

HOUSE BILL No. 2532

By Committee on Federal and State Affairs

1-25

1 AN ACT concerning alcoholic beverages; relating to retailer's licenses
2 under the Kansas liquor control act; amending K.S.A. 41-304 and 41-
3 713 and K.S.A. 2011 Supp. 41-102, 41-301, 41-303, 41-310, 41-311,
4 41-313, 41-317, 41-326 and 79-4108 and repealing the existing
5 sections; also repealing 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, 2012, 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, 2012.

11 (b) From July 1, 2012, to December 31, 2012, 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 (c) From January 1, 2013, to December 31, 2015, the total number of
17 retailer's class C licenses issued by the director shall not exceed the
18 number determined pursuant to subsection (a).

19 (d) The provisions of this section shall expire on December 31, 2015.

20 New Sec. 2. (a) On and after January 1, 2013, all retailer's licenses
21 to sell alcoholic liquor issued by the director prior to such date shall be
22 deemed to be retailer's class C licenses.

23 (b) A retailer's class C license shall allow the licensee to sell and offer
24 for sale at retail and deliver in the original package, as therein prescribed,
25 alcoholic liquor for use or consumption off of and away from the premises
26 specified in such license.

27 (c) A retailer's class C license shall permit the sale and delivery of
28 alcoholic liquor only on the licensed premises and shall not permit the sale
29 of alcoholic liquor for resale in any form, except that the licensee may:

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

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

36 (d) A retailer's class C licensee may:

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

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

5 (3) include in the sale of alcoholic liquor any goods included by the
6 manufacturer in packaging with the alcoholic liquor, subject to the
7 approval of the director;

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

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

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

17 (e) A retailer's class C license shall be subject to the provisions of
18 K.S.A. 41-1101, and amendments thereto, prohibiting a retailer from
19 purchasing alcoholic liquor from a distributor, who has not filed with the
20 director a sworn statement agreeing to sell to all retailers in the
21 distributor's franchised territory at the same unit price and prohibiting a
22 distributor from selling alcoholic liquor to a retailer at a discount for
23 multiple case lots. A retailer's class C license also shall be subject to the
24 provisions of K.S.A. 41-729, and amendments thereto, prohibiting the sale
25 of alcoholic liquor at less than the acquisition cost thereof.

26 New Sec. 3. (a) On and after January 1, 2013, any licensee holding
27 a valid retailer's class C license may transfer such license to any person
28 qualified to hold such license under the Kansas liquor control act. The
29 transferee's proposed premises to be licensed shall be located in the same
30 county as the licensed premises of the transferor.

31 (b) Any transfer of a license pursuant to this section shall be
32 approved by the director. The director may require the transferor, the
33 transferee, or both, to submit such information as the director deems
34 necessary in order to determine that the license transfer satisfies the
35 requirements of the Kansas liquor control act. Such information shall be
36 submitted in the manner and on such forms as prescribed by the director,
37 and may include, but shall not be limited to, such information concerning
38 the transferee that shows such transferee is qualified to hold a retailer's
39 class C license and a copy of the agreement to transfer the license.

40 (c) On the effective date of the transfer of a license in accordance
41 with this section, the director shall issue a retailer's class C license to the
42 transferee. Such license shall be issued for the premises of the transferee
43 as stated in the transfer agreement. The term of such license shall be for

1 the remainder of the term of the license held by the transferor immediately
2 prior to the effective date of the transfer. The director shall not require the
3 payment of any new or additional retailer's class C license fee by the
4 transferee. The transferee shall pay a transfer fee in the amount of \$25,
5 which fee shall be submitted to the director at the same time the request
6 for approval of the transfer is submitted to the director.

7 New Sec. 4. (a) On and after January 1, 2013, the director may
8 issue to qualified applicants a retailer's class A license. A retailer's class A
9 license shall allow the licensee to sell and offer for sale at retail and deliver
10 in the original package, as therein prescribed, beer for use or consumption
11 off of and away from the premises specified in such license.

12 (b) A retailer's class A license shall permit the sale and delivery of
13 beer only on the licensed premises and shall not permit the sale of beer for
14 resale in any form, except that the licensee may:

15 (1) Sell beer to a temporary permit holder for resale by such
16 temporary permit holder; and

17 (2) sell and deliver beer to a caterer or to the licensed premises of a
18 club or drinking establishment, if such premises are in the county where
19 the retailer's licensed premises are located or in an adjacent county, for
20 resale by such caterer, club or drinking establishment.

21 (c) A retailer's class A licensee may:

22 (1) Charge a delivery fee for delivery of beer to a caterer, club or
23 drinking establishment pursuant to subsection (b);

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

26 (3) include in the sale of beer any goods included by the manufacturer
27 in packaging with the beer, subject to the approval of the director;

28 (4) distribute to the public, without charge, consumer advertising
29 specialities bearing advertising matter, subject to rules and regulations of
30 the secretary limiting the form and distribution of such specialities so that
31 they are not conditioned on or an inducement to the purchase of beer;

32 (5) store beer in refrigerators, cold storage units, ice boxes or other
33 cooling devices, and sell such beer to consumers in a chilled condition;
34 and

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

36 (d) A retailer's class A license shall be subject to the provisions of
37 K.S.A. 41-1101, and amendments thereto, prohibiting a retailer from
38 purchasing alcoholic liquor from a distributor, who has not filed with the
39 director a sworn statement agreeing to sell to all retailers in the
40 distributor's franchised territory at the same unit price and prohibiting a
41 distributor from selling alcoholic liquor to a retailer at a discount for
42 multiple case lots. A retailer's class A license also shall be subject to the
43 provisions of K.S.A. 41-729, and amendments thereto, prohibiting the sale

1 of alcoholic liquor at less than the acquisition cost thereof.

2 New Sec. 5. (a) On and after January 1, 2013, the director may issue
3 to qualified applicants a retailer's class B license. A retailer's class B
4 license shall allow the licensee to sell and offer for sale at retail and deliver
5 in the original package, as therein prescribed, beer and wine for use or
6 consumption off of and away from the premises specified in such license.

7 (b) A retailer's class B license shall permit the sale and delivery of beer
8 and wine only on the licensed premises and shall not permit the sale of
9 beer and wine for resale in any form, except that the licensee may:

10 (1) Sell beer and wine to a temporary permit holder for resale by such
11 temporary permit holder; and

12 (2) sell and deliver beer and wine to a caterer or to the licensed
13 premises of a club or drinking establishment, if such premises are in the
14 county where the retailer's licensed premises are located or in an adjacent
15 county, for resale by such caterer, club or drinking establishment.

16 (c) A retailer's class B licensee may:

17 (1) Charge a delivery fee for delivery of beer and wine to a caterer,
18 club or drinking establishment pursuant to subsection (b);

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

21 (3) include in the sale of beer and wine any goods included by the
22 manufacturer in packaging with the beer and wine, subject to the approval
23 of the director;

24 (4) distribute to the public, without charge, consumer advertising
25 specialties bearing advertising matter, subject to rules and regulations of
26 the secretary limiting the form and distribution of such specialties so that
27 they are not conditioned on or an inducement to the purchase of beer or
28 wine;

29 (5) store beer and wine in refrigerators, cold storage units, ice boxes or
30 other cooling devices, and sell such beer and wine to consumers in a
31 chilled condition; and

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

33 (d) A retailer's class B license shall be subject to the provisions of
34 K.S.A. 41-1101, and amendments thereto, prohibiting a retailer from
35 purchasing alcoholic liquor from a distributor, who has not filed with the
36 director a sworn statement agreeing to sell to all retailers in the
37 distributor's franchised territory at the same unit price and prohibiting a
38 distributor from selling alcoholic liquor to a retailer at a discount for
39 multiple case lots. A retailer's class B license also shall be subject to the
40 provisions of K.S.A. 41-729, and amendments thereto, prohibiting the sale
41 of alcoholic liquor at less than the acquisition cost thereof.

42 New Sec. 6. On and after January 1, 2016, the director may issue to
43 qualified applicants a retailer's class C license. There shall be no limit on

1 the number of retailer's class C licenses the director may issue. A holder of
2 a retailer's class C license shall have all the privileges granted to such
3 licensees as set forth in section 2, and amendments thereto.

4 New Sec. 7. The provisions of sections 1 through 7, and amendments
5 thereto, shall be a part of and supplemental to the Kansas liquor control
6 act.

7 New Sec. 8. (a) All retailers licensed pursuant to the Kansas liquor
8 control act shall verify the age of any purchaser of alcoholic liquor who
9 reasonably appears to be not more than 27 years of age. Retailers shall
10 utilize age verification technology that is consistent with nationally
11 recognized industry standards for making such determinations.

12 (b) This section shall be part of and supplemental to the Kansas
13 liquor control act.

14 Sec. 9. K.S.A. 2011 Supp. 41-102 is hereby amended to read as
15 follows: 41-102. As used in this act, unless the context clearly requires
16 otherwise:

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

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

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

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

31 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
32 2701, and amendments thereto.

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

35 (g) "Director" means the director of alcoholic beverage control of the
36 department of revenue.

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

42 (i) "Domestic beer" means beer which contains not more than 10%
43 alcohol by weight and which is manufactured in this state.

1 (j) "Domestic fortified wine" means wine which contains more than
2 14%, but not more than 20% alcohol by volume and which is
3 manufactured in this state.

4 (k) "Domestic table wine" means wine which contains not more than
5 14% alcohol by volume and which is manufactured without rectification or
6 fortification in this state.

7 (l) "Drinking establishment" has the meaning provided by K.S.A. 41-
8 2601, and amendments thereto.

9 (m) "Farm winery" means a winery licensed by the director to
10 manufacture, store and sell domestic table wine and domestic fortified
11 wine.

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

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

20 (2) "Manufacturer" does not include a microbrewery or a farm
21 winery.

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

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

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

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

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

36 (u) "Primary American source of supply" means the manufacturer, the
37 owner of alcoholic liquor at the time it becomes a marketable product or
38 the manufacturer's or owner's exclusive agent who, if the alcoholic liquor
39 cannot be secured directly from such manufacturer or owner by American
40 wholesalers, is the source closest to such manufacturer or owner in the
41 channel of commerce from which the product can be secured by American
42 wholesalers.

43 (v) (1) "Retailer" means a person who sells at retail, or offers for sale

1 at retail, alcoholic liquors.

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

3 ~~(w)~~ (1) "Retailer's license" means a license to sell at retail alcoholic
4 liquor in the original package issued pursuant to the Kansas liquor
5 control act.

6 (2) On and after January 1, 2013, the term "retailer's license" means
7 a retailer's class A, class B or class C license, or other license to sell at
8 retail alcoholic liquor in the original package, issued pursuant to the
9 Kansas liquor control act.

10 ~~(w)~~ (x) "Sale" means any transfer, exchange or barter in any manner
11 or by any means whatsoever for a consideration and includes all sales
12 made by any person, whether principal, proprietor, agent, servant or
13 employee.

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

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

17 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
18 beverage, or in promoting the business of any person, firm or corporation
19 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
20 beverage, whether the seller resides within the state of Kansas and sells to
21 licensed buyers within the state of Kansas, or whether the seller resides
22 without the state of Kansas and sells to licensed buyers within the state of
23 Kansas.

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

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

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

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

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

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

42 ~~(dd)~~ (ee) "Supplier" means a manufacturer of alcoholic liquor or
43 cereal malt beverage or an agent of such manufacturer, other than a

1 salesperson.

2 (ee) (ff) "Temporary permit" has the meaning provided by K.S.A. 41-
3 2601, and amendments thereto.

4 (ff) (gg) "Wine" means any alcoholic beverage obtained by the
5 normal alcoholic fermentation of the juice of sound, ripe grapes, fruits,
6 berries or other agricultural products, including such beverages containing
7 added alcohol or spirits or containing sugar added for the purpose of
8 correcting natural deficiencies.

9 Sec. 10. On and after January 1, 2013, K.S.A. 2011 Supp. 41-301 is
10 hereby amended to read as follows: 41-301. (a) ~~Except as provided by~~
11 ~~subsection (b), the director shall issue to qualified applicants, who have~~
12 ~~filed the bond and paid the registration and license fees required by this~~
13 ~~act, licenses to sell at retail alcoholic liquor in the original package on~~
14 ~~premises within the corporate limits of cities and outside the corporate~~
15 ~~limits of any city.~~

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

32 (e) (b) No retailer's license shall be issued for premises within a city
33 if, after November 15, 2005, a majority of the qualified voters of such city
34 voting at an election held as provided by K.S.A. 41-302, and amendments
35 thereto, votes against the licensing of the sale at retail of alcoholic liquor
36 in the original package within such city unless, at a subsequent election, a
37 majority of the qualified voters of such city voting at such election votes in
38 favor of the licensing of the sale at retail of alcoholic liquor in the original
39 package within such city.

40 Sec. 11. On and after January 1, 2013, K.S.A. 2011 Supp. 41-303 is
41 hereby amended to read as follows: 41-303. (a) ~~The director may issue to~~
42 ~~qualified applicants licenses to sell at retail alcoholic liquor in the original~~
43 ~~package on premises not located in an incorporated city for use or~~

1 consumption off the premises. No such license shall be issued to any
2 applicant unless the applicant possesses all the qualifications required of
3 other applicants for retailers' licenses except the qualification of residency
4 within a city.

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

11 (b) ~~If a license has been issued under the provisions of this section in~~
12 ~~the unincorporated area of a county and thereafter the premises so licensed~~
13 ~~are annexed to a city wherein retail liquor licenses may be issued, such~~
14 ~~license shall continue to be valid and may be renewed at the appropriate~~
15 ~~time even though the licensee does not reside in the city to which the area~~
16 ~~is annexed if the licensee otherwise is qualified and resides in the township~~
17 ~~in which the premises were located prior to annexation or in the city to~~
18 ~~which the premises have been annexed.~~

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

26 Sec. 12. On and after January 1, 2013, K.S.A. 41-304 is hereby
27 amended to read as follows: 41-304. Licenses issued by the director shall
28 be of the following classes: (a) Manufacturer's license; (b) spirits
29 distributor's license; (c) wine distributor's license; (d) beer distributor's
30 license; (e) retailer's *class A* license; (f) *retailer's class B* license; (g)
31 *retailer's class C* license; ~~(h)~~ (h) microbrewery license; ~~(g)~~ (i) farm winery
32 license; and ~~(h)~~ (j) nonbeverage user's license.

33 Sec. 13. K.S.A. 2011 Supp. 41-310 is hereby amended to read as
34 follows: 41-310. (a) At the time application is made to the director for a
35 license of any class, the applicant shall pay the fee provided by this
36 section.

37 (b) The fee for a manufacturer's license to manufacture alcohol and
38 spirits shall be \$5,000.

39 (c) The fee for a manufacturer's license to manufacture beer and
40 cereal malt beverage shall be:

- 41 (1) For 1 to 100 barrel daily capacity or any part thereof, \$400.
- 42 (2) For 100 to 150 barrel daily capacity, \$800.
- 43 (3) For 150 to 200 barrel daily capacity, \$1,400.

- 1 (4) For 200 to 300 barrel daily capacity, \$2,000.
- 2 (5) For 300 to 400 barrel daily capacity, \$2,600.
- 3 (6) For 400 to 500 barrel daily capacity, \$2,800.
- 4 (7) For 500 or more barrel daily capacity, \$3,200.

5 As used in this subsection, "daily capacity" means the average daily
6 barrel production for the previous 12 months of manufacturing operation.
7 If no basis for comparison exists, the licensee shall pay in advance for
8 operation during the first term of the license a fee of \$2,000.

9 (d) The fee for a manufacturer's license to manufacture wine shall be
10 \$1,000.

11 (e) (1) The fee for a microbrewery license or a farm winery license
12 shall be \$500.

13 (2) The fee for a winery outlet license shall be \$100.

14 (3) The fee for a microbrewery packaging and warehousing facility
15 license shall be \$200.

16 (f) The fee for a spirits distributor's license for the first and each
17 additional distributing place of business operated in this state by the
18 licensee and wholesaling and jobbing spirits shall be \$2,000.

19 (g) The fee for a wine distributor's license for the first and each
20 additional distributing place of business operated in this state by the
21 licensee and wholesaling and jobbing wine shall be \$2,000.

22 (h) The fee for a beer distributor's license, for the first and each
23 additional wholesale distributing place of business operated in this state by
24 the licensee and wholesaling or jobbing beer and cereal malt beverage
25 shall be \$2,000.

26 (i) The fee for a nonbeverage user's license shall be:

27 (1) For class 1, \$20.

28 (2) For class 2, \$100.

29 (3) For class 3, \$200.

30 (4) For class 4, \$400.

31 (5) For class 5, \$1,000.

32 (j) In addition to the license fees prescribed by subsections (b), (c),
33 (d), (f), (g), (h) and (i):

34 (1) Any city in which the licensed premises are located may levy and
35 collect a biennial occupation or license tax on the licensee in an amount
36 not exceeding the amount of the license fee required to be paid under this
37 act to obtain the license, but no city shall impose an occupation or
38 privilege tax on the licensee in excess of that amount; and

39 (2) any township in which the licensed premises are located may levy
40 and collect a biennial occupation or license tax on the licensee in an
41 amount not exceeding the amount of the license fee required to be paid
42 under this act to obtain the license, but no township shall impose an
43 occupation or privilege tax on the licensee in excess of that amount; the

1 township board of the township is authorized to fix and impose the tax and
2 the tax shall be paid by the licensee to the township treasurer, who shall
3 issue a receipt therefor to the licensee and shall cause the tax paid to be
4 placed in the general fund of the township.

5 (k) (1) *Except as provided in paragraph (2), the fee for a retailer's*
6 *license shall be \$500.*

7 (2) *On and after January 1, 2013, the fee for a retailer's license shall*
8 *be:*

9 (A) *For class A, \$100.*

10 (B) *For class B, \$300.*

11 (C) *For class C, \$500.*

12 (l) In addition to the license fee prescribed by subsection (k):

13 (1) Any city in which the licensed premises are located may levy and
14 collect a biennial occupation or license tax on the licensee in an amount
15 not less than \$200 nor more than \$600, but no other occupation or excise
16 tax or license fee shall be levied by any city against or collected from the
17 licensee; and

18 (2) any township in which the licensed premises are located may levy
19 and collect a biennial occupation or license tax on the licensee in an
20 amount not less than \$200 nor more than \$600; the township board of the
21 township is authorized to fix and impose the tax and the tax shall be paid
22 by the licensee to the township treasurer, who shall issue a receipt therefor
23 to the licensee and shall cause the tax paid to be placed in the general fund
24 of the township.

25 (m) The license term for a license shall commence on the date the
26 license is issued by the director and shall end two years after that date. The
27 director may, at the director's sole discretion and after examination of the
28 circumstances, extend the license term of any license for not more than 30
29 days beyond the date such license would expire pursuant to this section.
30 Any extension of the license term by the director pursuant to this section
31 shall automatically extend the due date for payment by the licensee of any
32 occupation or license tax levied by a city or township pursuant to this
33 section by the same number of days the director has extended the license
34 term.

35 Sec. 14. K.S.A. 2011 Supp. 41-311 is hereby amended to read as
36 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
37 liquor control act to ~~a person~~ *an individual*:

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

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

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

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

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

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

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

20 (8) who intends to carry on the business authorized by the license as
21 agent of another;

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

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

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

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

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

42 (14) who does not provide any data or information required by
43 K.S.A. 2011 Supp. 41-311b, and amendments thereto.

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

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

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

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

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

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

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

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

21 (2) *On and after January 1, 2013, the provisions of paragraph (1)*
22 *shall have no force and effect, and on and after such date, no retailer's*
23 *license shall be issued:*

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

29 (B) *to a corporation, if any officer, director or manager of the*
30 *licensed premises, or any stockholder owning in the aggregate more than*
31 *25% of the stock of the corporation would be ineligible to receive a*
32 *retailer's license for any reason specified in subsection (a) other than*
33 *citizenship requirements;*

34 (C) *to a person who is not engaged in business as a liquor store, a*
35 *convenience store or a grocery store. As used in this subsection:*

36 (i) *"Liquor store" means a store whose primary business is the retail*
37 *sale of alcoholic liquor in the original and unopened container and not for*
38 *consumption on the premises, and includes stores classified under the*
39 *North American industry classification system (NAICS) as NAICS 445310*
40 *on the effective date of this act;*

41 (ii) *"convenience store" means a retail business with primary*
42 *emphasis placed on providing the public a convenient location to quickly*
43 *purchase from a wide array of consumable products (predominantly food*

1 or food and gasoline) and services, and includes stores classified under
2 the NAICS as NAICS 44512, 445120 or 447110 on the effective date of this
3 act; and

4 (iii) "grocery store" means an establishment primarily engaged in
5 retailing a general line of groceries, including, but not limited to,
6 packaged food, fresh and frozen food, prepared foods and other
7 consumable products, and includes establishments primarily engaged in
8 retailing a general line of groceries in combination with general lines of
9 new merchandise, including, but not limited to, establishments classified
10 under the NAICS as NAICS 445110, 452910, 452111, 452112 or 446110
11 on the effective date of this act.

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

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

17 (2) a copartnership, unless all of the copartners shall have been
18 residents of this state for at least five years immediately preceding the date
19 of application and unless all the members of the copartnership would be
20 eligible to receive a manufacturer's license under this act;

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

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

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

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

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

32 (1) A corporation, if any officer, director or stockholder of the
33 corporation would be ineligible to receive a distributor's license for any
34 reason. It shall be unlawful for any stockholder of a corporation licensed
35 as a distributor to transfer any stock in the corporation to any person who
36 would be ineligible to receive a distributor's license for any reason, and
37 any such transfer shall be null and void, except that: (A) If any stockholder
38 owning stock in the corporation dies and an heir or devisee to whom stock
39 of the corporation descends by descent and distribution or by will is
40 ineligible to receive a distributor's license, the legal representatives of the
41 deceased stockholder's estate and the ineligible heir or devisee shall have
42 14 months from the date of the death of the stockholder within which to
43 sell the stock to a person eligible to receive a distributor's license, any such

1 sale by a legal representative to be made in accordance with the provisions
2 of the probate code; or (B) if the stock in any such corporation is the
3 subject of any trust and any trustee or beneficiary of the trust who is 21
4 years of age or older is ineligible to receive a distributor's license, the
5 trustee, within 14 months after the effective date of the trust, shall sell the
6 stock to a person eligible to receive a distributor's license and hold and
7 disburse the proceeds in accordance with the terms of the trust. If any legal
8 representatives, heirs, devisees or trustees fail, refuse or neglect to sell any
9 stock as required by this subsection, the stock shall revert to and become
10 the property of the corporation, and the corporation shall pay to the legal
11 representatives, heirs, devisees or trustees the book value of the stock.
12 During the period of 14 months prescribed by this subsection, the
13 corporation shall not be denied a distributor's license or have its
14 distributor's license revoked if the corporation meets all of the other
15 requirements necessary to have a distributor's license;

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

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

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

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

29 (f) No microbrewery license or farm winery license shall be issued to
30 a:

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

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

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

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

43 (5) copartnership, unless all of the copartners are qualified to obtain a

1 license;

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

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

10 (g) The provisions of subsections ~~(b)(1), (b)(2), (b)(1)(A), (b)(1)(B),~~
11 (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2011 Supp. 41-311b, and
12 amendments thereto, shall not apply in determining eligibility for the 10th,
13 or a subsequent, consecutive renewal of a license if the applicant has
14 appointed a citizen of the United States who is a resident of Kansas as the
15 applicant's agent and filed with the director a duly authenticated copy of a
16 duly executed power of attorney, authorizing the agent to accept service of
17 process from the director and the courts of this state and to exercise full
18 authority, control and responsibility for the conduct of all business and
19 transactions within the state relative to alcoholic liquor and the business
20 licensed. The agent must be satisfactory to and approved by the director,
21 except that the director shall not approve as an agent any person who:

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

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

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

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

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

37 Sec. 15. On and after January 1, 2013, K.S.A. 2011 Supp. 41-313 is
38 hereby amended to read as follows: 41-313. (a) No corporation, either
39 organized under the laws of this state, any other state or a foreign country,
40 shall be issued a *retailer's*, manufacturer's, distributor's, microbrewery or
41 farm winery license unless the corporation has first ~~procured a certificate~~
42 ~~of authority from~~ *filed a formation document with* the secretary of state to
43 do business in this state as provided by law, appointed a citizen of the

1 United States, and resident of Kansas, as its *resident* agent and filed with
2 the director a duly authenticated copy of a duly executed power of
3 attorney, authorizing the agent to accept service of process from the
4 director and the courts of this state and to exercise full authority of the
5 corporation and full authority, control and responsibility for the conduct of
6 all business and transactions of the corporation within the state relative to
7 alcoholic liquor and the business licensed. ~~The agent must be satisfactory~~
8 ~~to and approved by the director with respect to the agent's character.~~ The
9 agent shall at all times be maintained by the corporation.

10 ~~In addition, any corporation organized under the laws of any other state~~
11 ~~or foreign country, as a condition precedent to the issuance to it of any~~
12 ~~license, shall file with the secretary of state of the state of Kansas, a duly~~
13 ~~authorized and executed power of attorney, authorizing the secretary of~~
14 ~~state to accept service of process from the director and the courts of this~~
15 ~~state and to accept service of any notice or order provided for in this act,~~
16 ~~and all such acts by the secretary of state shall be fully binding upon the~~
17 ~~corporation.~~

18 (b) Every nonresident applicant on applying for a license or permit
19 under this act, and as a condition precedent to obtaining such license or
20 permit, shall file with the secretary of state of this state its written consent,
21 irrevocable, that any action or garnishment proceeding may be
22 commenced against such applicant in the proper court of any county in this
23 state in which the cause of action shall arise or in which the plaintiff may
24 reside by the service of process on the resident agent specified in
25 subsection (a), and stipulating and agreeing that such service shall be taken
26 and held in all courts to be as valid and binding as if due service had been
27 made upon the applicant. The written consent shall state that the courts of
28 this state have jurisdiction over the person of such applicant and are the
29 proper and convenient forum for such action and shall waive the right to
30 request a change of jurisdiction or venue to a court outside this state and
31 that all actions arising under this act and commenced by the applicant shall
32 be brought in this state's courts as the proper and convenient forum. Such
33 consent shall be executed by the applicant and if a corporation, by the
34 president and secretary of the corporate applicant, and shall be
35 accompanied by a duly certified copy of the order or resolution of the
36 board of directors, trustees or managers authorizing the president and
37 secretary to execute the same.

38 Sec. 16. K.S.A. 2011 Supp. 41-317 is hereby amended to read as
39 follows: 41-317. (a) Applications for all licenses under this act shall be
40 completed and submitted to the director in a manner prescribed by the
41 director. Each applicant shall submit an application fee of \$50 for each
42 initial application and \$10 for each renewal application to defray the cost
43 of processing the application.

1 (b) Each applicant shall submit to the division of alcoholic beverage
2 control the full amount of the application fee and:

3 (1) The full amount of the license fee required to be paid for the kind
4 of license specified in the application; or

5 (2) one-half of the full amount of the license fee required to be paid
6 for the kind of license specified in the application.

7 (c) If the applicant elects to pay only one-half of the license fee
8 pursuant to subsection (b)(2), the remaining one-half of the license fee
9 plus 10% of such remaining balance shall be due and payable one year
10 from the date of issuance of the license. Notwithstanding any other
11 provision of law, failure to pay the full amount due under this paragraph
12 on the date it is due shall result in the automatic cancellation of such
13 license for the remainder of the license term. The director may, at the
14 director's sole discretion and after examination of the circumstances,
15 extend the date payment is due pursuant to this paragraph for not more
16 than 30 days beyond the date such payment is originally due.

17 (d) Any license fee paid by an applicant shall be returned to the
18 applicant if the application is denied.

19 (e) Payment of all fees required to be paid pursuant to this section
20 may be made by personal, certified or cashier's check, United States post
21 office money order, debit or credit card or cash, or by electronic payment
22 authorized by the applicant in a manner prescribed by the director.

23 (f) All fees received by the director pursuant to this section shall be
24 remitted by the director to the state treasurer in accordance with the
25 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
26 each such remittance, the state treasurer shall deposit the entire amount in
27 the state treasury to the credit of the state general fund.

28 (g) Every applicant for a manufacturer's, distributor's, nonbeverage
29 user's, microbrewery, farm winery, retailer's or special order shipping
30 license shall file with the application a joint and several bond on a form
31 prescribed by the director and executed by good and sufficient corporate
32 sureties licensed to do business within the state of Kansas to the director,
33 in the following amounts:

34 (1) For a manufacturer, \$25,000;

35 (2) for a spirits distributor, \$15,000 or an amount equal to the highest
36 monthly liability of the distributor for taxes imposed by the Kansas liquor
37 control act for any of the 12 months immediately prior to renewal of the
38 distributor's license, whichever amount is greater;

39 (3) for a beer or wine distributor, \$5,000 or an amount equal to the
40 highest monthly liability of the distributor for taxes imposed by the Kansas
41 liquor control act for any of the 12 months immediately prior to renewal of
42 the distributor's license, whichever amount is greater;

43 (4) (A) *except as provided in subparagraph (B)*, for a retailer, \$2,000;

1 (B) on and after January 1, 2013, for a retailer, \$500 for a class A,
2 \$1,000 for a class B and \$2,000 for a class C;

3 (5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000
4 for class 3, \$5,000 for class 4 and \$10,000 for class 5;

5 (6) for a microbrewery or a farm winery, \$2,000; and

6 (7) for a winery holding a special order shipping license, \$750, unless
7 the winery has already complied with subsection (g)(6).

8 If a distributor holds or applies for more than one distributor's license,
9 only one bond for all such licenses shall be required, which bond shall be
10 in an amount equal to the highest applicable bond.

11 (h) All bonds required by this section shall be conditioned on the
12 licensee's compliance with the provisions of this act and payment of all
13 taxes, fees, fines and forfeitures which may be assessed against the
14 licensee.

15 Sec. 17. K.S.A. 2011 Supp. 41-326 is hereby amended to read as
16 follows: 41-326. *Except as otherwise provided*, a license shall be purely a
17 personal privilege, valid for not to exceed two years after issuance, ~~except~~
18 ~~as otherwise provided by law~~, unless sooner suspended or revoked, and
19 shall not constitute property, nor shall it be subject to attachment,
20 garnishment or execution, nor shall it be alienable or transferable,
21 voluntarily or involuntarily, or subject to being encumbered or
22 hypothecated. A license shall not descend by the laws of testate or intestate
23 devolution but shall cease and expire upon the death of the licensee except
24 that executors, administrators or representatives of the estate of any
25 deceased licensee and the trustee of any insolvent or bankrupt licensee,
26 when such estate consists in part of alcoholic liquor, may continue the
27 business of the sale, distribution or manufacture of alcoholic liquor under
28 order of the appropriate court and may exercise the privilege of the
29 deceased, insolvent or bankrupt licensee after the death of such decedent,
30 or after such insolvency or bankruptcy, until the expiration of such license
31 but not longer than one year after the death, bankruptcy or insolvency of
32 such licensee.

33 When the licensee pays the full amount of the license fee upon
34 application and is prevented from operating under such license in
35 accordance with the provisions of this act for the entire second year of the
36 license term, a refund shall be made of one-half of the license fee paid by
37 such licensee. The secretary of revenue may adopt rules and regulations
38 pursuant to K.S.A. 41-210, and amendments thereto, which provide for the
39 authorization of refunds of one-half of the license fee paid when the
40 licensee does not use such license for the entire second year of the license
41 term as a result of the cancellation of the license upon the request of the
42 licensee for voluntary reasons.

43 Sec. 18. K.S.A. 41-713 is hereby amended to read as follows: 41-713.

1 It shall be unlawful for a retailer of alcoholic liquor: (1) To permit any
2 person to mix drinks in or on the licensed premises; (2) to ~~employ any~~
3 ~~person under the age of twenty-one (21) years in connection with the~~
4 ~~operation of such retail establishment~~ *authorize or allow any person under*
5 *the age of 18 years to sell at retail any alcoholic liquor at the point of sale;*
6 or (3) to ~~employ any person in connection with the operation of such retail~~
7 ~~establishment~~ *authorize or allow any person* who has been adjudged guilty
8 of a felony *to sell at retail any alcoholic liquor at the point of sale.*

9 Sec. 19. K.S.A. 2011 Supp. 79-4108 is hereby amended to read as
10 follows: 79-4108. All revenue collected or received by the director of
11 taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and
12 amendments thereto, shall be remitted to the state treasurer in accordance
13 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
14 receipt of each such remittance, the state treasurer shall deposit the entire
15 amount in the state treasury to the credit of the state general fund, *except*
16 *that 3% of the revenue remitted to the state treasurer during the prior*
17 *calendar year quarter and deposited in the state treasury shall be credited*
18 *to the local cereal malt beverage sales tax fund, which is hereby created in*
19 *the state treasury. Moneys credited to the local cereal malt beverage sales*
20 *tax fund shall be distributed quarterly as part of the January, April, July*
21 *and October sales tax distribution to each city and county which levied a*
22 *local retailers' sales tax. The amount to be distributed to each city and*
23 *county shall be determined by the department of revenue based on a*
24 *weighted population average. The weighted population average shall be*
25 *computed by multiplying the total tax rate in effect for the city or county*
26 *by the population of such city or county. The weighted population average*
27 *for each city and county shall then be divided by the total Kansas*
28 *population. The resulting quotient is the percentage of distribution for*
29 *such city or county. The population data shall be updated annually with*
30 *the issuance of the certified population data through the division of the*
31 *budget. The state treasurer shall transfer any moneys remaining in the*
32 *county and city alcoholic liquor control enforcement fund on the effective*
33 *date of this act to the state general fund.*

34 Sec. 20. K.S.A. 2011 Supp. 41-102, 41-310, 41-311, 41-317, 41-326
35 and 79-4108 are hereby repealed.

36 Sec. 21. On January 1, 2013, K.S.A. 41-103, 41-304, 41-308, 41-711
37 and 41-713 and K.S.A. 2011 Supp. 41-301, 41-303, 41-313 are hereby
38 repealed.

39 Sec. 22. This act shall take effect and be in force from and after its
40 publication in the statute book.