

SENATE BILL No. 54

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. 2010 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, 2011, the total number of
9 retailer's licenses issued by the director to sell alcoholic liquor shall not
10 exceed the number of such valid licenses issued as of June 30, 2011.

11 (b) From July 1, 2011, to December 31, 2011, 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
14 valid licenses issued to exceed the number determined pursuant to
15 subsection (a).

16 (c) From January 1, 2012, to December 31, 2014, the total number
17 of retailer's class C licenses issued by the director shall not exceed the
18 number determined pursuant to subsection (a).

19 New Sec. 2. (a) On and after January 1, 2012, all retailer's licenses
20 to sell alcoholic liquor issued by the director prior to such date shall be
21 deemed to be retailer's class C licenses.

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

26 (c) A retailer's class C license shall permit the sale and delivery of
27 alcoholic liquor only on the licensed premises and shall not permit the
28 sale of alcoholic liquor for resale in any form, except that the licensee
29 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
4 the 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
14 boxes or other cooling devices, and sell such alcoholic liquor to
15 consumers in a chilled condition; and

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

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

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

31 (c) On the effective date of the transfer of a license in accordance
32 with this section the director shall issue a retailer's class C license to the
33 transferee. Such license shall be issued for the premises of the transferee
34 as stated in the transfer agreement. The term of such license shall be for
35 the remainder of the term of the license held by the transferor
36 immediately prior to the effective date of the transfer. The director shall
37 not require the payment of any new or additional retailer's class C license
38 fee by the transferee. The transferee shall pay a transfer fee in the amount
39 of \$25, which fee shall be submitted to the director at the same time the
40 request for approval of the transfer is submitted to the director.

41 New Sec. 4. (a) On and after January 1, 2012, the director may
42 issue to qualified applicants a retailer's class A license. A retailer's class A
43 license shall allow the licensee to sell and offer for sale at retail and

1 deliver in the original package, as therein prescribed, beer for use or
2 consumption off of and away from the premises specified in such license.

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

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

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

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

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

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

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

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

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

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

28 New Sec. 5. (a) On and after January 1, 2012, the director may issue
29 to qualified applicants a retailer's class B license. A retailer's class B
30 license shall allow the licensee to sell and offer for sale at retail and
31 deliver in the original package, as therein prescribed, beer and wine for
32 use or consumption off of and away from the premises specified in such
33 license.

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

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

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

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

1 (1) Charge a delivery fee for delivery of beer and wine 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 beer and wine any goods included by the
6 manufacturer in packaging with the beer and wine, subject to the approval
7 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 beer or
12 wine;

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

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

17 New Sec. 6. On and after January 1, 2015, the director may issue to
18 qualified applicants a retailer's class C license. A holder of a retailer's
19 class C license shall have all the privileges granted to such licensees as
20 set forth in section 2, and amendments thereto.

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

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

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

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

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

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

42 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
43 2701, and amendments thereto.

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

3 (g) "Director" means the director of alcoholic beverage control of
4 the department of revenue.

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

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

12 (j) "Domestic fortified wine" means wine which contains more than
13 14%, but not more than 20% alcohol by volume and which is
14 manufactured in this state.

15 (k) "Domestic table wine" means wine which contains not more than
16 14% alcohol by volume and which is manufactured without rectification
17 or fortification in this state.

18 (l) "Drinking establishment" has the meaning provided by K.S.A.
19 41-2601, and amendments thereto.

20 (m) "Farm winery" means a winery licensed by the director to
21 manufacture, store and sell domestic table wine and domestic fortified
22 wine.

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

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

31 (2) "Manufacturer" does not include a microbrewery or a farm
32 winery.

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

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

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

40 (s) "Original package" means any bottle, flask, jug, can, cask, barrel,
41 keg, hogshhead or other receptacle or container whatsoever, used, corked
42 or capped, sealed and labeled by the manufacturer of alcoholic liquor, to
43 contain and to convey any alcoholic liquor. Original container does not

1 include a sleeve.

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

4 (u) "Primary American source of supply" means the manufacturer,
5 the owner of alcoholic liquor at the time it becomes a marketable product
6 or the manufacturer's or owner's exclusive agent who, if the alcoholic
7 liquor cannot be secured directly from such manufacturer or owner by
8 American wholesalers, is the source closest to such manufacturer or
9 owner in the channel of commerce from which the product can be
10 secured by American wholesalers.

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

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

14 (w) (1) *"Retailer's license" means a license to sell at retail alcoholic*
15 *liquor in the original package issued pursuant to the Kansas liquor*
16 *control act.*

17 (2) *On and after January 1, 2012, the term "retailer's license"*
18 *means a retailer's class A, class B or class C license, or other license to*
19 *sell at retail alcoholic liquor in the original package, issued pursuant to*
20 *the Kansas liquor control act.*

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

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

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

28 (2) is engaged in promoting the sale of alcoholic liquor or cereal
29 malt beverage, or in promoting the business of any person, firm or
30 corporation engaged in the manufacturing and selling of alcoholic liquor
31 or cereal malt beverage, whether the seller resides within the state of
32 Kansas and sells to licensed buyers within the state of Kansas, or whether
33 the seller resides without the state of Kansas and sells to licensed buyers
34 within the state of Kansas.

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

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

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

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

3 ~~(bb)~~ (cc) "Sleeve" means a package of two or more 50-milliliter
4 (3.2-fluid-ounce) containers of spirits.

5 ~~(ee)~~ (dd) "Spirits" means any beverage which contains alcohol
6 obtained by distillation, mixed with water or other substance in solution,
7 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
8 such liquors when rectified, blended or otherwise mixed with alcohol or
9 other substances.

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

13 ~~(ee)~~ (ff) "Temporary permit" has the meaning provided by K.S.A.
14 41-2601, and amendments thereto.

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

20 Sec. 9. On and after January 1, 2012, K.S.A. 2010 Supp. 41-301 is
21 hereby amended to read as follows: 41-301. ~~(a) Except as provided by~~
22 ~~subsection (b), the director shall issue to qualified applicants, who have~~
23 ~~filed the bond and paid the registration and license fees required by this~~
24 ~~act, licenses to sell at retail alcoholic liquor in the original package on~~
25 ~~premises within the corporate limits of cities and outside the corporate~~
26 ~~limits of any city.~~

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

43 ~~(e) (b) No retailer's license shall be issued for premises within a city~~

1 if, after November 15, 2005, a majority of the qualified voters of such
2 city voting at an election held as provided by K.S.A. 41-302, and
3 amendments thereto, votes against the licensing of the sale at retail of
4 alcoholic liquor in the original package within such city unless, at a
5 subsequent election, a majority of the qualified voters of such city voting
6 at such election votes in favor of the licensing of the sale at retail of
7 alcoholic liquor in the original package within such city.

8 Sec. 10. On and after January 1, 2012, K.S.A. 2010 Supp. 41-303 is
9 hereby amended to read as follows: 41-303. (a) ~~The director may issue to~~
10 ~~qualified applicants licenses to sell at retail alcoholic liquor in the original~~
11 ~~package on premises not located in an incorporated city for use or~~
12 ~~consumption off the premises. No such license shall be issued to any~~
13 ~~applicant unless the applicant possesses all the qualifications required of~~
14 ~~other applicants for retailers' licenses except the qualification of residency~~
15 ~~within a city.~~

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

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

30 ~~(e) (b)~~ Any ~~retail~~ *retailer's* license issued prior to the effective date
31 of this act for premises not located in an incorporated city shall continue
32 to be valid and such premises shall continue to be eligible for licensure if
33 the board of county commissioners of the county in which the premises
34 are located has adopted a resolution approving the issuance of such
35 license. A certified copy of such resolution shall accompany the
36 application for a *such* license ~~authorized by this subsection.~~ .

37 Sec. 11. On and after January 1, 2012, K.S.A. 41-304 is hereby
38 amended to read as follows: 41-304. Licenses issued by the director shall
39 be of the following classes: (a) Manufacturer's license; (b) spirits
40 distributor's license; (c) wine distributor's license; (d) beer distributor's
41 license; (e) retailer's *class A* license; (f) retailer's *class B* license; (g)
42 retailer's *class C* license; ~~(h)~~ (h) microbrewery license; ~~(g)~~ (i) farm winery
43 license; and ~~(h)~~ (j) nonbeverage user's license.

1 Sec. 12. K.S.A. 2010 Supp. 41-310 is hereby amended to read as
2 follows: 41-310. (a) At the time application is made to the director for a
3 license of any class, the applicant shall pay the fee provided by this
4 section.

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

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

9 (1) For 1 to 100 barrel daily capacity or any part thereof, \$400.

10 (2) For 100 to 150 barrel daily capacity, \$800.

11 (3) For 150 to 200 barrel daily capacity, \$1,400.

12 (4) For 200 to 300 barrel daily capacity, \$2,000.

13 (5) For 300 to 400 barrel daily capacity, \$2,600.

14 (6) For 400 to 500 barrel daily capacity, \$2,800.

15 (7) For 500 or more barrel daily capacity, \$3,200.

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

20 (d) The fee for a manufacturer's license to manufacture wine shall be
21 \$1,000.

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

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

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

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

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

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

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

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

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

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

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

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

43 (j) In addition to the license fees prescribed by subsections (b), (c),

1 (d), (f), (g), (h) and (i):

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

7 (2) any township in which the licensed premises are located may
8 levy and collect a biennial occupation or license tax on the licensee in an
9 amount not exceeding the amount of the license fee required to be paid
10 under this act to obtain the license, but no township shall impose an
11 occupation or privilege tax on the licensee in excess of that amount; the
12 township board of the township is authorized to fix and impose the tax
13 and the tax shall be paid by the licensee to the township treasurer, who
14 shall issue a receipt therefor to the licensee and shall cause the tax paid to
15 be placed in the general fund of the township.

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

18 (2) *On and after January 1, 2012, the fee for a retailer's license*
19 *shall be:*

20 (A) *For class A, \$100;*

21 (B) *for class B, \$300;*

22 (C) *for class C, \$500.*

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

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

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

36 (m) The license term for a license shall commence on the date the
37 license is issued by the director and shall end two years after that date.
38 The director may, at the director's sole discretion and after examination of
39 the circumstances, extend the license term of any license for not more
40 than 30 days beyond the date such license would expire pursuant to this
41 section. Any extension of the license term by the director pursuant to this
42 section shall automatically extend the due date for payment by the
43 licensee of any occupation or license tax levied by a city or township

1 pursuant to this section by the same number of days the director has
2 extended the license term.

3 Sec. 13. K.S.A. 2010 Supp. 41-311 is hereby amended to read as
4 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
5 liquor control act to ~~a person~~ *an individual*:

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

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

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

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

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

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

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

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

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

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

43 (11) who does not own the premises for which a license is sought, or

1 does not, at the time of application, have a written lease thereon;

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

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

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

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

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

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

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

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

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

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

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

32 (2) *On and after January 1, 2012, the provisions of paragraph (1)*
33 *shall have no force and effect, and on and after such date, no retailer's*
34 *license shall be issued to a person who has a beneficial interest in a*
35 *manufacturer, distributor, farm winery or microbrewery licensed under*
36 *this act, except that the spouse of an applicant for a retailer's license may*
37 *own and hold a farm winery license, microbrewery license, or both, if the*
38 *spouse does not hold a retailer's license issued under this act.*

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

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

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

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

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

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

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

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

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

43 (2) a copartnership, unless all of the copartners are eligible to

1 receive a distributor's license;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 Sec. 14. On and after January 1, 2012, K.S.A. 2010 Supp. 41-313 is
22 hereby amended to read as follows: 41-313. (a) No corporation, either
23 organized under the laws of this state, any other state or a foreign country,
24 shall be issued a *retailer's*, manufacturer's, distributor's, microbrewery or
25 farm winery license unless the corporation has first procured a certificate
26 of authority from the secretary of state to do business in this state as
27 provided by law, appointed a citizen of the United States, and resident of
28 Kansas, as its agent and filed with the director a duly authenticated copy
29 of a duly executed power of attorney, authorizing the agent to accept
30 service of process from the director and the courts of this state and to
31 exercise full authority of the corporation and full authority, control and
32 responsibility for the conduct of all business and transactions of the
33 corporation within the state relative to alcoholic liquor and the business
34 licensed. The agent must be satisfactory to and approved by the director
35 with respect to the agent's character. The agent shall at all times be
36 maintained by the corporation.

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

1 the corporation.

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

22 Sec. 15. K.S.A. 2010 Supp. 41-317 is hereby amended to read as
23 follows: 41-317. (a) Applications for all licenses under this act shall be
24 completed and submitted to the director in a manner prescribed by the
25 director. Each applicant shall submit an application fee of \$50 for each
26 initial application and \$10 for each renewal application to defray the cost
27 of processing the application.

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

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

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

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

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

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

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

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

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

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

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

27 (4) *(A) except as provided in subparagraph (B), for a retailer,*
28 *\$2,000;*

29 *(B) on and after January 1, 2012, for a retailer, \$500 for class A,*
30 *\$1,000 for class B and \$2,000 for class C;*

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

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

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

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

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

43 Sec. 16. K.S.A. 2010 Supp. 41-326 is hereby amended to read as

1 follows: 41-326. *Except as otherwise provided by law, a license shall be*
2 *purely a personal privilege, valid for not to exceed two years after*
3 *issuance, ~~except as otherwise provided by law,~~ unless sooner suspended*
4 *or revoked, and shall not constitute property, nor shall it be subject to*
5 *attachment, garnishment or execution, nor shall it be alienable or*
6 *transferable, voluntarily or involuntarily, or subject to being encumbered*
7 *or hypothecated. A license shall not descend by the laws of testate or*
8 *intestate devolution but shall cease and expire upon the death of the*
9 *licensee except that executors, administrators or representatives of the*
10 *estate of any deceased licensee and the trustee of any insolvent or*
11 *bankrupt licensee, when such estate consists in part of alcoholic liquor,*
12 *may continue the business of the sale, distribution or manufacture of*
13 *alcoholic liquor under order of the appropriate court and may exercise the*
14 *privilege of the deceased, insolvent or bankrupt licensee after the death of*
15 *such decedent, or after such insolvency or bankruptcy, until the expiration*
16 *of such license but not longer than one year after the death, bankruptcy or*
17 *insolvency of such licensee.*

18 When the licensee pays the full amount of the license fee upon
19 application and is prevented from operating under such license in
20 accordance with the provisions of this act for the entire second year of the
21 license term, a refund shall be made of one-half of the license fee paid by
22 such licensee. The secretary of revenue may adopt rules and regulations
23 pursuant to K.S.A. 41-210, and amendments thereto, which provide for
24 the authorization of refunds of one-half of the license fee paid when the
25 licensee does not use such license for the entire second year of the license
26 term as a result of the cancellation of the license upon the request of the
27 licensee for voluntary reasons.

28 Sec. 17. On and after January 1, 2012, K.S.A. 41-713 is hereby
29 amended to read as follows: 41-713. It shall be unlawful for a retailer of
30 alcoholic liquor: (1) To permit any person to mix drinks in or on the
31 licensed premises; (2) to ~~employ any person under the age of twenty-one~~
32 ~~(21) years in connection with the operation of such retail establishment;~~
33 ~~or (3) to employ any person in connection with the operation of such~~
34 ~~retail establishment who has been adjudged guilty of a felony. authorize~~
35 *or allow any person under the age of 18 years to sell at retail any beer or*
36 *wine; (3) to authorize or allow any person under the age of 21 years to*
37 *sell at retail any spirits or any other alcoholic liquor other than beer or*
38 *wine; or (4) to authorize or allow any person who has been adjudged*
39 *guilty of a felony to sell at retail any alcoholic liquor.*

40 Sec. 18. K.S.A. 2010 Supp. 79-4108 is hereby amended to read as
41 follows: 79-4108. All revenue collected or received by the director of
42 taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and
43 amendments thereto, shall be remitted to the state treasurer in accordance

1 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
2 receipt of each such remittance, the state treasurer shall deposit the entire
3 amount in the state treasury to the credit of the state general fund, *except*
4 *that 3% of the revenue remitted to the state treasurer during the prior*
5 *calendar year quarter and deposited in the state treasury shall be*
6 *credited to the local cereal malt beverage sales tax fund, which is hereby*
7 *created in the state treasury. Moneys credited to the local cereal malt*
8 *beverage sales tax fund shall be distributed quarterly as part of the*
9 *January, April, July and October sales tax distribution to each city and*
10 *county which levied a local retailers' sales tax. The amount to be*
11 *distributed to each city and county shall be determined by the department*
12 *of revenue based on a weighted population average. The weighted*
13 *population average shall be computed by multiplying the total tax rate in*
14 *effect for the city or county by the population of such city or county. The*
15 *weighted population average for each city and county shall then be*
16 *divided by the total Kansas population. The resulting quotient is the*
17 *percentage of distribution for such city or county. The population data*
18 *shall be updated annually with the issuance of the certified population*
19 *data through the division of the budget.* The state treasurer shall transfer
20 any moneys remaining in the county and city alcoholic liquor control
21 enforcement fund on the effective date of this act to the state general
22 fund.

23 Sec. 19. K.S.A. 2010 Supp. 41-102, 41-310, 41-311, 41-317, 41-326
24 and 79-4108 are hereby repealed.

25 Sec. 20. On January 1, 2012, K.S.A. 41-103, 41-304, 41-308, 41-711
26 and 41-713 and K.S.A. 2010 Supp. 41-301, 41-303 and 41-313 are
27 hereby repealed.

28 Sec. 21. This act shall take effect and be in force from and after its
29 publication in the statute book.