

HOUSE BILL No. 2759

By Committee on Federal and State Affairs

2-20

1 AN ACT concerning alcoholic beverages; dealing with licensure of
2 microbreweries; amending K.S.A. 2011 Supp. 41-311 and repealing the
3 existing section.
4

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

6 Section 1. K.S.A. 2011 Supp. 41-311 is hereby amended to read as
7 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
8 liquor control act to a person:

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

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

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21 person whose license was revoked for the conviction of a misdemeanor at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

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

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

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

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

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

36 (9) who at the time of application for renewal of any license issued

1 under this act would not be eligible for the license upon a first application,
2 except as provided by subsection (a)(12);

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

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

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

20 (14) who does not provide any data or information required by
21 K.S.A. 2011 Supp. 41-311b, and amendments thereto.

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

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

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

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

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

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

36 (6) a corporation; or

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

42 (1) A corporation, if any officer or director thereof, or any
43 stockholder owning in the aggregate more than 25% of the stock of the

1 corporation would be ineligible to receive a manufacturer's license for any
2 reason other than citizenship and residence requirements;

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

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

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

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

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

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

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

1 requirements necessary to have a distributor's license;

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

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

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

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

15 (f) No microbrewery license or farm winery license shall be issued to
16 a:

17 (1) Person who is not a resident of this state, *except this provision*
18 *shall not apply to a microbrewery license;*

19 (2) person who has not been a resident of this state for at least one
20 year immediately preceding the date of application, *except this provision*
21 *shall not apply to a microbrewery license;*

22 (3) 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 (4) 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 (5) copartnership, unless all of the copartners are qualified to obtain a
32 license;

33 (6) 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 (7) 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), (f)(2) and K.S.A. 2011 Supp. 41-311b, and amendments thereto,
43 shall not apply in determining eligibility for the 10th, or a subsequent,

1 consecutive renewal of a license if the applicant has appointed a citizen of
2 the United States who is a resident of Kansas as the applicant's agent and
3 filed with the director a duly authenticated copy of a duly executed power
4 of 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 a house of
18 prostitution or has forfeited bond to appear in court to answer charges of
19 being a keeper of a house of prostitution;

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

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

25 Sec. 2. K.S.A. 2011 Supp. 41-311 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its
27 publication in the statute book.

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