



**STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL**

KRIS W. KOBACH
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

July 24, 2025

ATTORNEY GENERAL OPINION NO. 2025-14

Martin W. Mishler
Sabetha City Attorney
920 Main St.
PO Box 283
Sabetha, KS 66534

Re: Intoxicating Liquors and Beverages—Miscellaneous—Hours and Days
of Sale of Alcoholic Liquor and Cereal Malt Beverage; Local Option

Synopsis: K.S.A. 41-2911(b)(1) requires city ordinances authorizing Sunday sales
of alcoholic liquor and cereal malt beverages to be published twice. If
an adopted ordinance is defeated by protest petition but subsequently
included in a new compilation of the city code that is only published
once, the city has not validly authorized Sunday sales. Cited herein:
K.S.A. 41-2911.

* * *

Dear Mr. Mishler:

As City Attorney for Sabetha, you ask whether the City of Sabetha has properly
expanded Sunday sales of cereal malt beverages and alcoholic liquor through the
adoption of the City Code on March 13, 2017. We conclude it has not.

You explain that in September 2005, the city governing body adopted Ordinance
#1407 to authorize Sunday sales of cereal malt beverages and alcoholic liquor. But a
protest petition was filed under K.S.A. 41-2911(b)(2), and the ordinance was
defeated at a special election held on December 29, 2005. In 2017, when Sabetha

updated its City Code by compiling its old Code with subsequently adopted ordinances, the defeated Sunday sales ordinance was inadvertently included in the new City Code. The new City Code was adopted on March 13, 2017, by Ordinance #1599, which was published one time.

We question whether Ordinance #1599 validly authorized Sunday sales for several reasons,¹ but one reason alone is sufficient for us to conclude that it did not. K.S.A. 41-2911(b)(1) provides that when the governing body of a city adopts an ordinance authorizing Sunday sales of alcoholic liquor and cereal malt beverages, “[s]uch ordinance shall be published at least once each week for two consecutive weeks in the official city newspaper. Such ordinance shall not become effective earlier than 60 days following the date of its publication.” The city governing body had adopted Ordinance #1407 to expand the sale of cereal malt beverages and alcoholic liquor and duly published it. However, K.S.A. 41-2911(b)(1) continues:

If, within 60 days following publication of the ordinance, a petition requesting that a proposition be submitted for approval by the voters is filed in accordance with subsection (b)(2), such ordinance shall not become effective until a proposition is submitted to and approved at an election as provided by this subsection (b).

Because it was defeated by a valid protest petition, Ordinance #1407 was not properly adopted.

While the current City Code purports to authorize Sunday sales, you state that Ordinance #1599 adopting that code was published only once, as generally required for ordinances under K.S.A. 12-3007(a), not “at least once each week for two consecutive weeks” as K.S.A. 41-2911(b)(1) requires for ordinances authorizing Sunday sales. The fact that Ordinance #1599 has been published only once after the protest petition defeat means that it does not validly authorize Sunday sales of cereal malt beverages and alcoholic liquor.

In order for Sabetha to expand Sunday sales, the city would have to adopt a Sunday sales ordinance again and properly publish that ordinance twice without petition against it, or with voter approval in the event of a protest petition, in compliance with state statutes.

¹ For instance, even if the ordinance had been published twice, we question whether the voters received sufficient notice under K.S.A. 41-2911(b)(1) if the ordinance did not specifically mention Sunday sales. Nor is it clear that the publication of Ordinance #1599 stated that it was subject to petition. Also, if the new City Code presented Sunday sales as already authorized by Ordinance #1407 (which was defeated), as opposed to a new proposition, it was materially misleading.

Sincerely,

/s/ Kris W. Kobach

Kris W. Kobach
Attorney General

/s/ Dwight R. Carswell

Dwight R. Carswell
Deputy Solicitor General