

SENATE BILL No. 53

AN ACT concerning cereal malt beverages; relating to discretion by cities in granting and suspending or revoking a retailer's license; amending K.S.A. 2008 Supp. 41-2703 and 41-2708 and repealing the existing sections.

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

Section 1. K.S.A. 2008 Supp. 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 *approval*, has been convicted of, *released from incarceration for or released from probation or parole for* 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) (8)~~ (8) 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) (9)~~ (9) 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)~~ (9) shall not apply in determining eligibility for a renewal license.

~~(11) (10)~~ (10) 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) *After examination of an application for a retailer's license, the board of county commissioners or the governing body of a city may deny a license to a person, partnership or 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, director or a stockholder owning in the aggregate more than 25% of the stock, of a corporation which has:*

(1) *Had a retailer's license revoked under K.S.A. 41-2708, and amendments thereto; or*

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

(d) 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. 2. K.S.A. 2008 Supp. 41-2708 is hereby amended to read as follows: 41-2708. (a) The board of county commissioners or the governing

body of any city, upon five days' notice to the persons holding a license, ~~shall may~~ revoke or suspend the license for any one of the following reasons:

- ~~(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;~~
- ~~(2) (1) The licensee has violated any of the provisions of K.S.A. 41-2701 et seq., and amendments thereto, or any rules or regulations made by the board or the city, as the case may be;~~
- ~~(3) the licensee has become ineligible to obtain a license under this act;~~
- ~~(4) (2) drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;~~
- ~~(5) (3) the sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage;~~
- ~~(6) the nonpayment of any license fees;~~
- ~~(7) permitting any gambling in or upon the licensee's place of business;~~
- ~~(8) (4) permitting any person to mix drinks with materials purchased in or upon the place of business or brought in for that purpose;~~
- ~~(9) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages;~~
- ~~(10) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States;~~
- ~~(11) (5) the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102, and amendments thereto; or~~
- ~~(12) (6) the licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act; or~~
- ~~(13) there has been a violation of K.S.A. 21-4106 or 21-4107, and amendments thereto, in or upon the licensee's place of business.~~

(b) The provisions of subsections ~~(a)(8) and (11)~~ *(a)(4) and (5)* shall not apply if the place of business or premises also are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(c) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

- (1) The licensee has fraudulently obtained the license by giving false information in the application therefor;*
- (2) the licensee has become ineligible to obtain a license under this act;*
- (3) the nonpayment of any license fees;*
- (4) permitting any gambling in or upon the licensee's place of business;*
- (5) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages;*
- (6) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; or*
- (7) there has been a violation of K.S.A. 21-4106 or 21-4107, and amendments thereto, in or upon the licensee's place of business.*

~~(e)~~ *(d)* Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal. ~~In case of the revocation of the license of any licensee, no new license shall be issued to the former licensee, or to any person acting for or on the former licensee's behalf, for a period of six months thereafter.~~

Sec. 3. K.S.A. 2008 Supp. 41-2703 and 41-2708 are hereby repealed.

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

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

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.