

## SENATE BILL No. 465

By Committee on Federal and State Affairs

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AN ACT concerning alcoholic liquor, relating to licensees; amending  
K.S.A. 2001 Supp. 41-311 and repealing the existing section.

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

Section 1. K.S.A. 2001 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 has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(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 this 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cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;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 a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(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,

1 except as provided by subsection (a)(12);

2 (10) who is the holder of a valid and existing license issued under  
3 article 27 of chapter 41 of the Kansas Statutes Annotated unless the per-  
4 son agrees to and does surrender the license to the officer issuing the  
5 same upon the issuance to the person of a license under this act, except  
6 that a retailer licensed pursuant to K.S.A. 41-2702, and amendments  
7 thereto, shall be eligible to receive a retailer's license under the Kansas  
8 liquor control act;

9 (11) who does not own the premises for which a license is sought, or  
10 does not have a written lease thereon for at least  $\frac{3}{4}$  of the period for  
11 which the license is to be issued;

12 (12) whose spouse would be ineligible to receive a license under this  
13 act for any reason other than citizenship, residence requirements or age,  
14 except that this subsection (a)(12) shall not apply in determining eligibility  
15 for a renewal license;

16 (13) whose spouse has been convicted of a felony or other crime  
17 which would disqualify a person from licensure under this section and  
18 such felony or other crime was committed during the time that the spouse  
19 held a license under this act; ~~or~~

20 (14) who does not provide any data or information required by K.S.A.  
21 2001 Supp. 41-311b, and amendments thereto; *or*

22 (15) *who is not current in the payment of all taxes imposed pursuant*  
23 *to 41-501 et seq., 79-3294 et seq., 79-3601 et seq., 79-4101 et seq. and 79-*  
24 *41a01 et seq., and amendments thereto, unless such taxes are under formal*  
25 *appeal or for which an agreement for the payment of such taxes has been*  
26 *entered into by the department of revenue and the person seeking licen-*  
27 *sure and such person is current in the payments under such agreement.*

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

29 (1) A person who is not a resident of this state;

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

32 (3) a person who has beneficial interest in the manufacture, prepa-  
33 ration or wholesaling of alcoholic beverages;

34 (4) a person who has beneficial interest in any other retail establish-  
35 ment licensed under this act, except that the spouse of a licensee may  
36 own and hold a retailer's license for another retail establishment;

37 (5) a copartnership, unless all of the copartners are qualified to obtain  
38 a license;

39 (6) a corporation; or

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

1 (c) No manufacturer's license shall be issued to:

2 (1) A corporation, if any officer or director thereof, or any stockholder  
3 owning in the aggregate more than 25% of the stock of the corporation  
4 would be ineligible to receive a manufacturer's license for any reason  
5 other than citizenship and residence requirements;

6 (2) a copartnership, unless all of the copartners shall have been res-  
7 idents of this state for at least five years immediately preceding the date  
8 of application and unless all the members of the copartnership would be  
9 eligible to receive a manufacturer's license under this act;

10 (3) a trust, if any grantor, beneficiary or trustee would be ineligible  
11 to receive a license under this act for any reason, except that the provi-  
12 sions of subsection (a)(6) shall not apply in determining whether a ben-  
13 efitary would be eligible for a license;

14 (4) an individual who is not a resident of this state; or

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

17 (d) No distributor's license shall be issued to:

18 (1) A corporation, if any officer, director or stockholder of the cor-  
19 poration would be ineligible to receive a distributor's license for any rea-  
20 son. It shall be unlawful for any stockholder of a corporation licensed as  
21 a distributor to transfer any stock in the corporation to any person who  
22 would be ineligible to receive a distributor's license for any reason, and  
23 any such transfer shall be null and void, except that: (A) If any stockholder  
24 owning stock in the corporation dies and an heir or devisee to whom stock  
25 of the corporation descends by descent and distribution or by will is in-  
26 eligible to receive a distributor's license, the legal representatives of the  
27 deceased stockholder's estate and the ineligible heir or devisee shall have  
28 14 months from the date of the death of the stockholder within which to  
29 sell the stock to a person eligible to receive a distributor's license, any  
30 such sale by a legal representative to be made in accordance with the  
31 provisions of the probate code; or (B) if the stock in any such corporation  
32 is the subject of any trust and any trustee or beneficiary of the trust who  
33 is 21 years of age or older is ineligible to receive a distributor's license,  
34 the trustee, within 14 months after the effective date of the trust, shall  
35 sell the stock to a person eligible to receive a distributor's license and  
36 hold and disburse the proceeds in accordance with the terms of the trust.  
37 If any legal representatives, heirs, devisees or trustees fail, refuse or ne-  
38 glect to sell any stock as required by this subsection, the stock shall revert  
39 to and become the property of the corporation, and the corporation shall  
40 pay to the legal representatives, heirs, devisees or trustees the book value  
41 of the stock. During the period of 14 months prescribed by this subsec-  
42 tion, the corporation shall not be denied a distributor's license or have its  
43 distributor's license revoked if the corporation meets all of the other

1 requirements necessary to have a distributor's license;

2 (2) a copartnership, unless all of the copartners are eligible to receive  
3 a distributor's license; or

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

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

13 (f) No microbrewery license or farm winery license shall be issued to  
14 a:

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

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

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

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

24 (5) copartnership, unless all of the copartners are qualified to obtain  
25 a license;

26 (6) corporation, unless stockholders owning in the aggregate 50% or  
27 more of the stock of the corporation would be eligible to receive such  
28 license and all other stockholders would be eligible to receive such license  
29 except for reason of citizenship or residency; or

30 (7) a trust, if any grantor, beneficiary or trustee would be ineligible  
31 to receive a license under this act for any reason, except that the provi-  
32 sions of subsection (a)(6) shall not apply in determining whether a ben-  
33 efiiciary would be eligible for a license.

34 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),  
35 (f)(1), (f)(2) and K.S.A. 2001 Supp. 41-311b, and amendments thereto,  
36 shall not apply in determining eligibility for the 10th, or a subsequent,  
37 consecutive renewal of a license if the applicant has appointed a citizen  
38 of the United States who is a resident of Kansas as the applicant's agent  
39 and filed with the director a duly authenticated copy of a duly executed  
40 power of attorney, authorizing the agent to accept service of process from  
41 the director and the courts of this state and to exercise full authority,  
42 control and responsibility for the conduct of all business and transactions  
43 within the state relative to alcoholic liquor and the business licensed. The

1 agent must be satisfactory to and approved by the director, except that  
2 the director shall not approve as an agent any person who:

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

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

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

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

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

18 Sec. 2. K.S.A. 2001 Supp. 41-311 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its  
20 publication in the statute book.

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