

HOUSE BILL No. 2084

AN ACT concerning alcoholic beverages; relating to the regulation thereof; amending K.S.A. 21-3610, 41-204, 41-311, as amended by Section 1 of 2001 Senate Bill No. 178, 41-2623 and 41-2703 and repealing the existing sections; also repealing K.S.A. 21-3610a.

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

Section 1. K.S.A. 21-3610 is hereby amended to read as follows: 21-3610. (a) Furnishing alcoholic liquor *or cereal malt beverage* to a minor is directly or indirectly, selling to, buying for, giving or furnishing any alcoholic liquor *or cereal malt beverage* to any minor.

(b) *Except as provided by subsections (d) and (e)*, furnishing alcoholic liquor *or cereal malt beverage* to a minor is a class B person misdemeanor for which the minimum fine is \$200.

(c) (1) *Except as provided by paragraph (2) of this subsection*, as used in this section, terms have the meanings provided by K.S.A. 41-102, and amendments thereto.

(2) *As used in this section, "cereal malt beverage," "retailer" and "legal age for consumption of cereal malt beverage" have the meanings provided by K.S.A. 41-2701, and amendments thereto.*

(d) It shall be a defense to a prosecution under this section if: (1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof; (2) the defendant sold the alcoholic liquor *or cereal malt beverage* to the minor with reasonable cause to believe that the minor was 21 or more years of age *or of legal age for the consumption of alcoholic liquor or cereal malt beverage*; and (3) to purchase the alcoholic liquor, ~~the minor or cereal malt beverage~~, *the person* exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was 21 or more years of age *or of legal age for the consumption of alcoholic liquor or cereal malt beverage*.

(e) *This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward.*

Sec. 2. K.S.A. 41-204 is hereby amended to read as follows: 41-204.

~~(a) No person shall be appointed director who is not a citizen of the United States and who has not resided in the state of Kansas successively for five years immediately preceding the date of appointment.~~

~~(b) No person shall be appointed deputy director who is not a citizen of the United States and who has not resided in the state of Kansas successively for two years immediately preceding the date of appointment.~~

*(a) Any person appointed as director and all employees of the division shall be citizens of the United States and residents of the state of Kansas.*

~~(c) (b)~~ *(b)* No person shall be appointed director or deputy director if such person has been convicted of a felony or of any violation of any federal or state law concerning the manufacture or sale of alcoholic liquor or cereal malt beverages, has paid a fine or penalty in settlement in any prosecution against such person in any violation of such laws or has forfeited bond to appear in court to answer charges for any such violation.

~~(d) (c)~~ *(c)* No person appointed director, ~~deputy director or agent or employee of the director may~~ *or any employee of the division may have*, directly or indirectly, individually or as a member of a partnership, or as a shareholder of a corporation, ~~have~~ *have* any interest whatsoever in the manufacture, sale or distribution of alcoholic liquor, nor receive any compensation or profit therefrom, nor have any interest whatsoever in the purchases or sales made by the persons authorized by this act, or to purchase or to sell alcoholic liquor. ~~None of the provisions of~~ *Nothing in* this subsection shall prevent a person subject to this subsection from purchasing and keeping in the person's possession for the use of the person or the person's family or guests any alcoholic liquor which may be purchased or kept by any person by virtue of this act.

Sec. 3. K.S.A. 41-311, as amended by section 1 of 2001 Senate Bill No. 178 is hereby amended to read as follows: 41-311.

(a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and

is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

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

(3) who has had a license revoked for cause under the provisions of this act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

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

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

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

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

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

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

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

(11) who does not own the premises for which a license is sought, or does not have a written lease thereon for at least  $\frac{3}{4}$  of the period for which the license is to be issued; ~~or~~

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

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

~~(13)~~ (14) who does not provide any data or information required by section 2 of 2001 Senate Bill No. 178, and amendments thereto.

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

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

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

(3) a person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages;

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

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

(6) a corporation; or

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

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

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

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date

of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

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

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

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

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

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

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

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

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

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

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

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

(3) person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages other than that produced by such brewery or winery;

(4) person, copartnership or association which has beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto;

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

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

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provi-

sions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), ~~(d)(4)~~, (f)(1) ~~and (f)(2)~~, (f)(2) and section 2 of 2001 Senate Bill No. 178, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

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

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

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

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

(5) is less than 21 years of age.

Sec. 4. K.S.A. 41-2623 is hereby amended to read as follows: 41-2623. (a) No license shall be issued under the provisions of this act to:

(1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7), (8), (9) ~~or (12)~~, (12) or (13) of K.S.A. 41-311, and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

(2) A person who has had the person's license revoked for cause under the provisions of this act.

(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

(A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more other clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotels.

(B) A license for a club or drinking establishment which is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments which are restaurants.

(C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer.

(D) A license for a class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club.

(E) On and after January 1, 1988, a license for a class B club or drinking establishment may be granted to a person who has a beneficial interest in a microbrewery or farm winery licensed pursuant to the Kansas liquor control act.

(5) A copartnership, unless all of the copartners are qualified to obtain a license.

(6) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residence requirements.

(7) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(8) A corporation organized under the laws of any state other than this state.

(9) A trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to:

(1) A person described in subsection (a)(11) of K.S.A. 41-311, and amendments thereto.

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.

Sec. 5. K.S.A. 41-2703 is hereby amended to read as follows: 41-2703. (a) After examination of an application for a retailer's license, the board of county commissioners or the director shall, if they approve the same, issue a license to the applicant. The governing body of the city shall, if the applicant is qualified as provided by law, issue a license to such applicant.

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

(1) A person who is not a resident of the county in which the place of business covered by the license is located, has not been a resident of such county for at least six months or has not been a resident in good faith of the state of Kansas.

(2) A person who has not been a resident of this state for at least one year immediately preceding application for a retailer's license.

(3) A person who is not of good character and reputation in the community in which the person resides.

(4) A person who is not a citizen of the United States.

(5) A person who, within two years immediately preceding the date of application, has been convicted of a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

(6) A partnership, unless all the members of the partnership are otherwise qualified to obtain a license.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than the citizenship and residency requirements.

(8) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25% of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. 41-2708, and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.

(9) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all the qualifications of a licensee.

(10) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, residence requirements or

age, except that this subsection (b)(10) shall not apply in determining eligibility for a renewal license.

(11) *A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act.*

(c) Retailers' licenses shall be issued either on an annual basis or for the calendar year. If such licenses are issued on an annual basis, the board of county commissioners or the governing body of the city shall notify the distributors supplying the county or city on or before April 1 of the year if a retailer's license is not renewed.

Sec. 6. K.S.A. 21-3610, 21-3610a, 41-204, 41-311, as amended by Section 1 of 2001 Senate Bill No. 178, 41-2623 and 41-2703 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

\_\_\_\_\_  
HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*