

HOUSE BILL No. 2387

By Committee on Federal and State Affairs

3-11

1 AN ACT concerning alcoholic beverages; relating to retailer's licenses
2 under the Kansas liquor control act; amending K.S.A. 41-713 and 41-
3 1101 and K.S.A. 2010 Supp. 41-102, 41-301, 41-303, 41-311, 41-313,
4 41-326 and 79-4108 and repealing the existing sections; also repealing
5 K.S.A. 41-103, 41-308 and 41-711.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) On and after July 1, 2011, the total number of
9 retailer's licenses issued by the director to sell alcoholic liquor shall not
10 exceed the number of such valid licenses issued as of June 30, 2011.

11 (b) From July 1, 2011, to December 31, 2016, the director may only
12 issue a retailer's license to sell alcoholic liquor to a qualified applicant if
13 the issuance of such license would not cause the total number of such valid
14 licenses issued to exceed the number determined pursuant to subsection
15 (a).

16 New Sec. 2. (a) A retailer's license shall allow the licensee to sell
17 and offer for sale at retail and deliver in the original package, as therein
18 prescribed, alcoholic liquor for use or consumption off of and away from
19 the premises specified in such license.

20 (b) A retailer's license shall permit the sale and delivery of alcoholic
21 liquor only on the licensed premises and shall not permit the sale of
22 alcoholic liquor for resale in any form, except that the licensee may:

23 (1) Sell alcoholic liquor to a temporary permit holder for resale by
24 such temporary permit holder; and

25 (2) sell and deliver alcoholic liquor to a caterer or to the licensed
26 premises of a club or drinking establishment, if such premises are in the
27 county where the retailer's licensed premises are located or in an adjacent
28 county, for resale by such caterer, club or drinking establishment.

29 (c) Except as provided in subsection (d), a retailer's licensee may:

30 (1) Charge a delivery fee for delivery of alcoholic liquor to a caterer,
31 club or drinking establishment pursuant to subsection (a);

32 (2) sell lottery tickets and shares to the public in accordance with the
33 Kansas lottery act, if the licensee is selected as a lottery retailer;

34 (3) include in the sale of alcoholic liquor any goods included by the
35 manufacturer in packaging with the alcoholic liquor, subject to the
36 approval of the director;

1 (4) distribute to the public, without charge, consumer advertising
2 specialities bearing advertising matter, subject to rules and regulations of
3 the secretary limiting the form and distribution of such specialities so that
4 they are not conditioned on or an inducement to the purchase of alcoholic
5 liquor;

6 (5) store alcoholic liquor in refrigerators, cold storage units, ice boxes
7 or other cooling devices, and sell such alcoholic liquor to consumers in a
8 chilled condition; and

9 (6) sell any other good or service on the licensed premises.

10 (d) A licensee who holds a retailer's license on the effective date of
11 this act shall not sell any good or service that is permitted to be sold on the
12 licensed premises pursuant to subsection (c)(6). The provisions of this
13 subsection shall expire on December 31, 2016.

14 New Sec. 3. (a) On and after January 1, 2012, any licensee holding
15 a valid retailer's license may transfer such license to any person qualified
16 to hold such license under the Kansas liquor control act. The transferee's
17 proposed premises to be licensed shall be located in the same county as the
18 licensed premises of the transferor.

19 (b) Any transfer of a license pursuant to this section shall be
20 approved by the director. The director may require the transferor, the
21 transferee, or both, to submit such information as the director deems
22 necessary in order to determine that the license transfer satisfies the
23 requirements of the Kansas liquor control act. Such information shall be
24 submitted in the manner and on such forms as prescribed by the director,
25 and may include, but shall not be limited to, such information concerning
26 the transferee that shows such transferee is qualified to hold a retailer's
27 license and a copy of the agreement to transfer the license.

28 (c) On the effective date of the transfer of a license in accordance
29 with this section the director shall issue a retailer's license to the transferee.
30 Such license shall be issued for the premises of the transferee as stated in
31 the transfer agreement. The term of such license shall be for the remainder
32 of the term of the license held by the transferor immediately prior to the
33 effective date of the transfer. The director shall not require the payment of
34 any new or additional retailer's license fee by the transferee. The transferee
35 shall pay a transfer fee in the amount of \$25 and an application fee in the
36 amount set forth in K.S.A. 41-317, and amendments thereto, which fees
37 shall be submitted to the director at the same time the request for approval
38 of the transfer is submitted to the director.

39 New Sec. 4. On and after January 1, 2017, the director may issue to
40 qualified applicants a retailer's license. A holder of a retailer's license shall
41 have all the privileges granted to such licensees as set forth in section 2,
42 and amendments thereto.

43 New Sec. 5. Notwithstanding the provisions of K.S.A. 41-1101, and

1 amendments thereto, a distributor may establish minimum order quantities
2 or minimum order prices, or both, for alcoholic liquor distributed by the
3 distributor to a retailer.

4 New Sec. 6. The provisions of sections 1 through 6, and amendments
5 thereto, shall be a part of and supplemental to the Kansas liquor control
6 act.

7 Sec. 7. K.S.A. 2010 Supp. 41-102 is hereby amended to read as
8 follows: 41-102. As used in this act, unless the context clearly requires
9 otherwise:

10 (a) "Alcohol" means the product of distillation of any fermented
11 liquid, whether rectified or diluted, whatever its origin, and includes
12 synthetic ethyl alcohol but does not include denatured alcohol or wood
13 alcohol.

14 (b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every
15 liquid or solid, patented or not, containing alcohol, spirits, wine or beer
16 and capable of being consumed as a beverage by a human being, but shall
17 not include any cereal malt beverage.

18 (c) "Beer" means a beverage, containing more than 3.2% alcohol by
19 weight, obtained by alcoholic fermentation of an infusion or concoction of
20 barley, or other grain, malt and hops in water and includes beer, ale, stout,
21 lager beer, porter and similar beverages having such alcoholic content.

22 (d) "Caterer" has the meaning provided by K.S.A. 41-2601, and
23 amendments thereto.

24 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
25 2701, and amendments thereto.

26 (f) "Club" has the meaning provided by K.S.A. 41-2601, and
27 amendments thereto.

28 (g) "Director" means the director of alcoholic beverage control of the
29 department of revenue.

30 (h) "Distributor" means the person importing or causing to be
31 imported into the state, or purchasing or causing to be purchased within
32 the state, alcoholic liquor for sale or resale to retailers licensed under this
33 act or cereal malt beverage for sale or resale to retailers licensed under
34 K.S.A. 41-2702, and amendments thereto.

35 (i) "Domestic beer" means beer which contains not more than 8%
36 alcohol by weight and which is manufactured in this state.

37 (j) "Domestic fortified wine" means wine which contains more than
38 14%, but not more than 20% alcohol by volume and which is
39 manufactured in this state.

40 (k) "Domestic table wine" means wine which contains not more than
41 14% alcohol by volume and which is manufactured without rectification or
42 fortification in this state.

43 (l) "Drinking establishment" has the meaning provided by K.S.A. 41-

1 2601, and amendments thereto.

2 (m) "Farm winery" means a winery licensed by the director to
3 manufacture, store and sell domestic table wine and domestic fortified
4 wine.

5 (n) "Manufacture" means to distill, rectify, ferment, brew, make, mix,
6 concoct, process, blend, bottle or fill an original package with any
7 alcoholic liquor, beer or cereal malt beverage.

8 (o) (1) "Manufacturer" means every brewer, fermenter, distiller,
9 rectifier, wine maker, blender, processor, bottler or person who fills or
10 refills an original package and others engaged in brewing, fermenting,
11 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
12 beverage.

13 (2) "Manufacturer" does not include a microbrewery or a farm
14 winery.

15 (p) "Microbrewery" means a brewery licensed by the director to
16 manufacture, store and sell domestic beer.

17 (q) "Minor" means any person under 21 years of age.

18 (r) "Nonbeverage user" means any manufacturer of any of the
19 products set forth and described in K.S.A. 41-501, and amendments
20 thereto, when the products contain alcohol or wine, and all laboratories
21 using alcohol for nonbeverage purposes.

22 (s) "Original package" means any bottle, flask, jug, can, cask, barrel,
23 keg, hogshead or other receptacle or container whatsoever, used, corked or
24 capped, sealed and labeled by the manufacturer of alcoholic liquor, to
25 contain and to convey any alcoholic liquor. Original container does not
26 include a sleeve.

27 (t) "Person" means any natural person, corporation, partnership, trust
28 or association.

29 (u) "Primary American source of supply" means the manufacturer, the
30 owner of alcoholic liquor at the time it becomes a marketable product or
31 the manufacturer's or owner's exclusive agent who, if the alcoholic liquor
32 cannot be secured directly from such manufacturer or owner by American
33 wholesalers, is the source closest to such manufacturer or owner in the
34 channel of commerce from which the product can be secured by American
35 wholesalers.

36 (v) (1) "Retailer" means a person who sells at retail, or offers for sale
37 at retail, alcoholic liquors.

38 (2) "Retailer" does not include a microbrewery or a farm winery.

39 (w) *"Retailer's license" means a license to sell at retail alcoholic*
40 *liquor in the original package issued pursuant to the Kansas liquor*
41 *control act.*

42 ~~(w)~~ (x) "Sale" means any transfer, exchange or barter in any manner
43 or by any means whatsoever for a consideration and includes all sales

1 made by any person, whether principal, proprietor, agent, servant or
2 employee.

3 ~~(x)~~ (y) "Salesperson" means any natural person who:

4 (1) Procures or seeks to procure an order, bargain, contract or
5 agreement for the sale of alcoholic liquor or cereal malt beverage; or

6 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
7 beverage, or in promoting the business of any person, firm or corporation
8 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
9 beverage, whether the seller resides within the state of Kansas and sells to
10 licensed buyers within the state of Kansas, or whether the seller resides
11 without the state of Kansas and sells to licensed buyers within the state of
12 Kansas.

13 ~~(y)~~ (z) "Secretary" means the secretary of revenue.

14 ~~(z)~~ (aa) (1) "Sell at retail" and "sale at retail" refer to and mean sales
15 for use or consumption and not for resale in any form and sales to clubs,
16 licensed drinking establishments, licensed caterers or holders of temporary
17 permits.

18 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by
19 a distributor, a microbrewery, a farm winery, a licensed club, a licensed
20 drinking establishment, a licensed caterer or a holder of a temporary
21 permit.

22 ~~(aa)~~ (bb) "To sell" includes to solicit or receive an order for, to keep
23 or expose for sale and to keep with intent to sell.

24 ~~(bb)~~ (cc) "Sleeve" means a package of two or more 50-milliliter (3.2-
25 fluid-ounce) containers of spirits.

26 ~~(cc)~~ (dd) "Spirits" means any beverage which contains alcohol
27 obtained by distillation, mixed with water or other substance in solution,
28 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
29 such liquors when rectified, blended or otherwise mixed with alcohol or
30 other substances.

31 ~~(dd)~~ (ee) "Supplier" means a manufacturer of alcoholic liquor or
32 cereal malt beverage or an agent of such manufacturer, other than a
33 salesperson.

34 ~~(ee)~~ (ff) "Temporary permit" has the meaning provided by K.S.A. 41-
35 2601, and amendments thereto.

36 ~~(ff)~~ (gg) "Wine" means any alcoholic beverage obtained by the
37 normal alcoholic fermentation of the juice of sound, ripe grapes, fruits,
38 berries or other agricultural products, including such beverages containing
39 added alcohol or spirits or containing sugar added for the purpose of
40 correcting natural deficiencies.

41 Sec. 8. On and after January 1, 2012, K.S.A. 2010 Supp. 41-301 is
42 hereby amended to read as follows: 41-301. ~~(a) Except as provided by~~
43 ~~subsection (b), the director shall issue to qualified applicants, who have~~

1 ~~filed the bond and paid the registration and license fees required by this~~
 2 ~~act, licenses to sell at retail alcoholic liquor in the original package on~~
 3 ~~premises within the corporate limits of cities and outside the corporate~~
 4 ~~limits of any city.~~

5 ~~(b) (a) No retailer's license shall be issued for premises within a city~~
 6 ~~if the governing body of such city, on or before February 15, 2006, adopts~~
 7 ~~adopted an ordinance prohibiting the licensing of the sale at retail of~~
 8 ~~alcoholic liquor in the original package within such city. Upon adoption of~~
 9 ~~such ordinance, the city clerk promptly shall transmit a copy of such~~
 10 ~~ordinance to the director and the director shall refuse to issue licenses to~~
 11 ~~sell at retail alcoholic liquor in the original package in such city. If the~~
 12 ~~governing body adopts such an ordinance, the holder of any valid existing~~
 13 ~~retailer's license for premises in such city shall have the right to continue~~
 14 ~~to operate under such license for a period of 90 days after the effective~~
 15 ~~date of the ordinance or until the expiration of such license, whichever~~
 16 ~~period of time is shorter. If such period of time expires before the~~
 17 ~~expiration of the term for which the retailer's license was issued, the~~
 18 ~~licensee shall be entitled to a refund of the license fee for the unexpired~~
 19 ~~portion of the license period which remains, in accordance with rules and~~
 20 ~~regulations adopted by the secretary.~~

21 ~~(c) (b) No retailer's license shall be issued for premises within a city~~
 22 ~~if, after November 15, 2005, a majority of the qualified voters of such city~~
 23 ~~voting at an election held as provided by K.S.A. 41-302, and amendments~~
 24 ~~thereto, votes against the licensing of the sale at retail of alcoholic liquor~~
 25 ~~in the original package within such city unless, at a subsequent election, a~~
 26 ~~majority of the qualified voters of such city voting at such election votes in~~
 27 ~~favor of the licensing of the sale at retail of alcoholic liquor in the original~~
 28 ~~package within such city.~~

29 Sec. 9. On and after January 1, 2012, K.S.A. 2010 Supp. 41-303 is
 30 hereby amended to read as follows: 41-303. ~~(a) The director may issue to~~
 31 ~~qualified applicants licenses to sell at retail alcoholic liquor in the original~~
 32 ~~package on premises not located in an incorporated city for use or~~
 33 ~~consumption off the premises. No such license shall be issued to any~~
 34 ~~applicant unless the applicant possesses all the qualifications required of~~
 35 ~~other applicants for retailers' licenses except the qualification of residency~~
 36 ~~within a city.~~

37 ~~No such~~ *No retailer's license shall be issued to any applicant under this*
 38 *section for the premises not located in an incorporated city unless the*
 39 *board of county commissioners of the county in which the premises for*
 40 *which licensure is sought are located adopts a resolution approving the*
 41 *issuance of such license. A certified copy of such resolution shall*
 42 *accompany the application for a such license authorized by this section.*

43 (b) ~~If a license has been issued under the provisions of this section in~~

1 ~~the unincorporated area of a county and thereafter the premises so licensed~~
2 ~~are annexed to a city wherein retail liquor licenses may be issued, such~~
3 ~~license shall continue to be valid and may be renewed at the appropriate~~
4 ~~time even though the licensee does not reside in the city to which the area~~
5 ~~is annexed if the licensee otherwise is qualified and resides in the township~~
6 ~~in which the premises were located prior to annexation or in the city to~~
7 ~~which the premises have been annexed.~~

8 (e) Any ~~retail~~ *retailer's* license issued prior to the effective date of
9 this act for premises not located in an incorporated city shall continue to be
10 valid and such premises shall continue to be eligible for licensure if the
11 board of county commissioners of the county in which the premises are
12 located has adopted a resolution approving the issuance of such license. A
13 certified copy of such resolution shall accompany the application for a
14 *such* license ~~authorized by this subsection.~~

15 Sec. 10. K.S.A. 2010 Supp. 41-311 is hereby amended to read as
16 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
17 liquor control act to a *natural* person:

18 (1) Who has not been a citizen of the United States for at least 10
19 years, except that the spouse of a deceased retail licensee may receive and
20 renew a retail license notwithstanding the provisions of this subsection (a)
21 (1) if such spouse is otherwise qualified to hold a retail license and is a
22 United States citizen or becomes a United States citizen within one year
23 after the deceased licensee's death;

24 (2) who has been convicted of a felony under the laws of this state,
25 any other state or the United States;

26 (3) who has had a license revoked for cause under the provisions of
27 the liquor control act, the beer and cereal malt beverage keg registration
28 act or who has had any license issued under the cereal malt beverage laws
29 of any state revoked for cause except that a license may be issued to a
30 person whose license was revoked for the conviction of a misdemeanor at
31 any time after the lapse of 10 years following the date of the revocation;

32 (4) who has been convicted of being the keeper or is keeping a house
33 of prostitution or has forfeited bond to appear in court to answer charges of
34 being a keeper of a house of prostitution;

35 (5) who has been convicted of being a proprietor of a gambling
36 house, pandering or any other crime opposed to decency and morality or
37 has forfeited bond to appear in court to answer charges for any of those
38 crimes;

39 (6) who is not at least 21 years of age;

40 (7) who, other than as a member of the governing body of a city or
41 county, appoints or supervises any law enforcement officer, who is a law
42 enforcement official or who is an employee of the director;

43 (8) who intends to carry on the business authorized by the license as

1 agent of another;

2 (9) who at the time of application for renewal of any license issued
3 under this act would not be eligible for the license upon a first application,
4 except as provided by subsection (a)(12);

5 (10) who is the holder of a valid and existing license issued under
6 article 27 of chapter 41 of the Kansas Statutes Annotated, *and amendments*
7 *thereto*, unless the person agrees to and does surrender the license to the
8 officer issuing the same upon the issuance to the person of a license under
9 this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and
10 amendments thereto, shall be eligible to receive a retailer's license under
11 the Kansas liquor control act;

12 (11) who does not own the premises for which a license is sought, or
13 does not, at the time of application, have a written lease thereon;

14 (12) whose spouse would be ineligible to receive a license under this
15 act for any reason other than citizenship, residence requirements or age,
16 except that this subsection (a)(12) shall not apply in determining eligibility
17 for a renewal license;

18 (13) whose spouse has been convicted of a felony or other crime
19 which would disqualify a person from licensure under this section and
20 such felony or other crime was committed during the time that the spouse
21 held a license under this act; or

22 (14) who does not provide any data or information required by
23 K.S.A. 2010 Supp. 41-311b, and amendments thereto.

24 (b) (1) *Except as provided in paragraph (2)*, no retailer's license
25 shall be issued to:

26 ~~(1)~~ (A) A person who is not a resident of this state;

27 ~~(2)~~ (B) a person who has not been a resident of this state for at least
28 four years immediately preceding the date of application;

29 ~~(3)~~ (C) a person who has a beneficial interest in a manufacturer,
30 distributor, farm winery or microbrewery licensed under this act, except
31 that the spouse of an applicant for a retailer's license may own and hold a
32 farm winery license, microbrewery license, or both, if the spouse does not
33 hold a retailer's license issued under this act;

34 ~~(4)~~ (D) a person who has a beneficial interest in any other retail
35 establishment licensed under this act, except that the spouse of a licensee
36 may own and hold a retailer's license for another retail establishment;

37 ~~(5)~~ (E) a copartnership, unless all of the copartners are qualified to
38 obtain a license;

39 ~~(6)~~ (F) a corporation; or

40 ~~(7)~~ (G) a trust, if any grantor, beneficiary or trustee would be
41 ineligible to receive a license under this act for any reason, except that the
42 provisions of subsection (a)(6) shall not apply in determining whether a
43 beneficiary would be eligible for a license.

1 (2) *On and after January 1, 2012, the provisions of paragraph (1)*
2 *shall have no force and effect, and on and after such date, no retailer's*
3 *license shall be issued:*

4 (A) *To a person who has a beneficial interest in a manufacturer,*
5 *distributor, farm winery or microbrewery licensed under this act, except*
6 *that the spouse of an applicant for a retailer's license may own and hold a*
7 *farm winery license, microbrewery license, or both, if the spouse does not*
8 *hold a retailer's license issued under this act;*

9 (B) *to a corporation, if any officer or member of the board of*
10 *directors or governing body thereof, or the manager of the licensed*
11 *premises, would be ineligible to receive a retailer's license for any reason*
12 *specified in subsection (a) other than citizenship requirements;*

13 (C) *to a corporation, if any officer or member of the board of*
14 *directors or governing body thereof, or the manager of the licensed*
15 *premises, has been an officer, manager or member of the board of*
16 *directors or governing body of a corporation which has had a license*
17 *revoked under the provisions of the Kansas liquor control act;*

18 (D) *to a person who is not engaged in business as a liquor store, a*
19 *convenience store or a grocery store. As used herein: (i) "Liquor store"*
20 *means a store whose primary business is the retail sale of alcoholic liquor*
21 *in the original and unopened container and not for consumption on the*
22 *premises and it includes stores classified under the North American*
23 *industry classification system (NAICS) on the effective date of this act as*
24 *NAICS 445310; (ii) "convenience store" means a retail business with*
25 *primary emphasis placed on providing the public a convenient location to*
26 *quickly purchase from a wide array of consumable products*
27 *(predominantly food or food and gasoline) and services, and includes*
28 *stores classified on the effective date of this act as either NAICS 44512,*
29 *convenience stores, or NAICS 447110, gasoline stations with convenience*
30 *stores; and (iii) "grocery store" means a store established primarily for the*
31 *retail sale of food, and includes stores classified on the effective date of*
32 *this act as NAICS 445110;*

33 (E) *to a partnership, unless all of the partners are qualified to obtain*
34 *a license; and*

35 (F) *to a trust, if any grantor, beneficiary or trustee thereof would be*
36 *ineligible to receive a retailer's license for any reason specified in*
37 *subsection (a) other than the age and citizenship requirements.*

38 (c) *No manufacturer's license shall be issued to:*

39 (1) *A corporation, if any officer or director thereof, or any*
40 *stockholder owning in the aggregate more than 25% of the stock of the*
41 *corporation would be ineligible to receive a manufacturer's license for any*
42 *reason other than citizenship and residence requirements;*

43 (2) *a copartnership, unless all of the copartners shall have been*

1 residents of this state for at least five years immediately preceding the date
2 of application and unless all the members of the copartnership would be
3 eligible to receive a manufacturer's license under this act;

4 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
5 receive a license under this act for any reason, except that the provisions of
6 subsection (a)(6) shall not apply in determining whether a beneficiary
7 would be eligible for a license;

8 (4) an individual who is not a resident of this state;

9 (5) an individual who has not been a resident of this state for at least
10 five years immediately preceding the date of application; or

11 (6) a person who has a beneficial interest in a distributor, retailer,
12 farm winery or microbrewery licensed under this act, except as provided in
13 K.S.A. 41-305, and amendments thereto.

14 (d) No distributor's license shall be issued to:

15 (1) A corporation, if any officer, director or stockholder of the
16 corporation would be ineligible to receive a distributor's license for any
17 reason. It shall be unlawful for any stockholder of a corporation licensed
18 as a distributor to transfer any stock in the corporation to any person who
19 would be ineligible to receive a distributor's license for any reason, and
20 any such transfer shall be null and void, except that: (A) If any stockholder
21 owning stock in the corporation dies and an heir or devisee to whom stock
22 of the corporation descends by descent and distribution or by will is
23 ineligible to receive a distributor's license, the legal representatives of the
24 deceased stockholder's estate and the ineligible heir or devisee shall have
25 14 months from the date of the death of the stockholder within which to
26 sell the stock to a person eligible to receive a distributor's license, any such
27 sale by a legal representative to be made in accordance with the provisions
28 of the probate code; or (B) if the stock in any such corporation is the
29 subject of any trust and any trustee or beneficiary of the trust who is 21
30 years of age or older is ineligible to receive a distributor's license, the
31 trustee, within 14 months after the effective date of the trust, shall sell the
32 stock to a person eligible to receive a distributor's license and hold and
33 disburse the proceeds in accordance with the terms of the trust. If any legal
34 representatives, heirs, devisees or trustees fail, refuse or neglect to sell any
35 stock as required by this subsection, the stock shall revert to and become
36 the property of the corporation, and the corporation shall pay to the legal
37 representatives, heirs, devisees or trustees the book value of the stock.
38 During the period of 14 months prescribed by this subsection, the
39 corporation shall not be denied a distributor's license or have its
40 distributor's license revoked if the corporation meets all of the other
41 requirements necessary to have a distributor's license;

42 (2) a copartnership, unless all of the copartners are eligible to receive
43 a distributor's license;

1 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
2 receive a license under this act for any reason, except that the provisions of
3 subsection (a)(6) shall not apply in determining whether a beneficiary
4 would be eligible for a license; or

5 (4) a person who has a beneficial interest in a manufacturer, retailer,
6 farm winery or microbrewery licensed under this act.

7 (e) No nonbeverage user's license shall be issued to a corporation, if
8 any officer, manager or director of the corporation or any stockholder
9 owning in the aggregate more than 25% of the stock of the corporation
10 would be ineligible to receive a nonbeverage user's license for any reason
11 other than citizenship and residence requirements.

12 (f) No microbrewery license or farm winery license shall be issued to
13 a:

14 (1) Person who is not a resident of this state;

15 (2) person who has not been a resident of this state for at least one
16 year immediately preceding the date of application;

17 (3) person who has a beneficial interest in a manufacturer or
18 distributor licensed under this act, except as provided in K.S.A. 41-305,
19 and amendments thereto;

20 (4) person, copartnership or association which has a beneficial
21 interest in any retailer licensed under this act or under K.S.A. 41-2702, and
22 amendments thereto, except that the spouse of an applicant for a
23 microbrewery or farm winery license may own and hold a retailer's license
24 if the spouse does not hold a microbrewery or farm winery license issued
25 under this act;

26 (5) copartnership, unless all of the copartners are qualified to obtain a
27 license;

28 (6) corporation, unless stockholders owning in the aggregate 50% or
29 more of the stock of the corporation would be eligible to receive such
30 license and all other stockholders would be eligible to receive such license
31 except for reason of citizenship or residency; or

32 (7) a trust, if any grantor, beneficiary or trustee would be ineligible to
33 receive a license under this act for any reason, except that the provisions of
34 subsection (a)(6) shall not apply in determining whether a beneficiary
35 would be eligible for a license.

36 (g) The provisions of subsections ~~(b)(1), (b)(2)~~ *(b)(1)(A), (b)(1)(B)*,
37 *(c)(3), (c)(4), (d)(3), (f)(1), (f)(2)* and K.S.A. 2010 Supp. 41-311b, and
38 amendments thereto, shall not apply in determining eligibility for the 10th,
39 or a subsequent, consecutive renewal of a license if the applicant has
40 appointed a citizen of the United States who is a resident of Kansas as the
41 applicant's agent and filed with the director a duly authenticated copy of a
42 duly executed power of attorney, authorizing the agent to accept service of
43 process from the director and the courts of this state and to exercise full

1 authority, control and responsibility for the conduct of all business and
 2 transactions within the state relative to alcoholic liquor and the business
 3 licensed. The agent must be satisfactory to and approved by the director,
 4 except that the director shall not approve as an agent any person who:

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

7 (2) has had a license issued under the alcoholic liquor or cereal malt
 8 beverage laws of this or any other state revoked for cause, except that a
 9 person may be appointed as an agent if the person's license was revoked
 10 for the conviction of a misdemeanor and 10 years have lapsed since the
 11 date of the revocation;

12 (3) has been convicted of being the keeper or is keeping a house of
 13 prostitution or has forfeited bond to appear in court to answer charges of
 14 being a keeper of a house of prostitution;

15 (4) has been convicted of being a proprietor of a gambling house,
 16 pandering or any other crime opposed to decency and morality or has
 17 forfeited bond to appear in court to answer charges for any of those
 18 crimes; or

19 (5) is less than 21 years of age.

20 Sec. 11. On and after January 1, 2012, K.S.A. 2010 Supp. 41-313 is
 21 hereby amended to read as follows: 41-313. (a) No corporation, either
 22 organized under the laws of this state, any other state or a foreign country,
 23 shall be issued a *retailer's*, manufacturer's, distributor's, microbrewery or
 24 farm winery license unless the corporation has first ~~procured a certificate~~
 25 ~~of authority from~~ *filed a formation document with* the secretary of state to
 26 do business in this state as provided by law, appointed a citizen of the
 27 United States, and resident of Kansas, as its *resident* agent and ~~filed with~~
 28 ~~the director a duly authenticated copy of a duly executed power of~~
 29 ~~attorney~~, authorizing the agent to accept service of process from the
 30 director and the courts of this state and to exercise full authority of the
 31 corporation and full authority, control and responsibility for the conduct of
 32 all business and transactions of the corporation within the state relative to
 33 alcoholic liquor and the business licensed. ~~The agent must be satisfactory~~
 34 ~~to and approved by the director with respect to the agent's character.~~ The
 35 agent shall at all times be maintained by the corporation.

36 ~~In addition, any corporation organized under the laws of any other state~~
 37 ~~or foreign country, as a condition precedent to the issuance to it of any~~
 38 ~~license, shall file with the secretary of state of the state of Kansas, a duly~~
 39 ~~authorized and executed power of attorney, authorizing the secretary of~~
 40 ~~state to accept service of process from the director and the courts of this~~
 41 ~~state and to accept service of any notice or order provided for in this act,~~
 42 ~~and all such acts by the secretary of state shall be fully binding upon the~~
 43 ~~corporation.~~

1 (b) Every nonresident applicant on applying for a license or permit
2 under this act, and as a condition precedent to obtaining such license or
3 permit, shall file with the secretary of state of this state its written consent,
4 irrevocable, that any action or garnishment proceeding may be
5 commenced against such applicant in the proper court of any county in this
6 state in which the cause of action shall arise or in which the plaintiff may
7 reside by the service of process on the resident agent specified in
8 subsection (a), and stipulating and agreeing that such service shall be taken
9 and held in all courts to be as valid and binding as if due service had been
10 made upon the applicant. The written consent shall state that the courts of
11 this state have jurisdiction over the person of such applicant and are the
12 proper and convenient forum for such action and shall waive the right to
13 request a change of jurisdiction or venue to a court outside this state and
14 that all actions arising under this act and commenced by the applicant shall
15 be brought in this state's courts as the proper and convenient forum. Such
16 consent shall be executed by the applicant and if a corporation, by the
17 president and secretary of the corporate applicant, and shall be
18 accompanied by a duly certified copy of the order or resolution of the
19 board of directors, trustees or managers authorizing the president and
20 secretary to execute the same.

21 Sec. 12. K.S.A. 2010 Supp. 41-326 is hereby amended to read as
22 follows: 41-326. *Except as otherwise provided by law*, a license shall be
23 purely a personal privilege, valid for not to exceed two years after
24 issuance, ~~except as otherwise provided by law~~, unless sooner suspended or
25 revoked, and shall not constitute property, nor shall it be subject to
26 attachment, garnishment or execution, nor shall it be alienable or
27 transferable, voluntarily or involuntarily, or subject to being encumbered
28 or hypothecated. A license shall not descend by the laws of testate or
29 intestate devolution but shall cease and expire upon the death of the
30 licensee except that executors, administrators or representatives of the
31 estate of any deceased licensee and the trustee of any insolvent or bankrupt
32 licensee, when such estate consists in part of alcoholic liquor, may
33 continue the business of the sale, distribution or manufacture of alcoholic
34 liquor under order of the appropriate court and may exercise the privilege
35 of the deceased, insolvent or bankrupt licensee after the death of such
36 decedent, or after such insolvency or bankruptcy, until the expiration of
37 such license but not longer than one year after the death, bankruptcy or
38 insolvency of such licensee.

39 When the licensee pays the full amount of the license fee upon
40 application and is prevented from operating under such license in
41 accordance with the provisions of this act for the entire second year of the
42 license term, a refund shall be made of one-half of the license fee paid by
43 such licensee. The secretary of revenue may adopt rules and regulations

1 pursuant to K.S.A. 41-210, and amendments thereto, which provide for the
2 authorization of refunds of one-half of the license fee paid when the
3 licensee does not use such license for the entire second year of the license
4 term as a result of the cancellation of the license upon the request of the
5 licensee for voluntary reasons.

6 Sec. 13. On and after January 1, 2012, K.S.A. 41-713 is hereby
7 amended to read as follows: 41-713. It shall be unlawful for a retailer of
8 alcoholic liquor: (1) To permit any person to mix drinks in or on the
9 licensed premises; (2) to ~~employ any person under the age of twenty-one~~
10 ~~(21) years in connection with the operation of such retail establishment; or~~
11 ~~(3) to employ any person in connection with the operation of such retail~~
12 ~~establishment who has been adjudged guilty of a felony.~~ *authorize or*
13 *allow any person under the age of 21 to sell at retail any alcoholic liquor;*
14 *or to stock or otherwise handle any alcoholic liquor; or (3) to authorize or*
15 *allow any person who has been adjudged guilty of a felony to sell at retail*
16 *any alcoholic liquor.*

17 Sec. 14. On and after January 1, 2012, K.S.A. 41-1101 is hereby
18 amended to read as follows: 41-1101. (a) No distributor licensed under this
19 act shall purchase any alcoholic liquor from any manufacturer, owner of
20 alcoholic liquor at the time it becomes a marketable product, exclusive
21 agent of such manufacturer or owner, microbrewery, farm winery or
22 distributor of alcoholic liquor bottled in a foreign country either within or
23 without this state, unless the manufacturer, owner, exclusive agent,
24 microbrewery, farm winery or distributor files with the director a written
25 statement sworn to by the manufacturer, owner, exclusive agent,
26 microbrewery, farm winery or distributor or, in case of a corporation, one
27 of its principal officers, agreeing to sell any of the brands or kinds of
28 alcoholic liquor manufactured or distributed by the manufacturer, owner,
29 exclusive agent, microbrewery, farm winery or distributor to any
30 distributor licensed in this state and having a franchise to distribute the
31 alcoholic liquor pursuant to K.S.A. 41-410, and amendments thereto, and
32 to make such sales to all such licensed distributors in this state at the same
33 current price and without discrimination. Each manufacturer, owner,
34 exclusive agent, microbrewery or farm winery shall provide to each
35 distributor written notice not less than 45 days before any change in the
36 current price of any spirits or wine which such manufacturer, owner,
37 exclusive agent, microbrewery or farm winery sells to such distributor. If
38 any manufacturer, owner, exclusive agent, microbrewery, farm winery or
39 distributor making the agreement violates the agreement by refusing to sell
40 such alcoholic liquor to any such franchised licensed distributor in this
41 state or discriminates in current prices among such franchised licensed
42 distributors making or attempting to make purchases of alcoholic liquor
43 from the manufacturer, owner, exclusive agent, microbrewery, farm winery

1 or distributor, the director shall notify, by registered mail, each such
2 franchised licensed distributor in this state of the violation. Thereupon, it
3 shall be unlawful for a franchised licensed distributor in this state to
4 purchase any alcoholic liquor from the manufacturer, owner, exclusive
5 agent, microbrewery, farm winery or distributor. If thereafter such a
6 franchised licensed distributor purchases any alcoholic liquor from the
7 manufacturer, owner, exclusive agent, microbrewery, farm winery or
8 distributor, such franchised distributor's license shall be revoked by the
9 director. If any manufacturer, owner, exclusive agent, microbrewery, farm
10 winery or distributor of alcoholic liquor bottled in a foreign country,
11 making any agreement hereunder, does not have a sufficient supply of
12 alcoholic liquor of any of the brands or kinds which the manufacturer,
13 owner, exclusive agent, microbrewery, farm winery or distributor
14 manufactures or distributes to supply the demands of all licensed
15 distributors having a franchise to distribute such alcoholic liquor, the
16 manufacturer, owner, exclusive agent, microbrewery, farm winery or
17 distributor may ration such alcoholic liquor and apportion the available
18 supply among such franchised licensed distributors purchasing or
19 attempting to purchase it, in accordance with a plan which shall be subject
20 to the approval of the director.

21 (b) *Except as otherwise provided in section 5, and amendments*
22 *thereto*, no retailer licensed under this act shall purchase any alcoholic
23 liquor from any distributor licensed under this act unless the distributor
24 files with the director a written statement sworn to by the distributor, or in
25 case of a corporation by one of its principal officers, agreeing to sell any of
26 the brands or kinds of alcoholic liquor distributed by the distributor and to
27 provide service in connection therewith to any licensed retailer whose
28 licensed premises are located within the geographic territory of the
29 distributor's franchise for the alcoholic liquor, unless written approval to
30 do otherwise is obtained from the director, and to make such sales to all
31 such licensed retailers at the same current bottle, sleeve and case price and
32 without discrimination. For purposes of this subsection the "same current
33 bottle, sleeve and case price" for spirits and wine means a price effective
34 for a specified period as designated by the distributor on or before the first
35 day of each month. If any distributor making the agreement violates the
36 agreement by refusing to sell or provide service to any such licensed
37 retailer in this state without written approval of the director or
38 discriminates in current prices among such licensed retailers making or
39 attempting to make purchases of alcoholic liquor from the distributor, the
40 director may revoke the license of the distributor. If any licensed
41 distributor making any agreement hereunder does not have a sufficient
42 supply of alcoholic liquor of any of the brands or kinds which the
43 distributor distributes to supply the demands of all such licensed retailers,

1 the distributor may ration such alcoholic liquor and apportion the available
2 supply among such licensed retailers purchasing or attempting to purchase
3 the same, in accordance with a plan which shall be subject to the approval
4 of the director.

5 (c) No club or drinking establishment licensed in this state shall
6 purchase any wine or beer from any distributor licensed under this act
7 unless the distributor files with the director a written statement sworn to by
8 the distributor, or in case of a corporation by one of its principal officers,
9 agreeing to sell any of the brands or kinds of wine or beer distributed by
10 the distributor to those clubs and drinking establishments to which the
11 distributor is authorized to sell such wine or beer and to which the
12 distributor desires to sell such wine or beer, unless written approval to do
13 otherwise is obtained from the director and to make such sales to all such
14 licensed clubs or drinking establishments at the same current bottle and
15 case price and without discrimination. If any distributor making the
16 agreement violates the agreement by refusing to sell to any such licensed
17 club or drinking establishment in this state without written approval of the
18 director or discriminates in current prices among such licensed clubs or
19 drinking establishments making or attempting to make purchases of wine
20 or beer from the distributor, the director may revoke the license of the
21 distributor. If any licensed distributor making any agreement hereunder
22 does not have a sufficient supply of wine or beer of any of the brands or
23 kinds which the distributor distributes to supply the demands of all such
24 licensed clubs or drinking establishments, the distributor may ration such
25 wine or beer and apportion the available supply among such licensed clubs
26 or drinking establishments purchasing or attempting to purchase the same,
27 in accordance with a plan which shall be subject to the approval of the
28 director.

29 For the purposes of this subsection, a delivery charge shall not be
30 considered a part of the price of wine or beer sold by a distributor.

31 (d) No retailer licensed under K.S.A. 41-2701 *et seq.*, and
32 amendments thereto, shall purchase any cereal malt beverage from any
33 distributor licensed under this act unless the distributor files with the
34 director a written statement sworn to by the distributor, or in case of a
35 corporation by one of its principal officers, agreeing to sell any of the
36 brands or kinds of cereal malt beverage distributed by the distributor to
37 those retailers to which the distributor is authorized to sell such cereal malt
38 beverage, unless written approval to do otherwise is obtained from the
39 director, and to make such sales to all such licensed retailers at the same
40 current price and without discrimination. If any distributor making the
41 agreement violates the agreement by refusing to sell to any such licensed
42 retailer in this state without written approval of the director or
43 discriminates in current prices among such licensed retailers making or

1 attempting to make purchases of cereal malt beverage from the distributor,
2 the director may revoke the license of the distributor. If any licensed
3 distributor making any agreement hereunder does not have a sufficient
4 supply of cereal malt beverage of any of the brands or kinds which the
5 distributor distributes to supply the demands of all such licensed retailers,
6 the distributor may ration such cereal malt beverage and apportion the
7 available supply among such licensed retailers purchasing or attempting to
8 purchase the same, in accordance with a plan which shall be subject to the
9 approval of the director.

10 (e) No distributor shall sell alcoholic liquor or cereal malt beverage to
11 a retailer licensed under the Kansas liquor control act, to a club, drinking
12 establishment or caterer licensed under the club and drinking
13 establishment act or to a retailer licensed under K.S.A. 41-2702, and
14 amendments thereto, at a discount for multiple case lots.

15 Sec. 15. K.S.A. 2010 Supp. 79-4108 is hereby amended to read as
16 follows: 79-4108. All revenue collected or received by the director of
17 taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and
18 amendments thereto, shall be remitted to the state treasurer in accordance
19 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
20 receipt of each such remittance, the state treasurer shall deposit the entire
21 amount in the state treasury to the credit of the state general fund, *except*
22 *that 3% of the revenue remitted to the state treasurer during the prior*
23 *calendar year quarter and deposited in the state treasury shall be credited*
24 *to the local cereal malt beverage sales tax fund, which is hereby created in*
25 *the state treasury. Moneys credited to the local cereal malt beverage sales*
26 *tax fund shall be distributed quarterly as part of the January, April, July*
27 *and October sales tax distribution to each city and county which levied a*
28 *local retailers' sales tax. The amount to be distributed to each city and*
29 *county shall be determined by the department of revenue based on a*
30 *weighted population average. The weighted population average shall be*
31 *computed by multiplying the total tax rate in effect for the city or county*
32 *by the population of such city or county. The weighted population average*
33 *for each city and county shall then be divided by the total Kansas*
34 *population. The resulting quotient is the percentage of distribution for*
35 *such city or county. The population data shall be updated annually with*
36 *the issuance of the certified population data through the division of the*
37 *budget. The state treasurer shall transfer any moneys remaining in the*
38 *county and city alcoholic liquor control enforcement fund on the effective*
39 *date of this act to the state general fund.*

40 Sec. 16. K.S.A. 2010 Supp. 41-102, 41-311, 41-326 and 79-4108 are
41 hereby repealed.

42 Sec. 17. On and after January 1, 2012, K.S.A. 41-103, 41-308, 41-
43 711, 41-713 and 41-1101 and K.S.A. 2010 Supp. 41-301, 41-303 and 41-

1 313 are hereby repealed.

2 Sec. 18. This act shall take effect and be in force from and after its
3 publication in the statute book.

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