

HOUSE BILL No. 2555

By Committee on Federal and State Affairs

2-28

9 AN ACT concerning alcoholic beverages; amending K.S.A. 41-312 and
10 K.S.A. 2006 Supp. 41-311 and repealing the existing sections.

11

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

13 Section 1. K.S.A. 2006 Supp. 41-311 is hereby amended to read as
14 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
15 liquor control act to a person:

16 (1) Who has not been a citizen of the United States for at least 10
17 years, except that the spouse of a deceased retail licensee may receive
18 and renew a retail license notwithstanding the provisions of this subsec-
19 tion (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28 person whose license was revoked for the conviction of a misdemeanor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 (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 unless the per-
5 son agrees to and does surrender the license to the officer issuing the
6 same upon the issuance to the person of a license under this act, except
7 that a retailer licensed pursuant to K.S.A. 41-2702, and amendments
8 thereto, shall be eligible to receive a retailer's license under the Kansas
9 liquor control act;
- 10 (11) who does not own the premises for which a license is sought, or
11 does not have a written lease thereon for at least $\frac{3}{4}$ of the period for
12 which the license is to be issued;
- 13 (12) whose spouse would be ineligible to receive a license under this
14 act for any reason other than citizenship, residence requirements or age,
15 except that this subsection (a)(12) shall not apply in determining eligibility
16 for a renewal license;
- 17 (13) whose spouse has been convicted of a felony or other crime
18 which would disqualify a person from licensure under this section and
19 such felony or other crime was committed during the time that the spouse
20 held a license under this act; or
- 21 (14) who does not provide any data or information required by K.S.A.
22 2006 Supp. 41-311b, and amendments thereto.
- 23 (b) No retailer's license shall be issued to:
- 24 (1) A person who is not a resident of this state;
- 25 (2) a person who has not been a resident of this state for at least four
26 years immediately preceding the date of application;
- 27 (3) a person who has beneficial interest in the manufacture, prepa-
28 ration or wholesaling of alcoholic beverages;
- 29 (4) a person who has beneficial interest in any other retail establish-
30 ment licensed under this act, except that the spouse of a licensee may
31 own and hold a retailer's license for another retail establishment;
- 32 (5) a copartnership, unless all of the copartners are qualified to obtain
33 a license;
- 34 (6) a corporation; or
- 35 (7) a trust, if any grantor, beneficiary or trustee would be ineligible
36 to receive a license under this act for any reason, except that the provi-
37 sions of subsection (a)(6) shall not apply in determining whether a ben-
38 eficiary would be eligible for a license.
- 39 (c) No manufacturer's license shall be issued to:
- 40 (1) A corporation, if any officer or director thereof, or any stockholder
41 owning in the aggregate more than 25% of the stock of the corporation
42 would be ineligible to receive a manufacturer's license for any reason
43 other than citizenship and residence requirements;

- 1 (2) a copartnership, unless all of the copartners shall have been res-
2 idents of this state for at least five years immediately preceding the date
3 of application and unless all the members of the copartnership would be
4 eligible to receive a manufacturer's license under this act;
- 5 (3) 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 (4) an individual who is not a resident of this state; or
- 10 (5) an individual who has not been a resident of this state for at least
11 five years immediately preceding the date of application.
- 12 (d) No distributor's license shall be issued to:
- 13 (1) A corporation, if any officer, director or stockholder of the cor-
14 poration would be ineligible to receive a distributor's license for any rea-
15 son. It shall be unlawful for any stockholder of a corporation licensed as
16 a distributor to transfer any stock in the corporation to any person who
17 would be ineligible to receive a distributor's license for any reason, and
18 any such transfer shall be null and void, except that: (A) If any stockholder
19 owning stock in the corporation dies and an heir or devisee to whom stock
20 of the corporation descends by descent and distribution or by will is in-
21 eligible to receive a distributor's license, the legal representatives of the
22 deceased stockholder's estate and the ineligible heir or devisee shall have
23 14 months from the date of the death of the stockholder within which to
24 sell the stock to a person eligible to receive a distributor's license, any
25 such sale by a legal representative to be made in accordance with the
26 provisions of the probate code; or (B) if the stock in any such corporation
27 is the subject of any trust and any trustee or beneficiary of the trust who
28 is 21 years of age or older is ineligible to receive a distributor's license,
29 the trustee, within 14 months after the effective date of the trust, shall
30 sell the stock to a person eligible to receive a distributor's license and
31 hold and disburse the proceeds in accordance with the terms of the trust.
32 If any legal representatives, heirs, devisees or trustees fail, refuse or ne-
33 glect to sell any stock as required by this subsection, the stock shall revert
34 to and become the property of the corporation, and the corporation shall
35 pay to the legal representatives, heirs, devisees or trustees the book value
36 of the stock. During the period of 14 months prescribed by this subsec-
37 tion, the corporation shall not be denied a distributor's license or have its
38 distributor's license revoked if the corporation meets all of the other
39 requirements necessary to have a distributor's license;
- 40 (2) a copartnership, unless all of the copartners are eligible to receive
41 a distributor's license; or
- 42 (3) a trust, if any grantor, beneficiary or trustee would be ineligible
43 to receive a license under this act for any reason, except that the provi-

1 sions of subsection (a)(6) shall not apply in determining whether a ben-
2 eficiary would be eligible for a license.

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

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

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

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

13 ~~(3) person who has beneficial interest in the manufacture, prepara-~~
14 ~~tion or wholesaling of alcoholic beverages other than that produced by~~
15 ~~such brewery or winery;~~

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

19 ~~(5) (4) copartnership, unless all of the copartners are qualified to~~
20 ~~obtain a license;~~

21 ~~(6) (5) corporation, unless stockholders owning in the aggregate 50%~~
22 ~~or more of the stock of the corporation would be eligible to receive such~~
23 ~~license and all other stockholders would be eligible to receive such license~~
24 ~~except for reason of citizenship or residency; or~~

25 ~~(7) (6) a trust, if any grantor, beneficiary or trustee would be ineligible~~
26 ~~to receive a license under this act for any reason, except that the provi-~~
27 ~~sions of subsection (a)(6) shall not apply in determining whether a ben-~~
28 ~~eficiary would be eligible for a license.~~

29 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),
30 (f)(1), (f)(2) and K.S.A. 2006 Supp. 41-311b, and amendments thereto,
31 shall not apply in determining eligibility for the 10th, or a subsequent,
32 consecutive renewal of a license if the applicant has appointed a citizen
33 of the United States who is a resident of Kansas as the applicant's agent
34 and filed with the director a duly authenticated copy of a duly executed
35 power of attorney, authorizing the agent to accept service of process from
36 the director and the courts of this state and to exercise full authority,
37 control and responsibility for the conduct of all business and transactions
38 within the state relative to alcoholic liquor and the business licensed. The
39 agent must be satisfactory to and approved by the director, except that
40 the director shall not approve as an agent any person who:

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

43 (2) has had a license issued under the alcoholic liquor or cereal malt

1 beverage laws of this or any other state revoked for cause, except that a
2 person may be appointed as an agent if the person's license was revoked
3 for the conviction of a misdemeanor and 10 years have lapsed since the
4 date of the revocation;

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

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

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

13 Sec. 2. K.S.A. 41-312 is hereby amended to read as follows: 41-312.
14 No person holding a manufacturer's or distributor's license shall be per-
15 mitted to receive any retailer's, microbrewery or farm winery license. No
16 person holding a retailer's, microbrewery or farm winery license shall be
17 permitted to receive any manufacturer's or distributor's license or another
18 retailer's, ~~microbrewery or farm winery~~ license.

19 Sec. 3. K.S.A. 41-312 and K.S.A. 2006 Supp. 41-311 are hereby
20 repealed.

21 Sec. 4. This act shall take effect and be in force from and after its
22 publication in the statute book.