

HOUSE BILL No. 2206

By Committee on Taxation

Balloun Amendments for HB 2206
Prepared by Jason Long
Office of the Revisor of Statutes
March 11, 2013

1 AN ACT concerning alcoholic beverages; relating to retailer's licenses; and 41-1102
2 amending K.S.A. 41-713 and K.S.A. 2012 Supp. 41-102, 41-301, 41-
3 303, 41-308, 41-311, 41-313, 41-326 and 79-4108 and repealing the 41-304,
4 existing sections; also repealing K.S.A. 41-103 and 41-711.

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

7 New Section 1. From July 1, 2013, to June 30, 2015, the total number
8 of retailer's licenses issued by the director to sell alcoholic liquor shall not
9 exceed the number of such valid licenses issued as of June 30, 2013. The
10 director may only issue a retailer's license to sell alcoholic liquor to a
11 qualified applicant if the issuance of such license would not cause the total
12 number of such valid licenses issued to exceed the number of such valid
13 licenses issued as of June 30, 2013.

On and after July 1, 2013, all retailer's licenses to sell alcoholic liquor issued by the director prior to such date shall be deemed to be retailer's class A licenses.

14 New Sec. 2. (a) On and after January 1, 2014, any licensee holding a
15 valid retailer's license may transfer such license to any person qualified to
16 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.

(b) class A a retailer's

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.

(d)

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
30 transferee. Such license shall be issued for the premises of the transferee as
31 stated in the transfer agreement. The term of such license shall be for the
32 remainder of the term of the license held by the transferor immediately
33 prior to the effective date of the transfer. The director shall not require the
34 payment of any new or additional retailer's license fee by the transferee.

class A, if such transferee is a liquor store, or a retailer's class B license to the transferee, if such transferee is a convenience store or grocery store

35 The transferee shall pay a transfer fee in the amount of \$25 which fee
36 shall be submitted to the director at the same time the request for approval

\$100 non refundable

1 of the transfer is submitted to the director.

2 New Sec. 3. On and after July 1, 2015, the director may issue to
3 qualified applicants a retailer's license. There shall be no limit on the
4 number of retailer's licenses the director may issue. A holder of a retailer's
5 license shall have all the privileges granted to such licensees under K.S.A.
6 41-308, and amendments thereto.

7 New Sec. 4. The director may propose rules and regulations
8 necessary to implement and administer the provisions of sections 1
9 through 3, and amendments thereto, and submit such rules and regulations
10 to the secretary in accordance with K.S.A. 41-210, and amendments
11 thereto. Such rules and regulations may include, but are not limited to:

12 (a) That on and after July 1, 2015, the number of retailer's licenses
13 that will be issued by the director in any one month may be limited to that
14 number which may be reasonably processed and issued by the director
15 based on the resources of the division of alcoholic beverage control; and

16 (b) that submission of applications for a retailer's license to the
17 director and review of such applications by the director for compliance
18 with the Kansas liquor control act may be permitted prior to July 1, 2015.

19 ~~New Sec. 5. All retailers licensed pursuant to the Kansas liquor
20 control act shall verify the age of any purchaser of alcoholic liquor who
21 reasonably appears to be not more than 27 years of age. Retailers shall
22 utilize age verification technology that is consistent with nationally
23 recognized industry standards for making such determinations.~~

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

27 Sec 7. K.S.A. 2012 Supp. 41-102 is hereby amended to read as
28 follows: 41-102. As used in this act, unless the context clearly requires
29 otherwise:

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

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

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

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

but shall not be submitted prior to January 1, 2015

And renumber remaining sections accordingly

5.

6.

1 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
2 2701, and amendments thereto.

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

5 (g) "Convenience store" means a retail business with primary
6 emphasis placed on providing the public a convenient location to quickly
7 purchase from a wide array of consumable products (predominantly food
8 or food and gasoline) and services, and includes stores classified under
9 the NAICS as NAICS 44512, 445120 or 447110 on the effective date of this
10 act.

11 ~~(g)~~ (h) "Director" means the director of alcoholic beverage control of
12 the department of revenue.

13 ~~(h)~~ (i) "Distributor" means the person importing or causing to be
14 imported into the state, or purchasing or causing to be purchased within
15 the state, alcoholic liquor for sale or resale to retailers licensed under this
16 act or cereal malt beverage for sale or resale to retailers licensed under
17 K.S.A. 41-2702, and amendments thereto.

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

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

23 ~~(k)~~ (l) "Domestic table wine" means wine which contains not more
24 than 14% alcohol by volume and which is manufactured without
25 rectification or fortification in this state.

26 ~~(l)~~ (m) "Drinking establishment" has the meaning provided by K.S.A.
27 41-2601, and amendments thereto.

28 ~~(m)~~ (n) "Farm winery" means a winery licensed by the director to
29 manufacture, store and sell domestic table wine and domestic fortified
30 wine.

31 (o) "Grocery store" means an establishment primarily engaged in
32 retailing a general line of groceries, including, but not limited to,
33 packaged food, fresh and frozen food, prepared foods and other
34 consumable products, and includes establishments primarily engaged in
35 retailing a general line of groceries in combination with general lines of
36 new merchandise, including, but not limited to, establishments classified
37 under the NAICS as NAICS 445110, 446110, ~~452111, 452112, 452910~~ or
38 ~~453999~~ on the effective date of this act.

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

1 (††) (g) "Manufacture" means to distill, rectify, ferment, brew, make,
2 mix, concoct, process, blend, bottle or fill an original package with any
3 alcoholic liquor, beer or cereal malt beverage.

4 (†) (r) (1) "Manufacturer" means every brewer, fermenter, distiller,
5 rectifier, wine maker, blender, processor, bottler or person who fills or
6 refills an original package and others engaged in brewing, fermenting,
7 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
8 beverage.

9 (2) "Manufacturer" does not include a microbrewery, microdistillery
10 or a farm winery.

11 (†) (s) "Microbrewery" means a brewery licensed by the director to
12 manufacture, store and sell domestic beer.

13 (†) (t) "Microdistillery" means a facility which produces spirits from
14 any source or substance that is licensed by the director to manufacture,
15 store and sell spirits.

16 (†) (u) "Minor" means any person under 21 years of age.

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

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

26 (†) (x) "Person" means any natural person, corporation, partnership,
27 trust or association.

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

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

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

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

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

retailer's class A or class B

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

3 ~~(y)~~ (cc) "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 ~~(z)~~ (dd) "Secretary" means the secretary of revenue.

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

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

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

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

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

40 Sec 8 K.S.A. 2012 Supp. 41-301 is hereby amended to read as
41 follows: 41-301. (a) Except as provided by subsection (b), the director
42 shall issue to qualified applicants, who have filed the bond and paid the
43 registration and license fees required by this act, licenses to sell at retail

1 alcoholic liquor in the original package on premises within the corporate
2 limits of cities and outside the corporate limits of any city.

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

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

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

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

40 (b) If a license has been issued under the provisions of this section in
41 the unincorporated area of a county and thereafter the premises so licensed
42 are annexed to a city wherein retail liquor licenses may be issued, such
43 license shall continue to be valid and may be renewed at the appropriate

1 time even though the licensee does not reside in the city to which the area
 2 is annexed if the licensee otherwise is qualified and resides in the township
 3 in which the premises were located prior to annexation or in the city to
 4 which the premises have been annexed.

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

12 Sec. 10. K.S.A. 2012 Supp. 41-308 is hereby amended to read as
 13 follows: 41-308. (a) (1) On or before June 30, 2015, except as provided
 14 in K.S.A. 2012 Supp. 41-308d, and amendments thereto, a retailer's license
 15 ~~issued to a liquor store~~ shall allow the licensee to sell and offer for sale at
 16 retail and deliver in the original package, as therein prescribed, alcoholic
 17 liquor for use or consumption off and away from the premises specified in
 18 such license. A retailer's license shall permit sale and delivery of alcoholic
 19 liquor only on the licensed premises and shall not permit sale of alcoholic
 20 liquor for resale in any form, except that a licensed retailer may:

21 ~~(+) (A)~~ Sell alcoholic liquor to a temporary permit holder for resale by
 22 such permit holder; and

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

28 ~~(+) (2)~~ The holder of a retailer's license shall not sell, offer for sale,
 29 give away or permit to be sold, offered for sale or given away in or from
 30 the premises specified in such license any service or thing of value
 31 whatsoever except alcoholic liquor in the original package, except that a
 32 licensed retailer may:

33 ~~(+) (A)~~ Charge a delivery fee for delivery to a public venue, club,
 34 drinking establishment or caterer pursuant to subsection (a);

35 ~~(+) (B)~~ sell lottery tickets and shares to the public in accordance with
 36 the Kansas lottery act, if the retailer is selected as a lottery retailer;

37 ~~(+) (C)~~ include in the sale of alcoholic liquor any goods included by
 38 the manufacturer in packaging with the alcoholic liquor, subject to the
 39 approval of the director; and

40 ~~(+) (D)~~ distribute to the public, without charge, consumer advertising
 41 specialties bearing advertising matter, subject to rules and regulations of
 42 the secretary limiting the form and distribution of such specialties so that
 43 they are not conditioned on or an inducement to the purchase of alcoholic

Sec. 9. K.S.A. 2012 Supp. 41-304 is hereby amended to read as follows: 41-304. Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) spirits distributor's license; (c) wine distributor's license; (d) beer distributor's license; (e) retailer's class A license; (f) retailer's class B license; ~~(+) (g)~~ microbrewery license; ~~(+) (h)~~ microdistillery license; ~~(+) (i)~~ farm winery license; and ~~(+) (j)~~ nonbeverage user's license.

class A

And by renumbering remaining sections accordingly

1 liquor.
 2 ~~(3)~~ (3) No licensed retailer shall furnish any entertainment in such
 3 premises or permit any pinball machine or game of skill or chance to be
 4 located in or on such premises.
 5 ~~(4)~~ (4) A retailer's license shall allow the licensee to store alcoholic
 6 liquor in refrigerators, cold storage units, ice boxes or other cooling
 7 devices, and the licensee may sell such alcoholic liquor to consumers in a
 8 chilled condition.

class B

9 ~~(b) (1) A retailer's license issued to a convenience store or grocery~~
 10 ~~store and on and after July 1, 2015, a retailer's license issued to a liquor~~
 11 ~~store shall allow the licensee to sell and offer for sale at retail and deliver~~
 12 ~~in the original package, as therein prescribed, alcoholic liquor for use or~~
 13 ~~consumption off of and away from the premises specified in such license.~~
 14 (2) A retailer's license shall permit the sale and delivery of ~~alcoholic~~
 15 ~~liquor only on the licensed premises and shall not permit the sale of~~
 16 ~~alcoholic liquor for resale in any form, except that the licensee may~~
 17 ~~(A) Sell alcoholic liquor to a temporary permit holder for resale by~~
 18 ~~such temporary permit holder; and~~
 19 ~~(B) sell and deliver alcoholic liquor to a caterer or to the licensed~~
 20 ~~premises of a club or drinking establishment, if such premises are in the~~
 21 ~~county where the retailer's licensed premises are located or in an adjacent~~
 22 ~~county for resale by such caterer, club or drinking establishment.~~

class B

beer and wine

23 (3) A retailer's licensee may:
 24 (A) Charge a delivery fee for delivery of ~~alcoholic liquor~~ to a caterer;
 25 club or drinking establishment pursuant to paragraph (2);
 26 (B) sell lottery tickets and shares to the public in accordance with the
 27 Kansas lottery act, if the licensee is selected as a lottery retailer;

class B

28 (C) include in the sale of ~~alcoholic liquor~~ any goods included by the
 29 manufacturer in packaging with the ~~alcoholic liquor~~ subject to the
 30 approval of the director;
 31 (D) distribute to the public, without charge, consumer advertising
 32 specialties bearing advertising matter, subject to rules and regulations of
 33 the secretary limiting the form and distribution of such specialties so that
 34 they are not conditioned on or an inducement to the purchase of ~~alcoholic~~
 35 ~~liquor.~~

36 (E) store ~~alcoholic liquor~~ in refrigerators, cold storage units, ice
 37 boxes or other cooling devices, and sell such ~~alcoholic liquor~~ to
 38 consumers in a chilled condition; and
 39 (F) sell any other good or service on the licensed premises.
 40 (c) On and after July 1, 2015, the provisions of subsection (a) shall
 41 have no force and effect
 42 (d) A retailer's license shall be subject to the provisions of K.S.A. 41-
 43 1101, and amendments thereto, prohibiting a retailer from purchasing

43 1101, and amendments thereto, prohibiting a retailer from purchasing

, and:
 (1) A retailer's class A license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor for use or consumption off of and away from the premises specified in such license.
 (2) A retailer's class A license shall permit the sale and delivery of alcoholic liquor only on the licensed premises and shall not permit the sale of alcoholic liquor for resale in any form, except that the licensee may:
 (A) Sell alcoholic liquor to a temporary permit holder for resale by such temporary permit holder; and
 (B) sell and deliver alcoholic liquor to a caterer or to the licensed premises of a club or drinking establishment, if such premises are in the county where the retailer's licensed premises are located or in an adjacent county, for resale by such caterer, club or drinking establishment.
 (3) A retailer's class A licensee may:
 (A) Charge a delivery fee for delivery of alcoholic liquor to a caterer, club or drinking establishment pursuant to paragraph (2);
 (B) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the licensee is selected as a lottery retailer;
 (C) include in the sale of alcoholic liquor any goods included by the manufacturer in packaging with the alcoholic liquor, subject to the approval of the director;
 (D) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor;
 (E) store alcoholic liquor in refrigerators, cold storage units, ice boxes or other cooling devices, and sell such alcoholic liquor to consumers in a chilled condition; and
 (F) sell any other good or service on the licensed premises

1 alcoholic liquor from a distributor who has not filed with the director a
 2 sworn statement agreeing to sell to all retailers in the distributor's
 3 franchised territory at the same unit price and prohibiting a distributor
 4 from selling alcoholic liquor to a retailer at a discount for multiple case
 5 lots. A retailer's license also shall be subject to the provisions of K.S.A.
 6 41-729, and amendments thereto, prohibiting the sale of alcoholic liquor
 7 at less than the acquisition cost thereof.

8 Sec. 11. K.S.A. 2012 Supp. 41-311 is hereby amended to read as
 9 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
 10 liquor control act to ~~a person~~ a person ~~an individual~~.

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

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

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

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

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

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

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

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

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

41 (10) who is the holder of a valid and existing license issued under
 42 article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments
 43 thereto, unless the person agrees to and does surrender the license to the

1 officer issuing the same upon the issuance to the person of a license under
 2 this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and
 3 amendments thereto, shall be eligible to receive a retailer's license under
 4 the Kansas liquor control act;
 5 (11) who does not own the premises for which a license is sought, or
 6 does not, at the time of application, have a written lease thereon;
 7 (12) whose spouse would be ineligible to receive a license under this
 8 act for any reason other than citizenship, residence requirements or age,
 9 except that this subsection (a)(12) shall not apply in determining eligibility
 10 for a renewal license;
 11 (13) whose spouse has been convicted of a felony or other crime
 12 which would disqualify a person from licensure under this section and
 13 such felony or other crime was committed during the time that the spouse
 14 held a license under this act; or
 15 (14) who does not provide any data or information required by

16 K.S.A. 2012 Supp. 41-311b, and amendments thereto.

17 (b) No retailer's license shall be issued to:

18 ~~(1) A person An individual who is not a resident of this state;~~

19 ~~(2) a person an individual who has not been a resident of this state for
 20 at least four years immediately preceding the date of application;~~

21 ~~(3) a person who has a beneficial interest in a manufacturer,
 22 distributor, farm winery or microbrewery or microdistillery licensed under
 23 this act, except that the spouse of an applicant for a retailer's license may
 24 own and hold a farm winery license, microbrewery license, or both, if the
 25 spouse does not hold a retailer's license issued under this act;~~

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

29 ~~(5) a copartnership, unless all of the copartners are qualified to obtain
 30 a license;~~

31 ~~(6) a corporation; 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 if any officer, director or manager of the
 36 licensed premises or any stockholder owning in the aggregate more than
 37 25% of the stock of the corporation would be ineligible to receive a
 38 retailer's license for any reason specified in subsection (a) other than
 39 citizenship requirements; or
 40 ~~(8) a person who is not engaged in business as a liquor store, a
 41 convenience store or a grocery store.~~~~

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

43 (1) A corporation, if any officer or director thereof, or any

(D)

(E)

(F)

(G)

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

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

(F) a corporation, if any officer, manager or director thereof, or any natural person owning in the aggregate more than 5% of the common or preferred stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residence requirements;

(G) a corporation, if any officer, manager or director thereof, or any natural person owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a natural person owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

(i) Has had a license revoked under the provisions of the Kansas liquor control act; or
 (ii) has been convicted of a violation of the Kansas liquor control act; or
 (H)

(2) No retailer's class A license shall be issued to a person unless such person is engaged in business as a liquor store. No retailer's class B license shall be issued to a person unless such person is engaged in business as a convenience store or grocery store.

1 stockholder owning in the aggregate more than 25% of the stock of the
2 corporation would be ineligible to receive a manufacturer's license for any
3 reason other than citizenship and residence requirements;

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

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

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

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

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

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

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

1 distributor's license revoked if the corporation meets all of the other
2 requirements necessary to have a distributor's license;

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

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

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

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

16 (f) No microbrewery license, microdistillery license or farm winery
17 license shall be issued to a:

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

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

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

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

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

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

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

40 (g) The provisions of subsections ~~(b)(1)~~, ~~(b)(2)~~, (c)(3), (c)(4), (d)(3),
41 (f)(1), (f)(2) and K.S.A. 2012 Supp. 41-311b, and amendments thereto,
42 shall not apply in determining eligibility for the 10th, or a subsequent,
43 consecutive renewal of a license if the applicant has appointed a citizen of

1 the United States who is a resident of Kansas as the applicant's agent and
2 filed with the director a duly authenticated copy of a duly executed power
3 of attorney, authorizing the agent to accept service of process from the
4 director and the courts of this state and to exercise full authority, control
5 and responsibility for the conduct of all business and transactions within
6 the state relative to alcoholic liquor and the business licensed. The agent
7 must be satisfactory to and approved by the director, except that the
8 director shall not approve as an agent any person who:

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

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

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

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

23 (5) is less than 21 years of age.
24 Sec. 12. K.S.A. 2012 Supp. 41-313 is hereby amended to read as
25 follows: 41-313. (a) No corporation, either organized under the laws of
26 this state, any other state or a foreign country, shall be issued a *retailer's*,
27 manufacturer's, distributor's, microbrewery, microdistillery or farm winery
28 license unless the corporation has first ~~presented a certificate of authority~~
29 ~~from filed a formation document with~~ the secretary of state to do business
30 in this state as provided by law, appointed a citizen of the United States,
31 and resident of Kansas, as its *resident* agent and filed with the director a
32 ~~duly authenticated copy of a duly executed power of attorney~~, authorizing
33 the agent to accept service of process from the director and the courts of
34 this state and to exercise full authority of the corporation and full authority,
35 control and responsibility for the conduct of all business and transactions
36 of the corporation within the state relative to alcoholic liquor and the
37 business licensed. ~~The agent must be satisfactory to and approved by the~~
38 ~~director with respect to the agent's character.~~ The agent shall at all times be
39 maintained by the corporation.

40 ~~In addition, any corporation organized under the laws of any other state~~
41 ~~or foreign country, as a condition precedent to the issuance to it of any~~
42 ~~license, shall file with the secretary of state of the state of Kansas a duly~~
43 ~~authorized and executed power of attorney, authorizing the secretary of~~

~~1 state to accept service of process from the director and the courts of this~~
~~2 state and to accept service of any notice or order provided for in this act,~~
~~3 and all such acts by the secretary of state shall be fully binding upon the~~
~~4 corporation.~~

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

25 Sec. 13. K.S.A. 2012 Supp. 41-326 is hereby amended to read as
26 follows: 41-326. *Except as otherwise provided by law*, a license shall be
27 purely a personal privilege, valid for not to exceed two years after
28 issuance, ~~except as otherwise provided by law~~, unless sooner suspended or
29 revoked, and shall not constitute property, nor shall it be subject to
30 attachment, garnishment or execution, nor shall it be alienable or
31 transferable, voluntarily or involuntarily, or subject to being encumbered
32 or hypothecated. A license shall not descend by the laws of testate or
33 intestate devolution but shall cease and expire upon the death of the
34 licensee except that executors, administrators or representatives of the
35 estate of any deceased licensee and the trustee of any insolvent or bankrupt
36 licensee, when such estate consists in part of alcoholic liquor, may
37 continue the business of the sale, distribution or manufacture of alcoholic
38 liquor under order of the appropriate court and may exercise the privilege
39 of the deceased, insolvent or bankrupt licensee after the death of such
40 decedent, or after such insolvency or bankruptcy, until the expiration of
41 such license but not longer than one year after the death, bankruptcy or
42 insolvency of such licensee.

43 When the licensee pays the full amount of the license fee upon

1 application and is prevented from operating under such license in
 2 accordance with the provisions of this act for the entire second year of the
 3 license term, a refund shall be made of one-half of the license fee paid by
 4 such licensee. The secretary of revenue may adopt rules and regulations
 5 pursuant to K.S.A. 41-210, and amendments thereto, which provide for the
 6 authorization of refunds of one-half of the license fee paid when the
 7 licensee does not use such license for the entire second year of the license
 8 term as a result of the cancellation of the license upon the request of the
 9 licensee for voluntary reasons.

10 Sec. 14. K.S.A. 41-713 is hereby amended to read as follows: 41-713.
 11 It shall be unlawful for a retailer of alcoholic liquor: (1) To permit any
 12 person to mix drinks in or on the licensed premises; (2) to employ any
 13 person under the age of twenty-one (21) years in connection with the
 14 operation of such retail establishment to authorize or allow any person
 15 under the age of 18 years to sell or retail any alcoholic liquor at the point
 16 of sale; or (3) to employ any person in connection with the operation of
 17 such retail establishment to authorize or allow any person who has been
 18 adjudged guilty of a felony to sell or retail any alcoholic liquor at the
 19 point of sale.

20 Sec. 15. K.S.A. 2012 Supp. 79-4108 is hereby amended to read as
 21 follows: 79-4108. All revenue collected or received by the director of
 22 taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and
 23 amendments thereto, shall be remitted to the state treasurer in accordance
 24 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
 25 receipt of each such remittance, the state treasurer shall deposit the entire
 26 amount in the state treasury to the credit of the state general fund, except
 27 that 3% of the revenue remitted to the state treasurer during the prior
 28 calendar year quarter and deposited in the state treasury shall be credited
 29 to the local cereal malt beverage sales tax fund, which is hereby created in
 30 the state treasury. Moneys credited to the local cereal malt beverage sales
 31 tax fund shall be distributed quarterly as part of the January, April, July
 32 and October sales tax distribution to each city and county which levied a
 33 local retailers' sales tax. The amount to be distributed to each city and
 34 county shall be determined by the department of revenue based on a
 35 weighted population average. The weighted population average shall be
 36 computed by multiplying the total tax rate in effect for the city or county
 37 by the population of such city or county. The weighted population average
 38 for each city and county shall then be divided by the total Kansas
 39 population. The resulting quotient is the percentage of distribution for
 40 such city or county. The population data shall be updated annually with
 41 the issuance of the certified population data through the division of the
 42 budget. The state treasurer shall transfer any moneys remaining in the
 43 county and city alcoholic liquor control enforcement fund on the effective

16. (a)

On and after July 1, 2015,

Sec. 15. K.S.A. 41-1102 is hereby amended to read as follows: 41-1102. (a) Any licensee who shall quit business or shall have the license suspended or revoked may sell and dispose of any alcoholic liquor which the licensee has possession of at the time of quitting business or of the suspension or revocation of the license in accordance with rules and regulations adopted by the secretary of revenue.
 (b) Prior to the transfer of a retailer's license under section 2. and amendments thereto, the transferor shall dispose of such transferor's alcoholic liquor which is not being acquired by the transferee, or which cannot be acquired by the transferee, in accordance with rules and regulations adopted by the secretary of revenue.

1 date of this act to the state general fund.
 2 Sec. ~~16~~ K.S.A. 41-103, 41-711 and 41-713 and K.S.A. 2012 Supp.
 3 41-102, 41-301, 41-303, ~~41-308~~, 41-311, 41-313, 41-326 and ~~79-4108~~ are
 4 hereby repealed.
 5 Sec. ~~17~~ This act shall take effect and be in force from and after its
 6 publication in the statute book.

17.

41-1102

41-304,

19.

(b) The local cereal malt beverage sales tax fund shall be used for the purposes set forth in K.S.A. 79-4101 et seq., and amendments thereto, and for no other governmental purposes. It is the intent of the legislature that the local cereal malt beverage sales tax fund shall remain intact and inviolate for the purpose set forth in K.S.A. 79-4101 et seq., and amendments thereto, and moneys in the local cereal malt beverage sales tax fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto:

Sec. 18. On and after July 1, 2015, K.S.A. 2012 Supp. 79-4108 is hereby repealed.