

## HOUSE BILL No. 2138

By Committee on Federal and State Affairs

1-26

1 AN ACT concerning alcoholic beverages; relating to licensure under the  
2 club and drinking establishment act; authorizing the issuance of a  
3 license to an individual whose spouse is a law enforcement officer;  
4 amending K.S.A. 2020 Supp. 41-311 and repealing the existing section.

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

7 Section 1. K.S.A. 2020 Supp. 41-311 is hereby amended to read as  
8 follows: 41-311. (a) No license of any kind shall be issued pursuant to the  
9 liquor control act to a person:

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

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

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17 person whose license was revoked for the conviction of a misdemeanor at  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

19 (4) who has been convicted of being the keeper or is keeping any  
20 property, whether real or personal, where sexual relations are being sold or  
21 offered for sale by a person who is 18 years of age or older or has forfeited  
22 bond to appear in court to answer charges of being a keeper of any  
23 property, whether real or personal, where sexual relations are being sold or  
24 offered for sale by a person who is 18 years of age or older;

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

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

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

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

35 (9) who at the time of application for renewal of any license issued  
36 under this act would not be eligible for the license upon a first application,

1 except as provided by subsection (a)(12);

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

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

11 (12) whose spouse would be ineligible to receive a license under this  
12 act for any reason other than citizenship, residence requirements,  
13 *employment as a law enforcement official* or age, except that this  
14 subsection (a)(12) shall not apply in determining eligibility for a renewal  
15 license;

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

20 (14) who does not provide any data or information required by  
21 K.S.A. 2020 Supp. 41-311b, and amendments thereto; or

22 (15) who, after a hearing before the director, has been found to have  
23 held an undisclosed beneficial interest in any license issued pursuant to the  
24 liquor control act which was obtained by means of fraud or any false  
25 statement made on the application for such license.

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

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

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

30 (3) a person who has a beneficial interest in a manufacturer,  
31 distributor, farm winery or microbrewery licensed under this act, except  
32 that the spouse of an applicant for a retailer's license may own and hold a  
33 farm winery license, microbrewery license, or both, if the spouse does not  
34 hold a retailer's license issued under this act;

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

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

40 (6) a corporation; or

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

1 would be eligible for a license.

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

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

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

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

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

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

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

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

22 (1) A corporation, if any officer, director or stockholder of the  
23 corporation would be ineligible to receive a distributor's license for any  
24 reason. It shall be unlawful for any stockholder of a corporation licensed  
25 as a distributor to transfer any stock in the corporation to any person who  
26 would be ineligible to receive a distributor's license for any reason, and  
27 any such transfer shall be null and void, except that: (A) If any stockholder  
28 owning stock in the corporation dies and an heir or devisee to whom stock  
29 of the corporation descends by descent and distribution or by will is  
30 ineligible to receive a distributor's license, the legal representatives of the  
31 deceased stockholder's estate and the ineligible heir or devisee shall have  
32 14 months from the date of the death of the stockholder within which to  
33 sell the stock to a person eligible to receive a distributor's license, any such  
34 sale by a legal representative to be made in accordance with the provisions  
35 of the probate code; or (B) if the stock in any such corporation is the  
36 subject of any trust and any trustee or beneficiary of the trust who is 21  
37 years of age or older is ineligible to receive a distributor's license, the  
38 trustee, within 14 months after the effective date of the trust, shall sell the  
39 stock to a person eligible to receive a distributor's license and hold and  
40 disburse the proceeds in accordance with the terms of the trust. If any legal  
41 representatives, heirs, devisees or trustees fail, refuse or neglect to sell any  
42 stock as required by this subsection, the stock shall revert to and become  
43 the property of the corporation, and the corporation shall pay to the legal

1 representatives, heirs, devisees or trustees the book value of the stock.  
2 During the period of 14 months prescribed by this subsection, the  
3 corporation shall not be denied a distributor's license or have its  
4 distributor's license revoked if the corporation meets all of the other  
5 requirements necessary to have a distributor's license;

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

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

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

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

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

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

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

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

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

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

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

41 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),  
42 (f)(1) and K.S.A. 2020 Supp. 41-311b, and amendments thereto, shall not  
43 apply in determining eligibility for the 10<sup>th</sup>, or a subsequent, consecutive

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

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

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

17 (3) has been convicted of being the keeper or is keeping any property,  
18 whether real or personal, where sexual relations are being sold or offered  
19 for sale by a person who is 18 years of age or older or has forfeited bond to  
20 appear in court to answer charges of being a keeper of any property,  
21 whether real or personal, where sexual relations are being sold or offered  
22 for sale by a person who is 18 years of age or older;

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

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

28 Sec. 2. K.S.A. 2020 Supp. 41-311 is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its  
30 publication in the Kansas register.