

HOUSE BILL No. 2639

By Committee on Federal and State Affairs

1-18

9 AN ACT concerning alcoholic beverages; relating to qualifications for
10 certain licenses; amending K.S.A. 2005 Supp. 41-311 and 41-2623 and
11 repealing the existing sections.
12

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

14 Section 1. K.S.A. 2005 Supp. 41-311 is hereby amended to read as
15 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
16 liquor control act to a person:

17 (1) Who has not been a citizen of the United States for at least 10
18 years, except that the spouse of a deceased retail licensee may receive
19 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
20 is a United States citizen or becomes a United States citizen within one
21 year after the deceased licensee's death;

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

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28 person whose license was revoked for the conviction of a misdemeanor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

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

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

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

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

41 (8) who intends to carry on the business authorized by the license as
42 agent of another;
43

- 1 (9) who at the time of application for renewal of any license issued
2 under this act would not be eligible for the license upon a first application,
3 except as provided by subsection (a)(12);
- 4 (10) who is the holder of a valid and existing license issued under
5 article 27 of chapter 41 of the Kansas Statutes Annotated unless the per-
6 son agrees to and does surrender the license to the officer issuing the
7 same upon the issuance to the person of a license under this act, except
8 that a retailer licensed pursuant to K.S.A. 41-2702, and amendments
9 thereto, shall be eligible to receive a retailer's license under the Kansas
10 liquor control act;
- 11 (11) who does not own the premises for which a license is sought, or
12 does not have a written lease thereon for at least $\frac{3}{4}$ of the period for
13 which the license is to be issued;
- 14 (12) whose spouse would be ineligible to receive a license under this
15 act for any reason other than citizenship, residence requirements or age,
16 except that this subsection (a)(12) shall not apply in determining eligibility
17 for a renewal license;
- 18 (13) whose spouse has been convicted of a felony or other crime
19 which would disqualify a person from licensure under this section and
20 such felony or other crime was committed during the time that the spouse
21 held a license under this act; ~~or~~
- 22 (14) who does not provide any data or information required by K.S.A.
23 2005 Supp. 41-311b, and amendments thereto; *or*
- 24 (15) *who is not current in the payment of all taxes related directly to*
25 *the business for which the license is issued and imposed pursuant to K.S.A.*
26 *41-501 et seq., 79-3294 et seq., 79-3601 et seq., 79-4101 et seq. and 79-*
27 *41a01 et seq., and amendments thereto, unless such taxes are under formal*
28 *appeal or an agreement for the payment of such taxes has been entered*
29 *into by the department of revenue and the person seeking licensure and*
30 *such person is current in the payments under such agreement, and if the*
31 *licensee is a corporation, partnership, trust or association, the individual*
32 *officers, directors, stockholders, partners, manager or other individual*
33 *members shall not be required to be current in the payment of their own*
34 *individual taxes as a condition of issuance or renewal of any such entity's*
35 *license.*
- 36 (b) No retailer's license shall be issued to:
- 37 (1) A person who is not a resident of this state;
- 38 (2) a person who has not been a resident of this state for at least four
39 years immediately preceding the date of application;
- 40 (3) a person who has beneficial interest in the manufacture, prepa-
41 ration or wholesaling of alcoholic beverages;
- 42 (4) a person who has beneficial interest in any other retail establish-
43 ment licensed under this act, except that the spouse of a licensee may

- 1 own and hold a retailer's license for another retail establishment;
- 2 (5) a copartnership, unless all of the copartners are qualified to obtain
3 a license;
- 4 (6) a corporation; or
- 5 (7) a trust, if any grantor, beneficiary or trustee would be ineligible
6 to receive a license under this act for any reason, except that the provi-
7 sions of subsection (a)(6) shall not apply in determining whether a ben-
8 eficiary would be eligible for a license.
- 9 (c) No manufacturer's license shall be issued to:
- 10 (1) A corporation, if any officer or director thereof, or any stockholder
11 owning in the aggregate more than 25% of the stock of the corporation
12 would be ineligible to receive a manufacturer's license for any reason
13 other than citizenship and residence requirements;
- 14 (2) a copartnership, unless all of the copartners shall have been res-
15 idents of this state for at least five years immediately preceding the date
16 of application and unless all the members of the copartnership would be
17 eligible to receive a manufacturer's license under this act;
- 18 (3) a trust, if any grantor, beneficiary or trustee would be ineligible
19 to receive a license under this act for any reason, except that the provi-
20 sions of subsection (a)(6) shall not apply in determining whether a ben-
21 eficiary would be eligible for a license;
- 22 (4) an individual who is not a resident of this state; or
- 23 (5) an individual who has not been a resident of this state for at least
24 five years immediately preceding the date of application.
- 25 (d) No distributor's license shall be issued to:
- 26 (1) A corporation, if any officer, director or stockholder of the cor-
27 poration would be ineligible to receive a distributor's license for any rea-
28 son. It shall be unlawful for any stockholder of a corporation licensed as
29 a distributor to transfer any stock in the corporation to any person who
30 would be ineligible to receive a distributor's license for any reason, and
31 any such transfer shall be null and void, except that: (A) If any stockholder
32 owning stock in the corporation dies and an heir or devisee to whom stock
33 of the corporation descends by descent and distribution or by will is in-
34 eligible to receive a distributor's license, the legal representatives of the
35 deceased stockholder's estate and the ineligible heir or devisee shall have
36 14 months from the date of the death of the stockholder within which to
37 sell the stock to a person eligible to receive a distributor's license, any
38 such sale by a legal representative to be made in accordance with the
39 provisions of the probate code; or (B) if the stock in any such corporation
40 is the subject of any trust and any trustee or beneficiary of the trust who
41 is 21 years of age or older is ineligible to receive a distributor's license,
42 the trustee, within 14 months after the effective date of the trust, shall
43 sell the stock to a person eligible to receive a distributor's license and

- 1 hold and disburse the proceeds in accordance with the terms of the trust.
2 If any legal representatives, heirs, devisees or trustees fail, refuse or ne-
3 glect to sell any stock as required by this subsection, the stock shall revert
4 to and become the property of the corporation, and the corporation shall
5 pay to the legal representatives, heirs, devisees or trustees the book value
6 of the stock. During the period of 14 months prescribed by this subsec-
7 tion, the corporation shall not be denied a distributor's license or have its
8 distributor's license revoked if the corporation meets all of the other
9 requirements necessary to have a distributor's license;
- 10 (2) a copartnership, unless all of the copartners are eligible to receive
11 a distributor's license; or
- 12 (3) a trust, if any grantor, beneficiary or trustee would be ineligible
13 to receive a license under this act for any reason, except that the provi-
14 sions of subsection (a)(6) shall not apply in determining whether a ben-
15 eficiary would be eligible for a license.
- 16 (e) No nonbeverage user's license shall be issued to a corporation, if
17 any officer, manager or director of the corporation or any stockholder
18 owning in the aggregate more than 25% of the stock of the corporation
19 would be ineligible to receive a nonbeverage user's license for any reason
20 other than citizenship and residence requirements.
- 21 (f) No microbrewery license or farm winery license shall be issued to
22 a:
- 23 (1) Person who is not a resident of this state;
- 24 (2) person who has not been a resident of this state for at least four
25 years immediately preceding the date of application;
- 26 (3) person who has beneficial interest in the manufacture, prepara-
27 tion or wholesaling of alcoholic beverages other than that produced by
28 such brewery or winery;
- 29 (4) person, copartnership or association which has beneficial interest
30 in any retailer licensed under this act or under K.S.A. 41-2702, and
31 amendments thereto;
- 32 (5) copartnership, unless all of the copartners are qualified to obtain
33 a license;
- 34 (6) corporation, unless stockholders owning in the aggregate 50% or
35 more of the stock of the corporation would be eligible to receive such
36 license and all other stockholders would be eligible to receive such license
37 except for reason of citizenship or residency; or
- 38 (7) a trust, if any grantor, beneficiary or trustee would be ineligible
39 to receive a license under this act for any reason, except that the provi-
40 sions of subsection (a)(6) shall not apply in determining whether a ben-
41 eficiary would be eligible for a license.
- 42 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),
43 (f)(1), (f)(2) and K.S.A. 2005 Supp. 41-311b, and amendments thereto,

1 shall not apply in determining eligibility for the 10th, or a subsequent,
2 consecutive renewal of a license if the applicant has appointed a citizen
3 of the United States who is a resident of Kansas as the applicant's agent
4 and filed with the director a duly authenticated copy of a duly executed
5 power of attorney, authorizing the agent to accept service of process from
6 the director and the courts of this state and to exercise full authority,
7 control and responsibility for the conduct of all business and transactions
8 within the state relative to alcoholic liquor and the business licensed. The
9 agent must be satisfactory to and approved by the director, except that
10 the director shall not approve as an agent any person who:

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

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

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

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

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

26 Sec. 2. K.S.A. 2005 Supp. 41-2623 is hereby amended to read as
27 follows: 41-2623. (a) No license shall be issued under the provisions of
28 this act to:

29 (1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7),
30 (8), (9), (12) ~~or~~, (13) *or* (15) of K.S.A. 41-311, and amendments thereto,
31 except that the provisions of subsection (a)(7) of such section shall not
32 apply to nor prohibit the issuance of a license for a class A club to an
33 officer of a post home of a congressionally chartered service or fraternal
34 organization, or a benevolent association or society thereof.

35 (2) A person who has had the person's license revoked for cause un-
36 der the provisions of this act.

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

39 (4) A person who has a beneficial interest in the manufacture, prep-
40 aration or wholesaling or the retail sale of alcoholic liquors or a beneficial
41 interest in any other club, drinking establishment or caterer licensed here-
42 under, except that:

43 (A) A license for premises located in a hotel may be granted to a

- 1 person who has a beneficial interest in one or more other clubs or drinking
2 establishments licensed hereunder if such other clubs or establishments
3 are located in hotels.
- 4 (B) A license for a club or drinking establishment which is a restau-
5 rant may be issued to a person who has a beneficial interest in other clubs
6 or drinking establishments which are restaurants.
- 7 (C) A caterer's license may be issued to a person who has a beneficial
8 interest in a club or drinking establishment and a license for a club or
9 drinking establishment may be issued to a person who has a beneficial
10 interest in a caterer.
- 11 (D) A license for a class A club may be granted to an organization of
12 which an officer, director or board member is a distributor or retailer
13 licensed under the liquor control act if such distributor or retailer sells
14 no alcoholic liquor to such club.
- 15 (E) On and after January 1, 1988, a license for a class B club or
16 drinking establishment may be granted to a person who has a beneficial
17 interest in a microbrewery or farm winery licensed pursuant to the Kansas
18 liquor control act.
- 19 (5) A copartnership, unless all of the copartners are qualified to ob-
20 tain a license.
- 21 (6) A corporation, if any officer, manager or director thereof, or any
22 stockholder owning in the aggregate more than 5% of the common or
23 preferred stock of such corporation would be ineligible to receive a li-
24 cense hereunder for any reason other than citizenship and residence
25 requirements.
- 26 (7) A corporation, if any officer, manager or director thereof, or any
27 stockholder owning in the aggregate more than 5% of the common or
28 preferred stock of such corporation, has been an officer, manager or di-
29 rector, or a stockholder owning in the aggregate more than 5% of the
30 common or preferred stock, of a corporation which:
- 31 (A) Has had a license revoked under the provisions of the club and
32 drinking establishment act; or
- 33 (B) has been convicted of a violation of the club and drinking estab-
34 lishment act or the cereal malt beverage laws of this state.
- 35 (8) A corporation organized under the laws of any state other than
36 this state.
- 37 (9) A trust, if any grantor, beneficiary or trustee would be ineligible
38 to receive a license under this act for any reason, except that the provi-
39 sions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall
40 not apply in determining whether a beneficiary would be eligible for a
41 license.
- 42 (b) No club or drinking establishment license shall be issued under
43 the provisions of the club and drinking establishment act to:

- 1 (1) A person described in subsection (a)(11) of K.S.A. 41-311, and
- 2 amendments thereto.
- 3 (2) A person who is not a resident of the county in which the premises
- 4 sought to be licensed are located.
- 5 Sec. 3. K.S.A. 2005 Supp. 41-311 and 41-2623 are hereby repealed.
- 6 Sec. 4. This act shall take effect and be in force from and after its
- 7 publication in the statute book.