

KANSAS OFFICE of  
**REVISOR of STATUTES**

LEGISLATURE of THE STATE of KANSAS  
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**MEMORANDUM**

To: Chairman Barker  
Members of the House Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: February 18, 2020

Subject: HB 2571 – Authorizing issuance of a license under the Club and Drinking Establishment Act in certain circumstances even though spouse is ineligible for licensure.

House Bill No. 2571 (HB 2571) would authorize the Director of ABC to issue a license under the Club and Drinking Establishment Act (the Act) even though the applicant's spouse is ineligible to hold such license. Under K.S.A. 41-2623, a person is ineligible for a license under the Act if they are ineligible pursuant to one of the many licensure prohibitions under the Kansas Liquor Control Act (K.S.A. 41-311). One of these prohibitions is K.S.A. 41-311(a)(12), which prohibits the issuance of a license to a person whose spouse is ineligible to hold a license. Another prohibition is K.S.A. 41-311(a)(7), which prohibits a law enforcement officer from holding a license. So, if an applicant is married to a law enforcement officer, then the applicant is prohibited from holding a license by virtue of K.S.A. 41-311(a)(7) and (12).

HB 2571 would amend K.S.A. 41-311 to create an exception to this general prohibition. Under the bill, if the applicant's spouse is a law enforcement officer in a county other than the county in which the licensed premises would be located, then a license may be issued to the applicant. This exception would only apply to licenses issued under the Club and Drinking Establishment Act.

If enacted, HB 2571 would become effective on publication in the Kansas Register.

**41-2623. Persons and entities ineligible for licensure.** (a) No license shall be issued under the provisions of this act to:

(1) Any person described in K.S.A. 41-311(a)(1), (2), (4), (5), (6), (7), (8), (9), (12), (13) or (15), and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

(2) A person who has had the person's license revoked for cause under the provisions of this act.

(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

(A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more other clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotels.

(B) A license for a club or drinking establishment which is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments which are restaurants.

(C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer.

(D) A license for a class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club.

(E) Any person who has a beneficial interest in a microbrewery, microdistillery or farm winery licensed pursuant to the Kansas liquor control act may be issued any or all of the following: (1) Class B club license; (2) drinking establishment license; and (3) caterer's license.

(5) A copartnership, unless all of the copartners are qualified to obtain a license.

(6) A corporation, if any officer, manager or director thereof, or any stockholder 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.

(7) A corporation, if any officer, manager or director thereof, or any stockholder 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 stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(8) A corporation organized under the laws of any state other than this state.

(9) 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 K.S.A. 41-311(a)(6), and amendments thereto, shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to:

(1) A person who does not own the premises for which a license is sought, or does not, at the time the application is submitted, have a written lease thereon, except that an applicant seeking a license for a premises which is owned by a city or county, or is a stadium, arena, convention center, theater, museum, amphitheater or other similar premises may submit an executed agreement to provide alcoholic beverage services at the premises listed in the application in lieu of a lease.

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.

**History:** L. 1965, ch. 316, § 23; L. 1969, ch. 245, § 1; L. 1978, ch. 186, § 7; L. 1985, ch. 170, § 32; L. 1987, ch. 182, § 75; L. 1992, ch. 201, § 6; L. 2001, ch. 189, § 4; L. 2007, ch. 178, § 1; L. 2010, ch. 142, § 16;