAGE CONTROL DIVISION
ECONOMIC IMPACT STATEMENT
K.A.R. 14-19-40, 14-20-42, and 14-21-23**

I. Summary of Proposed Regulation, Including its Purpose.

K.A.R. 14-19-40, 14-20-42, and 14-21-23 are new regulations that provide guidelines for the use of automated devices for the self-dispensing of wine to customers. The purpose of these regulations is to address the manner in which wine can be dispensed from the automated devices, as well as to establish additional criteria that licensees must follow in order to use these automated devices. Overall, the regulation is intended to serve the agency's goal of protecting public health and safety by attempting to control the over-service and overconsumption of alcohol.

II. Reason the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.

As a point of clarification, these three regulations are identical. The reason for adopting three identical regulations in different articles stems from the specific authorization given by 2015 HB 2223. With the passage of 2015 HB 2223, drinking establishments, clubs and public venues are authorized to offer customer self-service of wine from automated devices. Since ABC has separate regulatory articles for drinking establishment licensees, Class A club licensees, and Class B club licensees, an identical version of the regulation was necessary in each article. ABC does not currently have regulations in place regarding public venue licensees since it is a relatively new and seldom issued license type, but as an internal policy, public venue licensees are largely treated as drinking establishments.

Since 2015 HB 2223 merely authorizes the use of automated devices by these licensees, specific guidelines are necessary to ensure that customers' access to wine from these automated devices is subject to the same level of responsibility and safety currently observed in face-to-face interactions with a licensee's employees. Without certain restrictions in place, these automated devices could present a potential health and safety risk in the form of underage access to alcohol

and overconsumption of alcohol. These regulations are not mandated by federal law, and therefore, they do not exceed the requirements of federal law.

III. Anticipated Economic Impact on the Kansas Department of Revenue, Alcoholic Beverage Control Division.

ABC does not anticipate any economic impact on the agency as a result of these regulations. These regulations simply allow for another method of dispensing alcohol that is already in the possession of licensees, as opposed to allowing a new product or form of alcohol altogether. As such, the amount of alcohol sold by licensees using automated devices should not increase or decrease dramatically. These regulations will provide for additional items for ABC enforcement agents to monitor and investigate while in their normal course of business, but this additional investigation would typically take place during the course of an otherwise regularly scheduled inspection. As such, no additional resources are projected to be necessary. To the agency's knowledge, there is currently only one licensee in possession of an automated device, although that number will most likely increase once the law goes into effect.

IV. Anticipated Economic Impact on Other Governmental Agencies and Private Businesses or Individuals.

ABC does not anticipate significant economic impact on other governmental agencies or on private business. As stated above, the regulation merely allows for a new method of dispensing alcohol that is already sold by private business licensees. Individual licensees may wish to provide additional training to their staff regarding use of the automated devices, but such training would not present any substantial or significant costs to those licensees above or beyond those costs typically associated with other types of staff training.

V. Less Costly or Intrusive Methods Considered, but Rejected, and the Reason for Rejection.

The terms of these regulations were developed after discussion with two primary industry members: the specific licensee currently in possession of an automated device, and the manufacturer of automated device itself. With this in mind, the agency was able to develop regulatory requirements with the assurance that such requirements were feasible for the licensee, both practically and financially.