

2015

HOUSE BILL NO. \_\_\_\_\_

By Committee on Federal and State Affairs

AN ACT concerning alcoholic beverages; relating to retailer's licenses; amending K.S.A. 2014 Supp. 41-102, 41-301, 41-303, 41-304, 41-308, 41-308d, 41-310, 41-311, 41-313, 41-326, 41-713 and 79-4108 and repealing the existing sections; also repealing K.S.A. 41-103 and 41-711.

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

New Section 1. (a) On and after July 1, 2015, all retailer's licenses to sell alcoholic liquor issued by the director prior to such date shall be deemed to be retailer's class B licenses.

(b) A holder of a retailer's class B license shall have all the privileges granted to such licensees as set forth in K.S.A. 41-308, and amendments thereto.

(c) On and after July 1, 2015, the total number of retailer's class B licenses issued by the director to sell alcoholic liquor shall not exceed the number of valid retailer's licenses issued as of June 30, 2015. The director may only issue a retailer's class B license to sell alcoholic liquor to a qualified applicant if the issuance of such license would not cause the total number of such valid licenses issued to exceed the number of valid retailer's licenses issued as of June 30, 2015.

New Sec. 2. (a) On and after July 1, 2018, any licensee holding a valid retailer's class B license may transfer such license to any person qualified to hold such license under the Kansas liquor control act. The transferee's proposed premises to be licensed shall be located in the same county as the licensed premises of the transferor.

(b) Any transfer of a license pursuant to this section shall be approved by the director. The director may require the transferor, the transferee, or both, to submit such information as the director deems necessary in order to determine that the license transfer satisfies the requirements of the Kansas liquor control act. Such information shall be submitted in the manner and on such

forms as prescribed by the director, and may include, but shall not be limited to, such information concerning the transferee that shows such transferee is qualified to hold a retailer's license and a copy of the agreement to transfer the license.

(c) On the effective date of the transfer of a license in accordance with this section, the director shall issue a retailer's class B license to the transferee. Such license shall be issued for the premises of the transferee as stated in the transfer agreement. The term of such license shall be for the remainder of the term of the license held by the transferor immediately prior to the effective date of the transfer. The director shall not require the payment of any new or additional retailer's license fee by the transferee. The transferee shall pay a nonrefundable transfer fee in the amount of \$500, which fee shall be submitted to the director at the same time the request for approval of the transfer is submitted to the director.

New Sec. 3. (a) On and after July 1, 2018, the director may issue to qualified applicants a retailer's class A license. A retailer's class A license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, beer for use or consumption off of and away from the premises specified in such license.

(b) A retailer's class A license shall permit the sale and delivery of beer only on the licensed premises and shall not permit the sale of beer for resale in any form, except that the licensee may sell beer to a temporary permit holder for resale by such temporary permit holder.

(c) A retailer's class A licensee may:

(1) Sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the licensee is selected as a lottery retailer;

(2) include in the sale of beer any goods included by the manufacturer in packaging

with the beer, subject to the approval of the director;

(3) distribute to the public, without charge, consumer advertising specialities bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialities so that they are not conditioned on or an inducement to the purchase of beer;

(4) store beer in refrigerators, cold storage units, ice boxes or other cooling devices, and sell such beer to consumers in a chilled condition; and

(5) sell any other good or service on the licensed premises.

(d) A retailer's class A license shall be subject to the provisions of K.S.A. 41-1101, and amendments thereto, prohibiting a retailer from purchasing alcoholic liquor from a distributor who has not filed with the director a sworn statement agreeing to sell to all retailers in the distributor's franchised territory at the same unit price and prohibiting a distributor from selling alcoholic liquor to a retailer at a discount for multiple case lots. A retailer's class A license also shall be subject to the provisions of K.S.A. 41-729, and amendments thereto, prohibiting the sale of alcoholic liquor at less than the acquisition cost thereof.

New Sec. 4. The director may propose rules and regulations necessary to implement and administer the provisions of sections 1 through 3, and amendments thereto, and submit such rules and regulations to the secretary in accordance with K.S.A. 41-210, and amendments thereto. Such rules and regulations may include, but are not limited to:

(a) That on and after July 1, 2018, the number of retailer's licenses that are issued by the director in any one month may be limited to that number which may be reasonably processed and issued by the director based on the resources of the division of alcoholic beverage control;

and

(b) that submission of applications for a retailer's license to the director and review of such applications by the director for compliance with the Kansas liquor control act may be permitted prior to July 1, 2018.

New Sec. 5. The provisions of sections 1 through 5, and amendments thereto, shall be a part of and supplemental to the Kansas liquor control act.

New Sec. 6. (a) On and after July 1, 2018, 3% of the revenue remitted to the state treasurer pursuant to K.S.A. 79-4108, and amendments thereto, during the prior calendar year quarter that is deposited in the state treasury shall be credited to the local cereal malt beverage sales tax fund, which is hereby created in the state treasury. Moneys credited to the local cereal malt beverage sales tax fund shall be distributed quarterly as part of the January, April, July and October sales tax distribution to each city and county which levied a local retailers' sales tax. The amount to be distributed to each city and county shall be determined by the department of revenue based on a weighted population average. The weighted population average shall be computed by multiplying the total tax rate in effect for the city or county by the population of such city or county. The weighted population average for each city and county shall then be divided by the total Kansas population. The resulting quotient is the percentage of distribution for such city or county. The population data shall be updated annually with the issuance of the certified population data through the division of the budget.

(b) The local cereal malt beverage sales tax fund shall be used for the purposes set forth in K.S.A. 79-4101 et seq., and amendments thereto, and for no other governmental purposes. It is the intent of the legislature that the local cereal malt beverage sales tax fund shall remain intact

and inviolate for the purposes set forth in K.S.A. 79-4101 et seq., and amendments thereto, and moneys in the local cereal malt beverage sales tax fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

Sec. 7. K.S.A. 2014 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

(a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(d) "Caterer" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.

(f) "Club" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(g) "Convenience store" means a retail business with primary emphasis placed on providing the public a convenient location to quickly purchase from a wide array of consumable products (predominantly food or food and gasoline) and services, and includes stores classified

under the North American industry classification system as NAICS 44512, 445120 or 447110 on the effective date of this act.

~~(g)~~ (h) "Director" means the director of alcoholic beverage control of the department of revenue.

~~(h)~~ (i) "Distributor" means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act or cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702, and amendments thereto.

~~(i)~~ (j) "Domestic beer" means beer which contains not more than 10% alcohol by weight and which is manufactured in this state.

~~(j)~~ (k) "Domestic fortified wine" means wine which contains more than 14%, but not more than 20% alcohol by volume and which is manufactured in this state.

~~(k)~~ (l) "Domestic table wine" means wine which contains not more than 14% alcohol by volume and which is manufactured without rectification or fortification in this state.

~~(l)~~ (m) "Drinking establishment" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

~~(m)~~ (n) "Farm winery" means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.

(o) "Grocery store" means an establishment primarily engaged in retailing a general line of groceries, including, but not limited to, packaged food, fresh and frozen food, prepared foods and other consumable products, and includes establishments primarily engaged in retailing a general line of groceries in combination with general lines of new merchandise, including, but

not limited to, establishments classified under the North American industry classification system as NAICS 445110 or 452910 on the effective date of this act.

(p) "Liquor store" means a store whose primary business is the retail sale of alcoholic liquor in the original and unopened container and not for consumption on the premises, and includes stores classified under the North American industry classification system as NAICS 445310 on the effective date of this act.

~~(p)~~ (q) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.

~~(p)~~ (r) (1) "Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

(2) "Manufacturer" does not include a microbrewery, microdistillery or a farm winery.

~~(p)~~ (s) "Microbrewery" means a brewery licensed by the director to manufacture, store and sell domestic beer.

~~(p)~~ (t) "Microdistillery" means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

~~(p)~~ (u) "Minor" means any person under 21 years of age.

~~(p)~~ (v) "Nonbeverage user" means any manufacturer of any of the products set forth and described in K.S.A. 41-501, and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for nonbeverage purposes.

~~(t)~~ (w) "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. Original container does not include a sleeve.

~~(u)~~ (x) "Person" means any natural person, corporation, partnership, trust or association.

~~(v)~~ (y) "Primary American source of supply" means the manufacturer, the owner of alcoholic liquor at the time it becomes a marketable product or the manufacturer's or owner's exclusive agent who, if the alcoholic liquor cannot be secured directly from such manufacturer or owner by American wholesalers, is the source closest to such manufacturer or owner in the channel of commerce from which the product can be secured by American wholesalers.

~~(w)~~ (z) (1) "Retailer" means a person who sells at retail, or offers for sale at retail, alcoholic liquors.

(2) "Retailer" does not include a microbrewery, microdistillery or a farm winery.

(aa) "Retailer's license" means a license to sell at retail alcoholic liquor in the original package issued pursuant to the Kansas liquor control act, and includes a retailer's class A or class B license.

~~(x)~~ (bb) "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

~~(y)~~ (cc) "Salesperson" means any natural person who:

(1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor or cereal malt beverage; or



(2) is engaged in promoting the sale of alcoholic liquor or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor or cereal malt beverage, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the state of Kansas.

~~(z)~~ (dd) "Secretary" means the secretary of revenue.

~~(aa)~~ (ee) (1) "Sell at retail" and "sale at retail" refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits.

(2) "Sell at retail" and "sale at retail" do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.

~~(bb)~~ (ff) "To sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

~~(ee)~~ (gg) "Sleeve" means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

~~(dd)~~ (hh) "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

~~(ee)~~ (ii) "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

~~(ff)~~ (jj) "Temporary permit" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

~~(gg)~~ (kk) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

Sec. 8. K.S.A. 2014 Supp. 41-301 is hereby amended to read as follows: 41-301. (a) ~~Except as provided by subsection (b), the director shall issue to qualified applicants, who have filed the bond and paid the registration and license fees required by this act, licenses to sell at retail alcoholic liquor in the original package on premises within the corporate limits of cities and outside the corporate limits of any city.~~

~~(b) No retailer's license shall be issued for premises within a city if the governing body of such city, on or before February 15, 2006, ~~adopts~~ adopted an ordinance prohibiting the licensing of the sale at retail of alcoholic liquor in the original package within such city. ~~Upon adoption of such ordinance, the city clerk promptly shall transmit a copy of such ordinance to the director and the director shall refuse to issue licenses to sell at retail alcoholic liquor in the original package in such city. If the governing body adopts such an ordinance, the holder of any valid existing retailer's license for premises in such city shall have the right to continue to operate under such license for a period of 90 days after the effective date of the ordinance or until the expiration of such license, whichever period of time is shorter. If such period of time expires before the expiration of the term for which the retailer's license was issued, the licensee shall be entitled to a refund of the license fee for the unexpired portion of the license period which~~~~

~~remains, in accordance with rules and regulations adopted by the secretary.~~

~~(e)~~ (b) No retailer's license shall be issued for premises within a city if, after November 15, 2005, a majority of the qualified voters of such city voting at an election held as provided by K.S.A. 41-302, and amendments thereto, votes against the licensing of the sale at retail of alcoholic liquor in the original package within such city unless, at a subsequent election, a majority of the qualified voters of such city voting at such election votes in favor of the licensing of the sale at retail of alcoholic liquor in the original package within such city.

Sec. 9. K.S.A. 2014 Supp. 41-303 is hereby amended to read as follows: 41-303. (a) ~~The director may issue to qualified applicants licenses to sell at retail alcoholic liquor in the original package on premises not located in an incorporated city for use or consumption off the premises. No such license shall be issued to any applicant unless the applicant possesses all the qualifications required of other applicants for retailers' licenses except the qualification of residency within a city.~~

~~No such~~ No retailer's license shall be issued ~~to any applicant under this section~~ for premises not located in an incorporated city unless the board of county commissioners of the county in which the premises for which licensure is sought are located adopts a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a such license ~~authorized by this section.~~

~~(b) If a license has been issued under the provisions of this section in the unincorporated area of a county and thereafter the premises so licensed are annexed to a city wherein retail liquor licenses may be issued, such license shall continue to be valid and may be renewed at the appropriate time even though the licensee does not reside in the city to which the~~

~~area is annexed if the licensee otherwise is qualified and resides in the township in which the premises were located prior to annexation or in the city to which the premises have been annexed.~~

~~(e)~~—Any ~~retail~~ retailer's license issued prior to the effective date of this act for premises not located in an incorporated city shall continue to be valid and such premises shall continue to be eligible for licensure if the board of county commissioners of the county in which the premises are located has adopted a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for ~~a~~ a such license ~~authorized by this subsection.~~

Sec. 10. K.S.A. 2014 Supp. 41-304 is hereby amended to read as follows: 41-304. Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) spirits distributor's license; (c) wine distributor's license; (d) beer distributor's license; (e) retailer's class A license; (f) retailer's class B license; (g) microbrewery license; ~~(g) (h)~~ microdistillery license; ~~(h) (i)~~ farm winery license; and ~~(i) (j)~~ nonbeverage user's license.

Sec. 11. K.S.A. 2014 Supp. 41-308 is hereby amended to read as follows: 41-308. (a) On or before June 30, 2018:

(1) Except as provided in K.S.A. 2014 Supp. 41-308d, and amendments thereto, a retailer's class B license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor for use or consumption off and away from the premises specified in such license. A retailer's class B license shall permit sale and delivery of alcoholic liquor only on the licensed premises and shall not permit sale of alcoholic liquor for resale in any form, except that a licensed retailer may:

~~(1)~~ (A) Sell alcoholic liquor to a temporary permit holder for resale by such permit holder; and

~~(2)~~ (B) sell and deliver alcoholic liquor to a caterer or to the licensed premises of a public venue, club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such public venue, club, establishment or caterer.

~~(b)~~ (2) The holder of a retailer's class B license shall not sell, offer for sale, give away or permit to be sold, offered for sale or given away in or from the premises specified in such license any service or thing of value whatsoever except alcoholic liquor in the original package, except that a licensed retailer may:

~~(1)~~ (A) Charge a delivery fee for delivery to a public venue, club, drinking establishment or caterer pursuant to subsection (a)~~(1)~~;

~~(2)~~ (B) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the ~~retailer~~ licensee is selected as a lottery retailer;

~~(3)~~ (C) include in the sale of alcoholic liquor any goods included by the manufacturer in packaging with the alcoholic liquor, subject to the approval of the director; ~~and~~

~~(4)~~ (D) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor; and

(E) store alcoholic liquor in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor to consumers in a chilled condition.

~~(e)~~ (3) No licensed retailer shall furnish any entertainment in such premises or permit any pinball machine or game of skill or chance to be located in or on such premises.

~~(d) A retailer's license shall allow the licensee to store alcoholic liquor in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor to consumers in a chilled condition.~~

(b) On and after July 1, 2018:

(1) A retailer's class B license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor for use or consumption off and away from the premises specified in such license.

(2) A retailer's class B license shall permit sale and delivery of alcoholic liquor only on the licensed premises and shall not permit sale of alcoholic liquor for resale in any form, except that a licensed retailer may:

(A) Sell alcoholic liquor to a temporary permit holder for resale by such permit holder;  
and

(B) sell and deliver alcoholic liquor to a caterer or to the licensed premises of a public venue, club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such public venue, club, establishment or caterer.

(3) The holder of a retailer's class B license may:

(A) Charge a delivery fee for delivery to a public venue, club, drinking establishment or caterer pursuant to subsection (b)(2);

(B) sell lottery tickets and shares to the public in accordance with the Kansas lottery.

act, if the licensee is selected as a lottery retailer:

(C) include in the sale of alcoholic liquor any goods included by the manufacturer in packaging with the alcoholic liquor, subject to the approval of the director;

(D) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor;

(E) store alcoholic liquor in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor to consumers in a chilled condition; and

(F) sell any other good or service on the licensed premises.

(c) On and after July 1, 2018, the provisions of subsection (a) shall have no force and effect.

(d) A retailer's class B license shall be subject to the provisions of K.S.A. 41-1101, and amendments thereto, prohibiting a retailer from purchasing alcoholic liquor from a distributor who has not filed with the director a sworn statement agreeing to sell to all retailers in the distributor's franchised territory at the same unit price and prohibiting a distributor from selling alcoholic liquor to a retailer at a discount for multiple case lots. A retailer's class B license also shall be subject to the provisions of K.S.A. 41-729, and amendments thereto, prohibiting the sale of alcoholic liquor at less than the acquisition cost thereof.

Sec. 12. K.S.A. 2014 Supp. 41-308d is hereby amended to read as follows: 41-308d. (a) Notwithstanding any other provisions of the Kansas liquor control act to the contrary, any person or entity who is ~~licensed to sell alcoholic liquor in the original package at retail~~ issued a retailer's

[class B license](#) may conduct wine, beer and distilled spirit tastings on the licensed premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, as follows:

(1) Wine, beer and spirits for the tastings shall come from the inventory of the licensee. Except as provided by paragraph (2), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(2) The holder of a supplier's permit or Kansas farm winery license or such permit holder's or licensee's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retail licensee's premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the ~~retailer~~ [licensee](#) on whose premises the tasting is held. The ~~retailer~~ [licensee](#) may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the supplier, farm winery licensee or the supplier's or licensee's agent to withdraw or purchase an alcoholic beverage from the holder of a distributor's permit or provide an alcoholic beverage for tasting on a ~~retailer's~~ [licensee's](#) premises that is not purchased from the ~~retailer~~ [licensee](#).

(3) No charge of any sort may be made for a sample serving.

(4) A person may be served more than one sample. Samples may not be served to a minor. No samples may be removed from the licensed premises.

(5) The act of providing samples to consumers shall be exempt from the requirement of



holding a Kansas food service dealer license from the department of agriculture under the provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

(c) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(d) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(e) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 13. K.S.A. 2014 Supp. 41-310 is hereby amended to read as follows: 41-310. (a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

(b) The fee for a manufacturer's license to manufacture alcohol and spirits shall be \$5,000.

(c) The fee for a manufacturer's license to manufacture beer and cereal malt beverage shall be:

- (1) For 1 to 100 barrel daily capacity or any part thereof, \$400.
- (2) For 100 to 150 barrel daily capacity, \$800.
- (3) For 150 to 200 barrel daily capacity, \$1,400.
- (4) For 200 to 300 barrel daily capacity, \$2,000.

- (5) For 300 to 400 barrel daily capacity, \$2,600.
- (6) For 400 to 500 barrel daily capacity, \$2,800.
- (7) For 500 or more barrel daily capacity, \$3,200.

As used in this subsection, "daily capacity" means the average daily barrel production for the previous 12 months of manufacturing operation. If no basis for comparison exists, the licensee shall pay in advance for operation during the first term of the license a fee of \$2,000.

- (d) The fee for a manufacturer's license to manufacture wine shall be \$1,000.
- (e) (1) The fee for a microbrewery license, a microdistillery license or a farm winery license shall be \$500.
  - (2) The fee for a winery outlet license shall be \$100.
  - (3) The fee for a microbrewery packaging and warehousing facility license shall be \$200.
  - (4) The fee for a microdistillery packaging and warehousing facility license shall be \$200.
- (f) The fee for a spirits distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing spirits shall be \$2,000.
- (g) The fee for a wine distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing wine shall be \$2,000.
- (h) The fee for a beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the licensee and wholesaling or jobbing

beer and cereal malt beverage shall be \$2,000.

(i) The fee for a nonbeverage user's license shall be:

(1) For class 1, \$20.

(2) For class 2, \$100.

(3) For class 3, \$200.

(4) For class 4, \$400.

(5) For class 5, \$1,000.

(j) In addition to the license fees prescribed by subsections (b), (c), (d), (f), (g), (h) and (i):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the license, but no city shall impose an occupation or privilege tax on the licensee in excess of that amount; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the license, but no township shall impose an occupation or privilege tax on the licensee in excess of that amount; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(k) (1) The fee for a retailer's class A license shall be ~~\$500~~ \$1,500.

(2) The fee for a retailer's class B license issued for a premises engaged in business as a

grocery store shall be \$1,500.

(3) The fee for a retailer's class B license issued for a premises engaged in business as a liquor store shall be \$500.

(l) In addition to the license fee prescribed by subsection (k):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$600, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$600; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(m) The license term for a license shall commence on the date the license is issued by the director and shall end two years after that date. The director may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond the date such license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to this section by the same number of days the director has extended the license term.

Sec. 14. K.S.A. 2014 Supp. 41-311 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 is not a citizen of the United States;
- (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 the liquor control act, the beer and cereal malt beverage keg registration 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 any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;
- (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, and amendments thereto, 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, at the time of application, have a written lease thereon;

(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;

(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

(14) who does not provide any data or information required by K.S.A. 2014 Supp. 41-311b, and amendments thereto.

(b) (1) No retailer's license shall be issued to:

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

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

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

~~(4)~~ (D) ~~a person who has a 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)~~ (E) a corporation; ~~or, if any officer, manager or director thereof, or any natural person owning in the aggregate more than 25% 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;~~

(F) a corporation, if any officer, manager or director thereof, or any natural person owning in the aggregate more than 25% of the common or preferred stock of such corporation, has been an officer, manager or director, or a natural person owning in the aggregate more than 25% of the common or preferred stock, of a corporation which:

(i) Has had a license revoked under the provisions of the Kansas liquor control act; or

(ii) has been convicted of a violation of the Kansas liquor control act; or

~~(7)~~ (G) 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.

(2) No retailer's class A license shall be issued to a person who is not engaged in

business as a convenience store or grocery store, except that a license may be issued to such person if upon issuance of the license such person engages in business as a convenience store or grocery store.

(3) No retailer's class B license shall be issued to a person who is not engaged in business as a liquor store or grocery store, except that a license may be issued to such person if upon issuance of the license such person engages in business as a liquor store or grocery store.

(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;

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

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



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(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;

(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; or

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

(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, microdistillery 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 one year immediately preceding the date of application;

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

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

- (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 provisions 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), (f)(1), (f)(2) and K.S.A. 2014 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10<sup>th</sup>, 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 any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(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. 15. K.S.A. 2014 Supp. 41-313 is hereby amended to read as follows: 41-313. (a) No corporation, either organized under the laws of this state, any other state or a foreign country, shall be issued a retailer's manufacturer's, distributor's, microbrewery, microdistillery or farm winery license unless the corporation has first ~~procured a certificate of authority from~~ filed a formation document with the secretary of state to do business in this state as provided by law, appointed a citizen of the United States, and resident of Kansas, as its resident 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 of the corporation and full authority, control and responsibility for the conduct of all business and transactions of the corporation within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director with respect to the agent's character. The agent shall at all times be maintained by the corporation.

In addition, any corporation organized under the laws of any other state or foreign

country, as a condition precedent to the issuance to it of any license, shall file with the secretary of state of the state of Kansas, a duly authorized and executed power of attorney, authorizing the secretary of state to accept service of process from the director and the courts of this state and to accept service of any notice or order provided for in this act, and all such acts by the secretary of state shall be fully binding upon the corporation.

(b) Every nonresident applicant on applying for a license or permit under this act, and as a condition precedent to obtaining such license or permit, shall file with the secretary of state of this state its written consent, irrevocable, that any action or garnishment proceeding may be commenced against such applicant in the proper court of any county in this state in which the cause of action shall arise or in which the plaintiff may reside by the service of process on the resident agent specified in subsection (a), and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant. The written consent shall state that the courts of this state have jurisdiction over the person of such applicant and are the proper and convenient forum for such action and shall waive the right to request a change of jurisdiction or venue to a court outside this state and that all actions arising under this act and commenced by the applicant shall be brought in this state's courts as the proper and convenient forum. Such consent shall be executed by the applicant and if a corporation, by the president and secretary of the corporate applicant, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers authorizing the president and secretary to execute the same.

Sec. 16. K.S.A. 2014 Supp. 41-326 is hereby amended to read as follows: 41-326. A license shall be purely a personal privilege, and shall not constitute property. A license shall be

valid for not to exceed two years after issuance, ~~except as otherwise provided by law,~~ unless sooner suspended or revoked, ~~and shall not constitute property, nor shall it.~~ A license shall not be subject to attachment, garnishment or execution, ~~nor shall it.~~ A license shall not be alienable or transferable, voluntarily or involuntarily, ~~or~~ except as provided by law. A license shall not be subject to being encumbered or hypothecated. A license shall not descend by the laws of testate or intestate devolution but shall cease and expire upon the death of the licensee except that executors, administrators or representatives of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale, distribution or manufacture of alcoholic liquor under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such decedent, or after such insolvency or bankruptcy, until the expiration of such license but not longer than one year after the death, bankruptcy or insolvency of such licensee.

When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. The secretary of revenue may adopt rules and regulations pursuant to K.S.A. 41-210, and amendments thereto, which provide for the authorization of refunds of one-half of the license fee paid when the licensee does not use such license for the entire second year of the license term as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.

Sec. 17. K.S.A. 2014 Supp. 41-713 is hereby amended to read as follows: 41-713. (a) It

shall be unlawful for a retailer of alcoholic liquor:

(1) To permit any person to mix drinks in or on the licensed premises, except as provided in subsection (b);

(2) to ~~employ any person under the age of 21 years in connection with the operation of such retail establishment~~ authorize or allow any person under the age of 18 years to sell at retail any alcoholic liquor at the point of sale; or

(3) to ~~employ any person in connection with the operation of such retail establishment~~ authorize or allow any person who has been adjudged guilty of a felony to sell at retail any alcoholic liquor at the point of sale; or

(4) to permit any employee of the licensee who is under the age of 21 years to work on the premises where alcoholic liquor is sold by such licensee at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or older.

(b) The provisions of subsection (a)(1) shall not apply to the preparation or mixing of samples for the purposes of conducting wine, beer or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 2014 Supp. 41-308d, and amendments thereto.

Sec. 18. K.S.A. 2014 Supp. 79-4108 is hereby amended to read as follows: 79-4108. All revenue collected or received by the director of taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Except as otherwise provided in section 6, and amendments thereto, upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The state

treasurer shall transfer any moneys remaining in the county and city alcoholic liquor control enforcement fund on the effective date of this act to the state general fund.

Sec. 19. K.S.A. 41-103 and 41-711 and K.S.A. 2014 Supp. 41-102, 41-301, 41-303, 41-304, 41-308, 41-308d, 41-310, 41-311, 41-313, 41-326, 41-713 and 79-4108 are hereby repealed.

Sec. 20. This act shall take effect and be in force from and after its publication in the statute book.