

As Amended by House Committee

As Amended by Senate Committee

Session of 2014

SENATE BILL No. 346

By Committee on Federal and State Affairs

2-6

1 AN ACT concerning alcoholic beverages; ~~dealing with relating to~~;
2 microbreweries; **relating to citizenship requirements for licensure;**
3 amending K.S.A. 2013 Supp. 41-308b **and 41-311** and repealing the
4 existing seetion **sections**.

5

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

7 Section 1. K.S.A. 2013 Supp. 41-308b is hereby amended to read as
8 follows: 41-308b. (a) A microbrewery license shall allow:

9 (1) The manufacture of not less than 100 nor more than ~~15,000~~
10 **60,000 30,000** barrels of domestic beer during the ~~license~~ **calendar** year
11 and the storage thereof;

12 (2) the sale to beer distributors of beer, manufactured by the licensee;

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

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

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

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

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

33 (1) The transfer, from the licensed premises of the microbrewery to
34 the licensed premises of the microbrewery packaging and warehousing

1 facility, of beer manufactured by the licensee, for the purpose of packaging
2 or storage, or both; and

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

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

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

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

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

32 (f) No microbrewery shall:

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

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

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

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

43 (g) Whenever a microbrewery licensee is convicted of a violation of

1 the Kansas liquor control act, the director may revoke the licensee's license
2 and all fees paid for the license in accordance with the Kansas
3 administrative procedure act.

4 **Sec. 2. K.S.A. 2013 Supp. 41-311 is hereby amended to read as**
5 **follows: 41-311. (a) No license of any kind shall be issued pursuant to**
6 **the liquor control act to a person:**

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

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

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

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

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

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

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

37 (8) **who intends to carry on the business authorized by the license**
38 **as agent of another;**

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

42 (10) **who is the holder of a valid and existing license issued under**
43 **article 27 of chapter 41 of the Kansas Statutes Annotated, and**

1 amendments thereto, unless the person agrees to and does surrender
2 the license to the officer issuing the same upon the issuance to the
3 person of a license under this act, except that a retailer licensed
4 pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible
5 to receive a retailer's license under the Kansas liquor control act;

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

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

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

16 (14) who does not provide any data or information required by
17 K.S.A. 2013 Supp. 41-311b, and amendments thereto.

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

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

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

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

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

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

33 (6) a corporation; or

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

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

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

43 (2) a copartnership, unless all of the copartners shall have been

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

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

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

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

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

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

15 (1) A corporation, if any officer, director or stockholder of the
16 corporation would be ineligible to receive a distributor's license for
17 any reason. It shall be unlawful for any stockholder of a corporation
18 licensed as a distributor to transfer any stock in the corporation to any
19 person who would be ineligible to receive a distributor's license for
20 any reason, and any such transfer shall be null and void, except that:

21 (A) If any stockholder owning stock in the corporation dies and an
22 heir or devisee to whom stock of the corporation descends by descent
23 and distribution or by will is ineligible to receive a distributor's
24 license, the legal representatives of the deceased stockholder's estate
25 and the ineligible heir or devisee shall have 14 months from the date of
26 the death of the stockholder within which to sell the stock to a person
27 eligible to receive a distributor's license, any such sale by a legal
28 representative to be made in accordance with the provisions of the
29 probate code; or (B) if the stock in any such corporation is the subject
30 of any trust and any trustee or beneficiary of the trust who is 21 years
31 of age or older is ineligible to receive a distributor's license, the
32 trustee, within 14 months after the effective date of the trust, shall sell
33 the stock to a person eligible to receive a distributor's license and hold
34 and disburse the proceeds in accordance with the terms of the trust. If
35 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
38 corporation shall pay to the legal representatives, heirs, devisees or
39 trustees the book value of the stock. During the period of 14 months
40 prescribed by this subsection, the corporation shall not be denied a
41 distributor's license or have its distributor's license revoked if the
42 corporation meets all of the other requirements necessary to have a
43 distributor's license;

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

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

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

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

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

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

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

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

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

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

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

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

39 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)
40 (3), (f)(1), (f)(2) and K.S.A. 2013 Supp. 41-311b, and amendments
41 thereto, shall not apply in determining eligibility for the 10th, or a
42 subsequent, consecutive renewal of a license if the applicant has
43 appointed a citizen of the United States who is a resident of Kansas as

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

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

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

16 (3) has been convicted of being the keeper or is keeping any
17 property, whether real or personal, where sexual relations are being
18 sold or offered for sale by a person who is 18 years of age or older or
19 has forfeited bond to appear in court to answer charges of being a
20 keeper of any property, whether real or personal, where sexual
21 relations are being sold or offered for sale by a person who is 18 years
22 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. 3. K.S.A. 2013 Supp. 41-308bis and 41-311 are hereby
29 repealed.

30 Sec.3. 4. This act shall take effect and be in force from and after its
31 publication in the statute book.