

SENATE BILL No. 13

By Special Committee on Federal and State Affairs

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AN ACT concerning certain cereal malt beverage and liquor licensees; relating to certain fees; amending K.S.A. 41-317, 41-326, 41-331, 41-334, 41-507, 41-2607, 41-2629 and 41-2702 and repealing the existing sections.

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

New Section 1. (a) There is hereby created the alcoholic beverage control general fees fund in the state treasury. All expenditures from the alcoholic beverage control general fees fund shall be made in accordance with the provisions of appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of alcoholic beverage control or by the director's designee.

(b) Moneys credited to the alcoholic beverage control general fees fund shall be used for the operating expenditures of the division of alcoholic beverage control in the exercise of the powers, duties and functions of the division in the regulation, licensing, taxation, manufacture, sale, possession and transportation of intoxicating liquors and cereal malt beverage.

Sec. 2. K.S.A. 41-317 is hereby amended to read as follows: 41-317. (a) (1) Applications for all licenses under this act shall be upon forms prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a state registration fee of ~~\$50~~ \$100 for each initial application and ~~\$40~~ \$100 for each renewal application to defray the cost of preparing and furnishing standard forms incident to the administration of this act and the cost of processing the application. Each application ~~shall~~ also *shall* be accompanied by a deposit of a certified or cashier's check of a bank within this state, United States post office money order or cash in the full amount of the license fee required to be paid for the kind of license applied for, which license fee shall be returned to the applicant if the application is denied. *Except as provided by paragraph (2) of this subsection*, all registration fees shall be paid into the state treasury by the director and shall be credited to the state general fund. All license fees received by the director, including fees received for licenses to manufacture beer, regardless of its alcoholic content, shall be paid into the state treasury by

1 the director and shall be credited to the state general fund.

2 (2) *Of the amount of each initial application fee received pursuant to*
3 *this section, the amount of \$50 shall be credited to the alcoholic beverage*
4 *control general fees fund created by section 1, and amendments thereto.*
5 *Of the amount of each renewal application fee received pursuant to this*
6 *section, the amount of \$90 shall be credited to the alcoholic beverage*
7 *control general fees fund created by section 1, and amendments thereto.*

8 (b) Every applicant for a manufacturer's, distributor's, nonbeverage
9 user's, microbrewery, farm winery or retailer's license shall file with the
10 application a joint and several bond on a form prescribed by the director
11 and executed by good and sufficient corporate sureties licensed to do
12 business within the state of Kansas to the director, in the following
13 amounts:

14 (1) For a manufacturer, \$25,000;

15 (2) for a spirits distributor, \$15,000 or an amount equal to the highest
16 monthly liability of the distributor for taxes imposed by the Kansas liquor
17 control act for any of the 12 months immediately prior to renewal of the
18 distributor's license, whichever amount is greater;

19 (3) for a beer or wine distributor, \$5,000 or an amount equal to the
20 highest monthly liability of the distributor for taxes imposed by the Kansas
21 liquor control act for any of the 12 months immediately prior to renewal
22 of the distributor's license, whichever amount is greater;

23 (4) for a retailer, \$2,000;

24 (5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000
25 for class 3, \$5,000 for class 4 and \$10,000 for class 5; and

26 (6) for a microbrewery or a farm winery, \$2,000.

27 If a distributor holds or applies for more than one distributor's license,
28 only one bond for all such licenses shall be required, which bond shall be
29 in an amount equal to the highest applicable bond.

30 (c) All bonds required by this section shall be conditioned on the
31 licensee's compliance with the provisions of this act and payment of all
32 taxes, fines and forfeitures which may be assessed against the licensee.

33 Sec. 3. K.S.A. 41-326 is hereby amended to read as follows: 41-326.

34 (a) A license shall be purely a personal privilege, valid for not to exceed
35 one year after issuance, unless sooner suspended or revoked, and shall
36 not constitute property, nor shall it be subject to attachment, garnishment
37 or execution, nor shall it be alienable or transferable, voluntarily or in-
38 voluntarily, or subject to being encumbered or hypothecated. A license
39 shall not descend by the laws of testate or intestate devolution but shall
40 cease and expire upon the death of the licensee except that executors,
41 administrators or representatives of the estate of any deceased licensee
42 and the trustee of any insolvent or bankrupt licensee, when such estate
43 consists in part of alcoholic liquor, may continue the business of the sale,

1 distribution or manufacture of alcoholic liquor under order of the appro-
2 priate court and may exercise the privilege of the deceased, insolvent or
3 bankrupt licensee after the death of such decedent, or after such insol-
4 vency or bankruptcy, until the expiration of such license but not longer
5 than one year after the death, bankruptcy or insolvency of such licensee.

6 ~~A refund shall be made of that portion of the license fee paid for any~~
7 ~~period in which the licensee shall be prevented from operating under~~
8 ~~such license in accordance with the provisions of this section. The sec-~~
9 ~~retary of revenue may adopt rules and regulations pursuant to K.S.A. 41-~~
10 ~~210 and amendments thereto which provide for the authorization of re-~~
11 ~~funds of that portion of the license fees paid for any period in which the~~
12 ~~licensee does not use such license as a result of the cancellation of the~~
13 ~~license upon the request of the licensee for voluntary reasons.~~

14 *(b) All moneys in a refund fund established prior to July 1, 2001,*
15 *which are attributable to license fees shall be credited to the alcoholic*
16 *beverage control general fees fund created by section 1, and amendments*
17 *thereto.*

18 Sec. 4. K.S.A. 41-331 is hereby amended to read as follows: 41-331.

19 (a) Every supplier desiring to sell alcoholic liquor or cereal malt beverage
20 to distributors in this state shall be required to obtain an annual permit
21 from the director, unless such supplier is licensed in this state as a man-
22 ufacturer or distributor. Application for such permit shall be on a form
23 prescribed by rules and regulations of the secretary of revenue and shall
24 be accompanied by an annual permit fee of ~~\$25~~ \$100. *Except as provided*
25 *by subsection (c), all supplier permit fees shall be paid into the state*
26 *treasury by the director and shall be credited to the state general fund.*
27 As a condition of the issuance of such permit, the supplier shall be
28 deemed to have appointed the secretary of state as the resident agent and
29 representative of the supplier to accept service of process from the di-
30 rector and the courts of this state and to accept service of any notice or
31 order provided for in this act, and all such acts by the secretary of state
32 shall be fully binding upon the supplier.

33 (b) Every supplier desiring to sell alcoholic liquor or cereal malt bev-
34 erage to distributors in this state shall be required to register each brand
35 of such alcoholic liquor or cereal malt beverage with the director prior to
36 making shipments to distributors in this state. Registration shall be in a
37 form prescribed by rules and regulations of the secretary and shall be
38 accompanied by an annual fee of ~~\$25~~ \$50 for each label proposed for sale
39 in this state. *Except as provided by subsection (c), all brand registration*
40 *fees shall be paid into the state treasury by the director and shall be*
41 *credited to the state general fund.*

42 (c) *Of the amount of each supplier permit fee received pursuant to*
43 *this section, the amount of \$75 shall be credited to the alcoholic beverage*

1 *control general fees fund created by section 1, and amendments thereto.*
2 *Of the amount of each brand registration fee received pursuant to this*
3 *section, the amount of \$25 shall be credited to the alcoholic beverage*
4 *control general fees fund created by section 1, and amendments thereto.*

5 ~~(e)~~ (d) The director, in accordance with the Kansas administrative
6 procedure act, may revoke, suspend or refuse to issue a permit to any
7 supplier found to have violated any provision of the Kansas liquor control
8 act or K.S.A. 41-2701 *et seq.*, and amendments thereto, or any rules and
9 regulations adopted thereunder.

10 Sec. 5. K.S.A. 41-334 is hereby amended to read as follows: 41-334.

11 (a) Any natural person over the age of 21 may apply to the director for a
12 salesperson's permit. The application shall be in such form and shall in-
13 clude such terms as the director may prescribe, and shall include a pro-
14 vision that the holder will comply with the Kansas liquor control act and
15 the cereal malt beverage laws of this state, and any rules and regulations
16 adopted under such act or laws. The application and any permit issued
17 pursuant thereto shall set forth the name and address of the person, firm
18 or corporation whom the applicant represents and also the name, address
19 and a description of the applicant. A salesperson shall not represent any
20 person, firm or corporation whose name does not appear on *the permit*
21 *as the salespersons' employer.* No person shall act as salesperson for more
22 than one person, firm or corporation under one permit. Additional per-
23 mits may be granted the same applicant for additional principals.

24 (b) Upon approval of any application by the director, the director
25 shall issue a permit to the applicant for one year upon the payment of an
26 annual fee of ~~\$10~~ \$25, which fee shall accompany the application. *Except*
27 *as provided by this subsection, all permit fees shall be paid into the state*
28 *treasury by the director and shall be credited to the state general fund.*
29 *Of the amount of each permit fee received pursuant to this section, \$15*
30 *shall be credited to the alcoholic beverage control general fees fund, cre-*
31 *ated by section 1, and amendments thereto.*

32 (c) No person shall be issued a salesperson's permit if such person
33 does not meet the qualifications of subsections (a)(4) and (5) of K.S.A.
34 41-311, and amendments thereto, or if such person has a beneficial in-
35 terest in any licensed retailer of alcoholic liquor or cereal malt beverage
36 or any licensed club, drinking establishment or caterer. The director may
37 deny a permit to any person who has been convicted of a felony or of a
38 violation of the Kansas liquor control act or cereal malt beverage laws of
39 this state.

40 Sec. 6. K.S.A. 41-507 is hereby amended to read as follows: 41-507.

41 (a) A revolving fund designated the alcoholic liquor tax refund fund shall
42 be set apart and maintained by the director from the license fees and
43 excise tax collected under the provisions of this act and held by the state

1 treasurer for the refund of license fees, and the refund of gallonage taxes.
2 Such fund shall be in such amount as the director determines necessary
3 for the purpose of making such refunds.

4 *(b) All moneys in the alcoholic liquor tax refund fund which are at-*
5 *tributable to license fees shall be credited to the alcoholic beverage control*
6 *general fees fund created by section 1, and amendments thereto.*

7 Sec. 7. K.S.A. 41-2607 is hereby amended to read as follows: 41-
8 2607. *(a) The license provided herein shall be issued for a term of one*
9 *year, renewable on expiration. The secretary of revenue shall adopt, in*
10 *accordance with K.S.A. 41-210 and amendments thereto, rules and reg-*
11 *ulations providing for the authorization of refunds of the license fees paid*
12 *for any period in which the licensee shall not use such license as the result*
13 *of the license being canceled at the request of the licensee and for vol-*
14 *untary reasons.*

15 *(b) All moneys in a refund fund established prior to July 1, 2001,*
16 *which are attributable to license fees shall be credited to the alcoholic*
17 *beverage control general fees fund created by section 1, and amendments*
18 *thereto.*

19 Sec. 8. K.S.A. 41-2629 is hereby amended to read as follows: 41-
20 2629. A class B club license, drinking establishment license or caterer's
21 license shall be purely a personal privilege, good for not to exceed one
22 year after issuance unless sooner suspended or revoked as provided in
23 this act and shall not constitute property, nor shall it be subject to at-
24 tachment, garnishment or execution, nor shall it be alienable or transfer-
25 able, voluntarily or involuntarily, or subject to being encumbered or hy-
26 pothecated. A class B club license, drinking establishment license or
27 caterer's license shall not descend by the laws of testate or intestate dev-
28 olution but shall cease or expire upon the death of the licensee subject
29 to the following provision. An executor, administrator or representative
30 of the estate of any deceased holder of a class B club, drinking establish-
31 ment or caterer's license or the trustee of any insolvent or bankrupt class
32 B club, drinking establishment or caterer's license may continue the li-
33 censee's business under order of the appropriate court and may exercise
34 the privilege of the deceased, insolvent or bankrupt licensee after the
35 death of such licensee or after such insolvency or bankruptcy until the
36 expiration of such license, but in no case longer than one year after the
37 death, insolvency or bankruptcy of such licensee. ~~A refund shall be made~~
38 ~~of that portion of the license fee paid for any period in which the licensee~~
39 ~~shall be prevented from operating under such license in accordance with~~
40 ~~the provisions of this act, other than that caused by suspension or revo-~~
41 ~~cation. The secretary shall adopt, in accordance with K.S.A. 41-210 and~~
42 ~~amendments thereto, rules and regulations providing for the authoriza-~~
43 ~~tion of refunds of the license fees paid for any period in which the licensee~~

1 ~~does not use such license being canceled upon the request of the licensee~~
2 ~~and for voluntary reasons.~~

3 Sec. 9. K.S.A. 41-2702 is hereby amended to read as follows: 41-
4 2702. (a) No retailer shall sell any cereal malt beverage without having
5 first secured a license for each place of business as herein provided. In
6 case such place of business is located within the corporate limits of a city,
7 the application for license shall be made to the governing body of such
8 city. In all other cases, the application for license shall be made to the
9 board of county commissioners in the county in which such place of busi-
10 ness is to be located, except that the application for license to sell on
11 railway cars shall be made to the director as hereinafter provided.

12 (b) A board of county commissioners shall not issue or renew a re-
13 tailer's license without giving the clerk of the township where the place
14 of business is to be located written notice by registered mail of the filing
15 of the application for licensure or renewal. The township board may
16 within 10 days file advisory recommendations as to the granting of such
17 license or renewal and such advisory recommendations shall be consid-
18 ered by the board of county commissioners before such license is issued.
19 If an original license is granted and issued, the board of county commis-
20 sioners shall grant and issue renewals thereof upon application of the
21 license holder, if the license holder is qualified to receive the same and
22 the license has not been revoked as provided by law.

23 (c) An application for a retailer's license shall be verified and upon a
24 form prepared by the attorney general of the state and shall contain:

- 25 (1) The name and residence of the applicant;
- 26 (2) the length of time that the applicant has resided within the state
27 of Kansas;
- 28 (3) the particular place of business for which a license is desired;
- 29 (4) the name of the owner of the premises upon which the place of
30 business is located; and
- 31 (5) a statement that the applicant is a citizen of the United States and
32 not less than 21 years of age and that the applicant has not within two
33 years immediately preceding the date of making application been con-
34 victed of a felony, any crime involving moral turpitude, drunkenness, driv-
35 ing a motor vehicle while under the influence of intoxicating liquor or
36 violation of any other intoxicating liquor law of any state or of the United
37 States.

38 (d) In addition to the fee provided by subsection (e), each application
39 for a retailer's license to sell cereal malt beverages for consumption on
40 the licensed premises shall be accompanied by a fee as follows:

- 41 (1) For licensure of a place of business other than a railway car, a fee
42 of not less than \$25 nor more than \$200, as prescribed by the board of
43 county commissioners or the governing body of the city, as the case may

1 be; and

2 (2) for licensure to sell on railway cars, a fee of \$100.

3 (e) Each applicant for a retailer's license or renewal of such a license
4 shall submit to the director a copy of the completed application for such
5 license or license renewal, together with a fee of ~~\$25~~ \$50. Upon receipt
6 of such application, the director shall authorize a state stamp to be affixed
7 to the license. No such stamp shall be affixed to any license except such
8 stamps as provided by the director and no retailer's license shall be issued
9 or renewed unless such stamp has first been affixed thereto.

10 (f) (1) *Except as provided by paragraph (2) of this subsection, the*
11 *director shall remit to the state treasurer all fees collected by the director*
12 *hereunder, and the state treasurer shall credit the same to the state gen-*
13 *eral fund, ~~except that the director may provide for the deposit in the~~*
14 *cereal malt beverage tax refund fund of such amounts as necessary for*
15 *the refund of any license fees collected hereunder.*

16 (2) *Of the amount of each application fee received pursuant to sub-*
17 *section (e), the amount of \$25 shall be credited to the alcoholic beverage*
18 *control general fees fund created by section 1, and amendments thereto.*

19 (g) *All moneys in the cereal malt beverage tax refund fund which are*
20 *attributable to license fees shall be credited to the alcoholic beverage con-*
21 *trol general fees fund created by section 1, and amendments thereto.*

22 (h) The board of county commissioners of the several counties or
23 the governing body of a city shall issue a license upon application duly
24 made as otherwise provided for herein, to any retailer engaged in business
25 in such county or city and qualified to receive such license, to sell only
26 cereal malt beverages in original and unopened containers, and not for
27 consumption on the premises. The annual license fee for such license,
28 which shall be in addition to the fee provided by subsection (e), shall be
29 not less than \$25 nor more than \$50.

30 ~~(i)~~ (i) No license issued under this act shall be transferable.

31 Sec. 10. K.S.A. 41-317, 41-326, 41-331, 41-334, 41-507, 41-2607, 41-
32 2629 and 41-2702 are hereby repealed.

33 Sec. 11. This act shall take effect and be in force from and after its
34 publication in the statute book.

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