

**HOUSE BILL No. 2688**

By Committee on Commerce, Labor and Economic Development

2-10

1 AN ACT concerning alcoholic beverages; relating to cereal malt beverage  
2 retailer licenses; requiring issuance thereof to a licensed farm winery  
3 that satisfies the statutory requirements for such retailer license;  
4 **permitting farm wineries and producers to hold cereal malt**  
5 **beverage licenses; allowing farm wineries and producers to have**  
6 **alcoholic liquor such as wine on their premises while holding a**  
7 **cereal malt beverage license; removing the good character and**  
8 **reputation requirement for a cereal malt beverage license;**  
9 **providing that applicants for a farm winery or a producer license**  
10 **who are registered as agritourism operators shall be issued the**  
11 **license notwithstanding any zoning or other regulations of any city**  
12 **or county; providing that registered agritourism operators shall be**  
13 **issued a license as a drinking establishment notwithstanding any**  
14 **city or county zoning or other regulation; amending K.S.A. 41-311,**  
15 **41-316, 41-2605, 41-2608, 41-2703 and 41-2704 and repealing the**  
16 **existing-section sections.**

17  
18 *Be it enacted by the Legislature of the State of Kansas:*

19 **Section 1. K.S.A. 41-311 is hereby amended to read as follows: 41-**  
20 **311. (a) No license of any kind shall be issued pursuant to the liquor**  
21 **control act to a person:**

22 **(1) Who is not a citizen of the United States;**

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

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29 **may be issued to a person whose license was revoked for the**  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

32 **(4) who has been convicted of being the keeper or is keeping any**  
33 **property, whether real or personal, where sexual relations are being**  
34 **sold or offered for sale by a person who is 18 years of age or older or**

1 has forfeited bond to appear in court to answer charges of being a  
2 keeper of any property, whether real or personal, where sexual  
3 relations are being sold or offered for sale by a person who is 18 years  
4 of age or older;

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

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

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

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

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

18 (10) who is the holder of a valid and existing license issued under  
19 article 27 of chapter 41 of the Kansas Statutes Annotated, and  
20 amendments thereto, unless the person agrees to and does surrender  
21 the license to the officer issuing the same upon the issuance to the  
22 person of a license under this act, ~~except that such person may be~~  
23 ~~issued a farm winery license pursuant to K.S.A. 41-316, and~~  
24 ~~amendments thereto, or a producer license pursuant to K.S.A. 41-355,~~  
25 ~~and amendments thereto, and a retailer licensed pursuant to K.S.A. 41-~~  
26 ~~2702, and amendments thereto, a farm winery licensed pursuant to~~  
27 ~~K.S.A. 41-316, and amendments thereto, or a producer licensed pursuant~~  
28 ~~to K.S.A. 41-355, and amendments thereto.~~ shall be eligible to receive a  
29 retailer's license under the Kansas liquor control act;

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

32 (12) whose spouse would be ineligible to receive a license under  
33 this act for any reason other than citizenship requirements or age,  
34 except that this paragraph shall not apply in determining eligibility  
35 for a renewal license or to a person whose spouse is a law enforcement  
36 officer;

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

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

43 (15) who, after a hearing before the director, has been found to

1 have held an undisclosed beneficial interest in any license issued  
2 pursuant to the liquor control act that was obtained by means of fraud  
3 or any false statement made on the application for such license.

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

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

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

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

16 (4) a corporation; or

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

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

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

26 (2) a copartnership, unless all of the copartners would be  
27 individually eligible to receive a manufacturer's license under this act;

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

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

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

36 (1) A corporation, if any officer, director or stockholder of the  
37 corporation would be ineligible to receive a distributor's license for  
38 any reason. It shall be unlawful for any stockholder of a corporation  
39 licensed as a distributor to transfer any stock in the corporation to any  
40 person who would be ineligible to receive a distributor's license for  
41 any reason, and any such transfer shall be null and void, except that:  
42 (A) If any stockholder owning stock in the corporation dies and an  
43 heir or devisee to whom stock of the corporation descends by descent

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

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

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

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

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

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

38 (1) Person who has a beneficial interest in a manufacturer or  
39 distributor licensed under this act, except as provided in K.S.A. 41-  
40 305, and amendments thereto;

41 (2) person, copartnership or association that has a beneficial  
42 interest in any retailer licensed under this act or under K.S.A. 41-2702,  
43 and amendments thereto, except that the spouse of an applicant for a

1 microbrewery or farm winery license may own and hold a retailer's  
2 license if the spouse does not hold a microbrewery or farm winery  
3 license issued under this act;

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

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

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

14 (g) If the applicant is not a Kansas resident, no license shall be  
15 issued until the applicant has appointed a citizen of the United States  
16 who is a resident of Kansas as the applicant's agent and filed with the  
17 director a duly authenticated copy of a duly executed power of  
18 attorney, authorizing the agent to accept service of process from the  
19 director and the courts of this state and to exercise full authority,  
20 control and responsibility for the conduct of all business and  
21 transactions within the state relative to alcoholic liquor and the  
22 business licensed. The agent must be satisfactory to and approved by  
23 the director, except that the director shall not approve as an agent any  
24 person who:

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

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

32 (3) has been convicted of being the keeper or is keeping any  
33 property, whether real or personal, where sexual relations are being  
34 sold or offered for sale by a person who is 18 years of age or older or  
35 has forfeited bond to appear in court to answer charges of being a  
36 keeper of any property, whether real or personal, where sexual  
37 relations are being sold or offered for sale by a person who is 18 years  
38 of age or older;

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

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

1       **Sec. 2. K.S.A. 41-316 is hereby amended to read as follows: 41-**  
2 **316. Licenses to manufacturers, distributors, microbreweries,**  
3 **microdistilleries, farm wineries, producers and nonbeverage users of**  
4 **alcoholic liquors shall be issued and renewed by the director to**  
5 **qualified applicants upon written application, receipt of bond**  
6 **properly executed and payment in advance of the state registration fee**  
7 **and the license fee. *A farm winery or producer license applicant who***  
8 ***meets the requirements for a license under this act and who is a registered***  
9 ***agritourism operator as defined in K.S.A. 32-1432, and amendments***  
10 ***thereto, shall be issued a license notwithstanding any zoning or other***  
11 ***regulations, resolutions or ordinances of any city or county.***

12       **Sec. 3. K.S.A. 41-2605 is hereby amended to read as follows: 41-**  
13 **2605. The director shall issue a license to each applicant for licensure**  
14 **which qualifies under this act. Such license shall be issued in the name**  
15 **of the corporation, municipal corporation, partners, trustees,**  
16 **association officers or individual applying. *A farm winery or producer***  
17 ***license applicant who meets the requirements for a license under this act***  
18 ***and is a registered agritourism operator as defined in K.S.A. 32-1432, and***  
19 ***amendments thereto, shall be issued a license notwithstanding any zoning***  
20 ***or other regulations, resolutions or ordinances of any city or county.***

21       **Sec. 4. K.S.A. 41-2608 is hereby amended to read as follows: 41-**  
22 **2608. (a) Any public venue, club or drinking establishment license**  
23 **issued pursuant to this act shall be for one particular premises that**  
24 **shall be stated in the application and in the license. Not more than one**  
25 **premises licensed under the club and drinking establishment act shall**  
26 **exist at a single legal address.**

27       **(b) No license shall be issued for a public venue, club or drinking**  
28 **establishment unless the city, township or county zoning code allows a**  
29 **club or drinking establishment at that location.**

30       **(c) The licensed premises of a license may be extend into a city,**  
31 **county or township street, alley, road, sidewalk or highway if:**

32       **(1) Such street, alley, road, sidewalk or highway is closed to motor**  
33 **vehicle traffic by the governing body of such city, county or township**  
34 **at any time during which alcoholic liquor or cereal malt beverage is to**  
35 **be sold or consumed; and**

36       **(2) such extension has been approved by the city, county or**  
37 **township by ordinance or resolution that specifies the exact times**  
38 **during which alcoholic liquor or cereal malt beverage may be sold or**  
39 **consumed on the street, alley, road, sidewalk or highway.**

40       **(d) *Notwithstanding the provisions of this section, a license under***  
41 ***this act shall be issued to a farm winery or producer license applicant who***  
42 ***meets the requirements for a license under this act and who is a registered***  
43 ***agritourism operator as defined in K.S.A. 32-1432, and amendments***

1 *thereto. Such license shall not be denied on the basis of any zoning*  
2 *regulation or other regulation, ordinance or resolution of any city or*  
3 *county.*

4 ~~Section 4.~~ **Sec. 5.** K.S.A. 41-2703 is hereby amended to read as  
5 follows: 41-2703. (a) After examination of an application for a retailer's  
6 license, the board of county commissioners or the director shall, if they  
7 approve the same, issue a license to the applicant. The governing body of  
8 the city shall, if the applicant is qualified as provided by law, issue a  
9 license to such applicant.

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

11 (1) ~~A person who is not of good character and reputation in the~~  
12 ~~community in which where the person resides.;~~

13 (2) ~~A person who is not a citizen of the United States.;~~

14 (3) ~~(2)~~ a person who, within two years immediately preceding the date  
15 of application approval, has been convicted of, released from incarceration  
16 for or released from probation or parole for a felony or any crime  
17 involving moral turpitude, drunkenness, driving a motor vehicle while  
18 under the influence of intoxicating liquor or violation of any other  
19 intoxicating liquor law of any state or of the United States.;

20 (4) ~~(3)~~ a partnership, unless all the members of the partnership are  
21 otherwise qualified to obtain a license.;

22 (5) ~~(4)~~ a corporation, if any manager, officer or director thereof, or any  
23 stockholder owning in the aggregate more than 25% of the stock of such  
24 corporation, would be ineligible to receive a license hereunder for any  
25 reason other than the citizenship requirements.;

26 (6) ~~(5)~~ a person whose place of business is conducted by a manager or  
27 agent unless the manager or agent possesses all the qualifications of a  
28 licensee.;

29 (7) ~~(6)~~ a person whose spouse would be ineligible to receive a  
30 retailer's license for any reason other than citizenship requirements or age,  
31 except that this paragraph shall not apply in determining eligibility for a  
32 renewal license.;

33 (8) ~~(7)~~ a person whose spouse has been convicted of a felony or other  
34 crime that would disqualify a person from licensure under this section and  
35 such felony or other crime was committed during the time that the spouse  
36 held a license under this act.

37 (c) After examination of an application for a retailer's license, the  
38 board of county commissioners or the governing body of a city may deny a  
39 license to a person, partnership or corporation if any manager, officer or  
40 director thereof, or any stockholder owning in the aggregate more than  
41 25% of the stock of such corporation, has been an officer, manager,  
42 director or a stockholder owning in the aggregate more than 25% of the  
43 stock, of a corporation that has:

1 (1) Had a retailer's license revoked under K.S.A. 41-2708, and  
2 amendments thereto; or

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

5 (d) **Notwithstanding any generally applicable grant of discretion**  
6 **that may be provided pursuant to subsection (a)**, if an applicant has  
7 been issued *a farm winery license pursuant to K.S.A. 41-316, and*  
8 *amendments thereto*, or a producer's license pursuant to K.S.A. 41-355,  
9 and amendments thereto, an application for a retailers' license shall be  
10 approved by the board of county commissioners, **the governing body of**  
11 **the city** or the director, subject to the requirements of subsections (b) and  
12 (c).

13 (e) Retailers' licenses shall be issued either on an annual basis or for  
14 the calendar year. If such licenses are issued on an annual basis, the board  
15 of county commissioners or the governing body of the city shall notify the  
16 distributors supplying the county or city on or before April 1 of the year if  
17 a retailer's license is not renewed.

18 (f) In addition to, and consistent with the requirements of K.S.A. 41-  
19 2701 et seq., and amendments thereto, the board of county commissioners  
20 of any county or the governing body of any city may provide by resolution  
21 or ordinance for the issuance of a special event retailers' permit that shall  
22 allow the permit holder to offer for sale, sell and serve cereal malt  
23 beverage for consumption on unpermitted premises, that may be open to  
24 the public, subject to the following:

25 (1) A special event retailers' permit shall specify the premises for  
26 which the permit is issued;

27 (2) a special event retailers' permit shall be issued for the duration of  
28 the special event, the dates and hours of which shall be specified in the  
29 permit;

30 (3) not more than four special event retailers' permits may be issued  
31 to any one applicant in a calendar year; and

32 (4) a special event retailers' permit shall not be transferable or  
33 assignable.

34 (g) A special event retailers' permit holder shall not be subject to the  
35 provisions of the beer and cereal malt beverage keg registration act, K.S.A.  
36 41-2901 et seq., and amendments thereto.

37 **Sec. 6. K.S.A. 41-2704 is hereby amended to read as follows: 41-**  
38 **2704. (a) In addition to and consistent with the requirements of the**  
39 **Kansas cereal malt beverage act, the board of county commissioners**  
40 **of any county or the governing body of any city may prescribe hours**  
41 **of closing, standards of conduct and rules and regulations concerning**  
42 **the moral, sanitary and health conditions of places licensed pursuant**  
43 **to this act and may establish zones within which no such place may be**

1 located.

2 (b) Within any city where the days of sale at retail of cereal malt  
3 beverage in the original package have not been expanded as provided  
4 by K.S.A. 41-2911, and amendments thereto, or have been so  
5 expanded and subsequently restricted as provided by K.S.A. 41-2911,  
6 and amendments thereto, no cereal malt beverages or beer containing  
7 not more than 6% alcohol by volume may be sold:

8 (1) Between the hours of 12 midnight and 6 a.m.; or

9 (2) on Sunday, except in a place of business which is licensed to  
10 sell cereal malt beverage for consumption on the premises, which  
11 derives not less than 30% of its gross receipts from the sale of food for  
12 consumption on the licensed premises and which is located in a county  
13 where such sales on Sunday have been authorized by resolution of the  
14 board of county commissioners of the county or in a city where such  
15 sales on Sunday have been authorized by ordinance of the governing  
16 body of the city.

17 (c) Within any city where the days of sale at retail of cereal malt  
18 beverage in the original package have been expanded as provided by  
19 K.S.A. 41-2911, and amendments thereto, and have not been  
20 subsequently restricted as provided in K.S.A. 41-2911, and  
21 amendments thereto, no person shall sell at retail cereal malt beverage  
22 or beer containing not more than 6% alcohol by volume:

23 (1) Between the hours of 12 midnight and 6 a.m.;

24 (2) in the original package not earlier than 9 a.m. and not later  
25 than 8 p.m. on Sunday;

26 (3) on Easter Sunday; or

27 (4) for consumption on the licensed premises on Sunday, except in  
28 a place of business which is licensed to sell cereal malt beverage for  
29 consumption on the premises, which derives not less than 30% of its  
30 gross receipts from the sale of food for consumption on the licensed  
31 premises and which is located in a county where such sales on Sunday  
32 have been authorized by resolution of the board of county  
33 commissioners of the county or in a city where such sales on Sunday  
34 have been authorized by ordinance of the governing body of the city.

35 (d) No private rooms or closed booths shall be operated in a place  
36 of business, but this provision shall not apply if the licensed premises  
37 also are licensed as a club pursuant to the club and drinking  
38 establishment act.

39 (e) Each place of business shall be open to the public and to law  
40 enforcement officers at all times during business hours, except that a  
41 premises licensed as a club pursuant to the club and drinking  
42 establishment act shall be open to law enforcement officers and not to  
43 the public.

1 (f) Except as otherwise provided by this subsection, no licensee  
2 shall permit a person under the legal age for consumption of cereal  
3 malt beverage or beer containing not more than 6% alcohol by volume  
4 to consume or purchase any cereal malt beverage in or about a place  
5 of business. A licensee's employee who is not less than 18 years of age  
6 may dispense or sell cereal malt beverage or beer containing not more  
7 than 6% alcohol by volume, if:

8 (1) The licensee's place of business is licensed only to sell at retail  
9 cereal malt beverage or beer containing not more than 6% alcohol by  
10 volume in the original package and not for consumption on the  
11 premises; or

12 (2) the licensee's place of business is a licensed food service  
13 establishment, as defined by K.S.A. 36-501, and amendments thereto,  
14 and not less than 50% of the gross receipts from the licensee's place of  
15 business is derived from the sale of food for consumption on the  
16 premises of the licensed place of business.

17 (g) No person shall have any alcoholic liquor, except beer  
18 containing not more than 6% alcohol by volume, in such person's  
19 possession while in a place of business, unless the premises are  
20 currently licensed as a club or drinking establishment pursuant to the  
21 club and drinking establishment act *or the business is a farm winery*  
22 *licensed pursuant to K.S.A. 41-316, and amendments thereto, or a*  
23 *producer licensed pursuant to K.S.A. 41-355, and amendments thereto.*

24 (h) Cereal malt beverages may be sold on premises that are  
25 licensed pursuant to both the Kansas cereal malt beverage act and the  
26 club and drinking establishment act at any time when alcoholic liquor  
27 is allowed by law to be served on the premises.

28 ~~Sec.-2. 7. K.S.A. 41-311, 41-316, 41-2605, 41-2608, 41-2703-is and~~  
29 ~~41-2704 are hereby repealed.~~

30 ~~Sec.-3. 8. This act shall take effect and be in force from and after its~~  
31 ~~publication in the statute book.~~