

As Amended by House Committee

As Amended by Senate Committee

Session of 2012

SENATE BILL No. 277

By Committee on Federal and State Affairs

1-12

1 AN ACT concerning alcoholic beverages; relating to the licensing of
2 microdistilleries; amending K.S.A. 41-304, 41-316 and 41-320 and
3 K.S.A. 2011 Supp. 41-102, 41-310, **41-311**, 41-317 and 41-319 and
4 repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) A microdistillery license shall allow:

8 (1) The manufacture of not more than 50,000 gallons of spirits ~~during~~
9 ~~the license~~ *per* year and the storage thereof;

10 (2) the sale to spirit distributors of spirits, manufactured by the
11 licensee;

12 (3) the sale, on the licensed premises in the original unopened
13 container to consumers for consumption off the licensed premises, of
14 spirits manufactured by the licensee;

15 (4) the serving free of charge on the licensed premises *and at special*
16 *events, monitored and regulated by the division of alcoholic beverage*
17 *control*, of samples of spirits manufactured by the licensee, if the premises
18 are located in a county where the sale of alcoholic liquor is permitted by
19 law in licensed drinking establishments;

20 (5) if the licensee is also licensed as a club or drinking establishment,
21 the sale of spirits and other alcoholic liquor for consumption on the
22 licensed premises as authorized by the club and drinking establishment
23 act; and

24 (6) if the licensee is also licensed as a caterer, the sale of spirits and
25 other alcoholic liquor for consumption on unlicensed premises as
26 authorized by the club and drinking establishment act.

27 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
28 310, and amendments thereto, by a microdistillery licensee, the director
29 may issue not to exceed one microdistillery packaging and warehousing
30 facility license to the microdistillery licensee. A microdistillery packaging
31 and warehousing facility license shall allow:

32 (1) The transfer, from the licensed premises of the microdistillery to
33 the licensed premises of the microdistillery packaging and warehousing
34 facility, of spirits manufactured by the licensee, for the purpose of

1 packaging or storage, or both;

2 (2) the transfer, from the licensed premises of the microdistillery
3 packaging and warehousing facility to the licensed premises of the
4 microdistillery, of spirits manufactured by the licensee; or

5 (3) the removal from the licensed premises of the microdistillery
6 packaging and warehousing facility of spirits manufactured by the licensee
7 for the purpose of delivery to a licensed spirits wholesaler.

8 (c) A microdistillery may sell spirits in the original unopened
9 container to consumers for consumption off the licensed premises at any
10 time between 6 a.m. and 12 midnight on any day except Sunday and
11 between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a
12 microdistillery may serve samples of spirits and serve and sell spirits and
13 other alcoholic liquor for consumption on the licensed premises at any
14 time when a club or drinking establishment is authorized to serve and sell
15 alcoholic liquor.

16 (d) The director may issue to the Kansas state fair or any bona fide
17 group of distillers a permit to import into this state small quantities of
18 spirits. Such spirits shall be used only for bona fide educational and
19 scientific tasting programs and shall not be resold. Such spirits shall not be
20 subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The
21 permit shall identify specifically the brand and type of spirit to be
22 imported, the quantity to be imported, the tasting programs for which the
23 spirit is to be used and the times and locations of such programs. The
24 secretary shall adopt rules and regulations governing the importation of
25 spirits pursuant to this subsection and the conduct of tasting programs for
26 which such spirits are imported.

27 (e) A microdistillery license or microdistillery packaging and
28 warehousing facility license shall apply only to the premises described in
29 the application and in the license issued and only one location shall be
30 described in the license.

31 (f) No microdistillery shall:

32 (1) Employ any person under the age of 18 years in connection with
33 the manufacture, sale or serving of any alcoholic liquor;

34 (2) permit any employee of the licensee who is under the age of 21
35 years to work on the licensed premises at any time when not under the on-
36 premises supervision of either the licensee or an employee of the licensee
37 who is 21 years of age or over;

38 (3) employ any person under 21 years of age in connection with
39 mixing or dispensing alcoholic liquor; or

40 (4) employ any person in connection with the manufacture or sale of
41 alcoholic liquor if the person has been convicted of a felony.

42 (g) Whenever a microdistillery licensee is convicted of a violation of
43 the Kansas liquor control act, the director may revoke the licensee's license

1 and all fees paid for the license in accordance with the Kansas
2 administrative procedure act.

3 Sec. 2. K.S.A. 2011 Supp. 41-102 is hereby amended to read as
4 follows: 41-102. As used in this act, unless the context clearly requires
5 otherwise:

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

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

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

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

20 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
21 2701, and amendments thereto.

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

24 (g) "Director" means the director of alcoholic beverage control of the
25 department of revenue.

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

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

33 (j) "Domestic fortified wine" means wine which contains more than
34 14%, but not more than 20% alcohol by volume and which is
35 manufactured in this state.

36 (k) "Domestic table wine" means wine which contains not more than
37 14% alcohol by volume and which is manufactured without rectification or
38 fortification in this state.

39 (l) "Drinking establishment" has the meaning provided by K.S.A. 41-
40 2601, and amendments thereto.

41 (m) "Farm winery" means a winery licensed by the director to
42 manufacture, store and sell domestic table wine and domestic fortified
43 wine.

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

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

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

16 (⊕) (r) "Minor" means any person under 21 years of age.

17 (⊕) (s) "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 (⊕) (t) "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 (⊕) (u) "Person" means any natural person, corporation, partnership,
27 trust or association.

28 (⊕) (v) "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 (⊕) (w) (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 (⊕) (x) "Sale" means any transfer, exchange or barter in any manner
40 or by any means whatsoever for a consideration and includes all sales
41 made by any person, whether principal, proprietor, agent, servant or
42 employee.

43 (⊕) (y) "Salesperson" means any natural person who:

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

3 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
4 beverage, or in promoting the business of any person, firm or corporation
5 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
6 beverage, whether the seller resides within the state of Kansas and sells to
7 licensed buyers within the state of Kansas, or whether the seller resides
8 without the state of Kansas and sells to licensed buyers within the state of
9 Kansas.

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

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

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

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

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

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

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

31 ~~(ee)~~ (ff) "Temporary permit" has the meaning provided by K.S.A. 41-
32 2601, and amendments thereto.

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

38 Sec. 3. K.S.A. 41-304 is hereby amended to read as follows: 41-304.
39 Licenses issued by the director shall be of the following classes: (a)
40 Manufacturer's license; (b) spirits distributor's license; (c) wine
41 distributor's license; (d) beer distributor's license; (e) retailer's license; (f)
42 microbrewery license; (g) *microdistillery license*; (h) farm winery license;
43 and ~~(h)~~(i) nonbeverage user's license.

1 Sec. 4. K.S.A. 2011 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, *a microdistillery license* or
23 a farm winery license 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 (4) *The fee for a microdistillery packaging and warehousing facility*
28 *license shall be \$200.*

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

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

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

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

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

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

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

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

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

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

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

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

18 (k) The fee for a retailer's license shall be \$500.

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

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

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

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

42 Sec. 5. K.S.A. 41-316 is hereby amended to read as follows: 41-316.
43 Licenses to manufacturers, distributors, microbreweries, *microdistilleries*,

1 farm wineries and nonbeverage users of alcoholic liquors shall be issued
2 and renewed by the director to qualified applicants upon written
3 application, receipt of bond properly executed and payment in advance of
4 the state registration fee and the license fee.

5 Sec. 6. K.S.A. 2011 Supp. 41-317 is hereby amended to read as
6 follows: 41-317. (a) Applications for all licenses under this act shall be
7 completed and submitted to the director in a manner prescribed by the
8 director. Each applicant shall submit an application fee of \$50 for each
9 initial application and \$10 for each renewal application to defray the cost
10 of processing the application.

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

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

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

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

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

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

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

38 (g) Every applicant for a manufacturer's, distributor's, nonbeverage
39 user's, microbrewery, *microdistillery*, farm winery, retailer's or special
40 order shipping license shall file with the application a joint and several
41 bond on a form prescribed by the director and executed by good and
42 sufficient corporate sureties licensed to do business within the state of
43 Kansas to the director, in the following amounts:

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

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

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

10 (4) for a retailer, \$2,000;

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

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

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

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

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

23 Sec. 7. K.S.A. 2011 Supp. 41-319 is hereby amended to read as
24 follows: 41-319. (a) Except as provided by subsection (b), within 30 days
25 after an application is filed for a retailer's, microbrewery, *microdistillery* or
26 farm winery license and within 20 days after an application is filed for a
27 manufacturer's, distributor's or nonbeverage user's license, the director
28 shall enter an order either refusing or granting the license. If the director
29 does not enter an order within the time prescribed, the license applied for
30 shall be deemed to have been refused. The director, with the written
31 consent of the applicant for a license, may delay entering an order on an
32 application for an additional period of not to exceed 30 days.

33 (b) In order to complete any national criminal history record check of
34 an applicant who submitted any application after January 31, 2001, and if
35 the applicant is not a resident of the state of Kansas on the date of
36 submission of such application or has not been a resident for at least one
37 year immediately preceding the date of submission of such application the
38 director shall enter an order either refusing or granting the license within
39 90 days after such application is filed. If the director does not enter an
40 order within the time prescribed, the license applied for shall be deemed to
41 have been refused. The director, with the written consent of the applicant
42 for a license, may delay entering an order on an application for an
43 additional period of not to exceed 30 days.

1 Sec. 8. K.S.A. 41-320 is hereby amended to read as follows: 41-320.

2 (a) All proceedings for the suspension and revocation of licenses of
3 manufacturers, distributors, retailers, microbreweries, *microdistilleries*,
4 farm wineries and nonbeverage users shall be before the director, and the
5 proceedings shall be in accordance with the provisions of the Kansas
6 administrative procedure act. Except as provided in subsection (b), no
7 license shall be suspended or revoked except after a hearing by the
8 director.

9 (b) When proceedings for the suspension or revocation of a
10 distributor's license are filed and the distributor has been issued more than
11 one license for distributing places of business in this state, any order of the
12 director suspending or revoking the license at any one place of business
13 shall suspend or revoke all licenses issued to the distributor. When one
14 person is the holder of stock in two or more corporations licensed as
15 distributors under the provisions of this act, any order of the director
16 suspending or revoking the license of any such corporation shall operate as
17 a suspension or revocation of the license of all corporations licensed as
18 distributors in which the person is a stockholder.

19 **Sec. 9. K.S.A. 2011 Supp. 41-311 is hereby amended to read as**
20 **follows: 41-311. (a) No license of any kind shall be issued pursuant to**
21 **the liquor control act to a person:**

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

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

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

37 (4) **who has been convicted of being the keeper or is keeping a**
38 **house of prostitution or has forfeited bond to appear in court to**
39 **answer charges of being a keeper of a house of prostitution;**

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

- 1 **(6) who is not at least 21 years of age;**
- 2 **(7) who, other than as a member of the governing body of a city**
3 **or county, appoints or supervises any law enforcement officer, who is a**
4 **law enforcement official or who is an employee of the director;**
- 5 **(8) who intends to carry on the business authorized by the license**
6 **as agent of another;**
- 7 **(9) who at the time of application for renewal of any license**
8 **issued under this act would not be eligible for the license upon a first**
9 **application, except as provided by subsection (a)(12);**
- 10 **(10) who is the holder of a valid and existing license issued under**
11 **article 27 of chapter 41 of the Kansas Statutes Annotated unless the**
12 **person agrees to and does surrender the license to the officer issuing**
13 **the same upon the issuance to the person of a license under this act,**
14 **except that a retailer licensed pursuant to K.S.A. 41-2702, and**
15 **amendments thereto, shall be eligible to receive a retailer's license**
16 **under the Kansas liquor control act;**
- 17 **(11) who does not own the premises for which a license is sought,**
18 **or does not, at the time of application, have a written lease thereon;**
- 19 **(12) whose spouse would be ineligible to receive a license under**
20 **this act for any reason other than citizenship, residence requirements**
21 **or age, except that this subsection (a)(12) shall not apply in**
22 **determining eligibility for a renewal license;**
- 23 **(13) whose spouse has been convicted of a felony or other crime**
24 **which would disqualify a person from licensure under this section and**
25 **such felony or other crime was committed during the time that the**
26 **spouse held a license under this act; or**
- 27 **(14) who does not provide any data or information required by**
28 **K.S.A. 2011 Supp. 41-311b, and amendments thereto.**
- 29 **(b) No retailer's license shall be issued to:**
- 30 **(1) A person who is not a resident of this state;**
- 31 **(2) a person who has not been a resident of this state for at least**
32 **four years immediately preceding the date of application;**
- 33 **(3) a person who has a beneficial interest in a manufacturer,**
34 **distributor, farm winery or microbrewery licensed under this act,**
35 **except that the spouse of an applicant for a retailer's license may own**
36 **and hold a farm winery license, microbrewery license, or both, if the**
37 **spouse does not hold a retailer's license issued under this act;**
- 38 **(4) a person who has a beneficial interest in any other retail**
39 **establishment licensed under this act, except that the spouse of a**
40 **licensee may own and hold a retailer's license for another retail**
41 **establishment;**
- 42 **(5) a copartnership, unless all of the copartners are qualified to**
43 **obtain a license;**

1 **(6) a corporation; or**

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

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

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

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

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

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

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

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

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

26 **(1) A corporation, if any officer, director or stockholder of the**
27 **corporation would be ineligible to receive a distributor's license for**
28 **any reason *other than citizenship and residence requirements, provided***
29 ***that at least one officer and one director of the corporation meets the***
30 ***citizenship and residence requirements. It shall be unlawful for any***
31 **stockholder of a corporation licensed as a distributor to transfer any**
32 **stock in the corporation to any person who would be ineligible to**
33 **receive a distributor's license for any reason, and any such transfer**
34 **shall be null and void, except that: (A) If any stockholder owning**
35 **stock in the corporation dies and an heir or devisee to whom stock of**
36 **the corporation descends by descent and distribution or by will is**
37 **ineligible to receive a distributor's license, the legal representatives of**
38 **the deceased stockholder's estate and the ineligible heir or devisee**
39 **shall have 14 months from the date of the death of the stockholder**
40 **within which to sell the stock to a person eligible to receive a**
41 **distributor's license, any such sale by a legal representative to be made**
42 **in accordance with the provisions of the probate code; or (B) if the**
43 **stock in any such corporation is the subject of any trust and any**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **Sec. 9- 10.** K.S.A. 41-304, 41-316 and 41-320 and K.S.A. 2011 Supp.
38 41-102, 41-310, **41-311**, 41-317 and 41-319 are hereby repealed.

39 ~~Sec. 11.~~ **11.** This act shall take effect and be in force from and after its
40 publication in the statute book.

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