

SENATE BILL No. 532

By Committee on Federal and State Affairs

2-4

10 AN ACT concerning alcoholic beverages; relating to licenses and eligi-
11 bility; amending K.S.A. 2009 Supp. **41-308a**, **41-308b** and 41-311
12 and repealing the existing ~~section~~ **sections**.
13

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

15 **Section 1. K.S.A. 2009 Supp. 41-308a is hereby amended to**
16 **read as follows: 41-308a. (a) A farm winery license shall allow:**

17 **(1) The manufacture of domestic table wine and domestic for-**
18 **tified wine in a quantity not exceeding 100,000 gallons per year and**
19 **the storage thereof;**

20 **(2) the sale of wine, manufactured by the licensee, to licensed**
21 **wine distributors, retailers, clubs, drinking establishments, holders**
22 **of temporary permits as authorized by K.S.A. 41-2645, and amend-**
23 **ments thereto, and caterers;**

24 **(3) the sale, on the licensed premises in the original unopened**
25 **container to consumers for consumption off the licensed premises,**
26 **of wine manufactured by the licensee;**

27 **(4) the serving free of charge on the licensed premises and at**
28 **special events, monitored and regulated by the division of alcoholic**
29 **beverage control, of samples of wine manufactured by the licensee**
30 **or imported under subsection (f), if the premises are located in a**
31 **county where the sale of alcoholic liquor is permitted by law in**
32 **licensed drinking establishments;**

33 **(5) if the licensee is also licensed as a club or drinking estab-**
34 **lishment, the sale of domestic wine, domestic fortified wine and**
35 **other alcoholic liquor for consumption on the licensed premises as**
36 **authorized by the club and drinking establishment act;**

37 **(6) if the licensee is also licensed as a caterer, the sale of do-**
38 **mestic wine, domestic fortified wine and other alcoholic liquor for**
39 **consumption on the unlicensed premises as authorized by the club**
40 **and drinking establishment act;**

41 **(7) the sale and shipping, in the original unopened container,**
42 **to consumers outside this state of wine manufactured by the li-**
43 **cencee, provided that the licensee complies with applicable laws and**

1 *rules and regulations of the jurisdiction to which the wine is*
2 *shipped; and*

3 *(8) the sale and shipping of wine within this state pursuant to a*
4 *permit issued pursuant to K.S.A. 2009 Supp. ~~41-348~~ 41-350, and*
5 *amendments thereto; and*

6 *(9) if the licensee is also licensed as a microbrewery pursuant to K.S.A.*
7 *41-308b, and amendments thereto, those activities permitted under K.S.A.*
8 *41-308b, and amendments thereto, for a microbrewery licensee.*

9 *(b) Upon application and payment of the fee prescribed by*
10 *K.S.A. 41-310, and amendments thereto, by a farm winery licensee,*
11 *the director may issue not to exceed three winery outlet licenses to*
12 *the farm winery licensee. A winery outlet license shall allow:*

13 *(1) The sale, on the licensed premises in the original unopened*
14 *container to consumers for consumption off the licensed premises,*
15 *of wine manufactured by the licensee;*

16 *(2) the serving on the licensed premises of samples of wine man-*
17 *ufactured by the licensee or imported under subsection (f), if the*
18 *premises are located in a county where the sale of alcoholic liquor*
19 *is permitted by law in licensed drinking establishments; and*

20 *(3) the manufacture of domestic table wine and domestic forti-*
21 *fied wine and the storage thereof; provided, that the aggregate*
22 *quantity of wine produced by the farm winery licensee, including*
23 *all winery outlets, shall not exceed 100,000 gallons per year.*

24 *(c) Not less than 60% of the products utilized in the manufac-*
25 *ture of domestic table wine and domestic fortified wine by a farm*
26 *winery shall be grown in Kansas except when a lesser proportion is*
27 *authorized by the director based upon the director's findings and*
28 *judgment. The label of domestic wine and domestic fortified wine*
29 *shall indicate that a majority of the products utilized in the manu-*
30 *facture of the wine at such winery were grown in Kansas.*

31 *(d) A farm winery or winery outlet may sell domestic wine and*
32 *domestic fortified wine in the original unopened container to con-*
33 *sumers for consumption off the licensed premises at any time be-*
34 *tween 6 a.m. and 12 midnight on any day except Sunday and be-*
35 *tween 12 noon and 6 p.m. on Sunday. If authorized by subsection*
36 *(a), a farm winery may serve samples of domestic wine, domestic*
37 *fortified wine and wine imported under subsection (e) and serve*
38 *and sell domestic wine, domestic fortified wine and other alcoholic*
39 *liquor for consumption on the licensed premises at any time when*
40 *a club or drinking establishment is authorized to serve and sell al-*
41 *coholic liquor. If authorized by subsection (b), a winery outlet may*
42 *serve samples of domestic wine, domestic fortified wine and wine*
43 *imported under subsection (e) at any time when the winery outlet*

1 *is authorized to sell domestic wine and domestic fortified wine.*

2 *(e) The director may issue to the Kansas state fair or any bona*
3 *fide group of grape growers or wine makers a permit to import into*
4 *this state small quantities of wines. Such wine shall be used only*
5 *for bona fide educational and scientific tasting programs and shall*
6 *not be resold. Such wine shall not be subject to the tax imposed by*
7 *K.S.A. 41-501, and amendments thereto. The permit shall identify*
8 *specifically the brand and type of wine to be imported, the quantity*
9 *to be imported, the tasting programs for which the wine is to be*
10 *used and the times and locations of such programs. The secretary*
11 *shall adopt rules and regulations governing the importation of wine*
12 *pursuant to this subsection and the conduct of tasting programs for*
13 *which such wine is imported.*

14 *(f) A farm winery license or winery outlet license shall apply*
15 *only to the premises described in the application and in the license*
16 *issued and only one location shall be described in the license.*

17 *(g) No farm winery or winery outlet shall:*

18 *(1) Employ any person under the age of 18 years in connection*
19 *with the manufacture, sale or serving of any alcoholic liquor;*

20 *(2) permit any employee of the licensee who is under the age of*
21 *21 years to work on the licensed premises at any time when not*
22 *under the on-premise supervision of either the licensee or an em-*
23 *ployee of the licensee who is 21 years of age or over;*

24 *(3) employ any person under 21 years of age in connection with*
25 *mixing or dispensing alcoholic liquor; or*

26 *(4) employ any person in connection with the manufacture or*
27 *sale of alcoholic liquor if the person has been convicted of a felony.*

28 *(h) Whenever a farm winery or winery outlet licensee is con-*
29 *victed of a violation of the Kansas liquor control act, the director*
30 *may revoke the licensee's license and order forfeiture of all fees paid*
31 *for the license, after a hearing before the director for that purpose*
32 *in accordance with the provisions of the Kansas administrative pro-*
33 *cedure act.*

34 *(i) This section shall be part of and supplemental to the Kansas*
35 *liquor control act.*

36 *Sec. 2. K.S.A. 2009 Supp. 41-308b is hereby amended to read*
37 *as follows: 41-308b. (a) A microbrewery license shall allow:*

38 *(1) The manufacture of not less than 100 nor more than 15,000*
39 *barrels of domestic beer during the license year and the storage*
40 *thereof;*

41 *(2) the sale to beer distributors of beer, manufactured by the*
42 *licensee;*

43 *(3) the sale, on the licensed premises in the original unopened*

- 1 *container to consumers for consumption off the licensed premises,*
2 *of beer manufactured by the licensee;*
- 3 (4) *the serving free of charge on the licensed premises of samples*
4 *of beer manufactured by the licensee, if the premises are located in*
5 *a county where the sale of alcoholic liquor is permitted by law in*
6 *licensed drinking establishments;*
- 7 (5) *if the licensee is also licensed as a club or drinking estab-*
8 *lishment, the sale of domestic beer and other alcoholic liquor for*
9 *consumption on the licensed premises as authorized by the club and*
10 *drinking establishment act; and*
- 11 (6) *if the licensee is also licensed as a caterer, the sale of do-*
12 *mestic beer and other alcoholic liquor for consumption on unli-*
13 *censed premises as authorized by the club and drinking establish-*
14 *ment act; and*
- 15 (7) *if the licensee is also licensed as a farm winery pursuant to K.S.A.*
16 *41-308a, and amendments thereto, those activities permitted under K.S.A.*
17 *41-308a, and amendments thereto, for a farm winery licensee.*
- 18 (b) *Upon application and payment of the fee prescribed by*
19 *K.S.A. 41-310, and amendments thereto, by a microbrewery li-*
20 *censee, the director may issue not to exceed one microbrewery pack-*
21 *aging and warehousing facility license to the microbrewery li-*
22 *censee. A microbrewery packaging and warehousing facility license*
23 *shall allow:*
- 24 (1) *The transfer, from the licensed premises of the microbrew-*
25 *ery to the licensed premises of the microbrewery packaging and*
26 *warehousing facility, of beer manufactured by the licensee, for the*
27 *purpose of packaging or storage, or both; and*
- 28 (2) *the transfer, from the licensed premises of the microbrewery*
29 *packaging and warehousing facility to the licensed premises of the*
30 *microbrewery, of beer manufactured by the licensee; or*
- 31 (3) *the removal from the licensed premises of the microbrewery*
32 *packaging and warehousing facility of beer manufactured by the*
33 *licensee for the purpose of delivery to a licensed beer wholesaler.*
- 34 (c) *A microbrewery may sell domestic beer in the original un-*
35 *opened container to consumers for consumption off the licensed*
36 *premises at any time between 6 a.m. and 12 midnight on any day*
37 *except Sunday and between 11 a.m. and 7 p.m. on Sunday. If au-*
38 *thorized by subsection (a), a microbrewery may serve samples of*
39 *domestic beer and serve and sell domestic beer and other alcoholic*
40 *liquor for consumption on the licensed premises at any time when*
41 *a club or drinking establishment is authorized to serve and sell al-*
42 *coholic liquor.*
- 43 (d) *The director may issue to the Kansas state fair or any bona*

1 *bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational*
 2 *and scientific tasting programs and shall not be resold. Such beer*
 3 *shall not be subject to the tax imposed by K.S.A. 41-501, and amend-*
 4 *ments thereto. The permit shall identify specifically the brand and*
 5 *type of beer to be imported, the quantity to be imported, the tasting*
 6 *programs for which the beer is to be used and the times and loca-*
 7 *tions of such programs. The secretary shall adopt rules and regu-*
 8 *lations governing the importation of beer pursuant to this subsec-*
 9 *tion and the conduct of tasting programs for which such beer is*
 10 *imported.*

11
 12 *(e) A microbrewery license or microbrewery packaging and*
 13 *warehousing facility license shall apply only to the premises de-*
 14 *scribed in the application and in the license issued and only one*
 15 *location shall be described in the license.*

16 *(f) No microbrewery shall:*

17 *(1) Employ any person under the age of 18 years in connection*
 18 *with the manufacture, sale or serving of any alcoholic liquor;*

19 *(2) permit any employee of the licensee who is under the age of*
 20 *21 years to work on the licensed premises at any time when not*
 21 *under the on-premises supervision of either the licensee or an em-*
 22 *ployee of the licensee who is 21 years of age or over;*

23 *(3) employ any person under 21 years of age in connection with*
 24 *mixing or dispensing alcoholic liquor; or*

25 *(4) employ any person in connection with the manufacture or*
 26 *sale of alcoholic liquor if the person has been convicted of a felony.*

27 *(g) Whenever a microbrewery licensee is convicted of a viola-*
 28 *tion of the Kansas liquor control act, the director may revoke the*
 29 *licensee's license and all fees paid for the license in accordance with*
 30 *the Kansas administrative procedure act.*

31 ~~Section 1.~~ **Sec. 3.** K.S.A. 2009 Supp. 41-311 is hereby amended to
 32 read as follows: 41-311. (a) No license of any kind shall be issued pursuant
 33 to the liquor control act to a person:

34 (1) Who has not been a citizen of the United States for at least 10
 35 years, except that the spouse of a deceased retail licensee may receive
 36 and renew a retail license notwithstanding the provisions of this subsec-
 37 tion (a)(1) if such spouse is otherwise qualified to hold a retail license and
 38 is a United States citizen or becomes a United States citizen within one
 39 year after the deceased licensee's death;

40 (2) who has been convicted of a felony under the laws of this state,
 41 any other state or the United States;

42 (3) who has had a license revoked for cause under the provisions of
 43 the liquor control act, the beer and cereal malt beverage keg registration

- 1 act or who has had any license issued under the cereal malt beverage laws
2 of any state revoked for cause except that a license may be issued to a
3 person whose license was revoked for the conviction of a misdemeanor
4 at any time after the lapse of 10 years following the date of the revocation;
- 5 (4) who has been convicted of being the keeper or is keeping a house
6 of prostitution or has forfeited bond to appear in court to answer charges
7 of being a keeper of a house of prostitution;
- 8 (5) who has been convicted of being a proprietor of a gambling house,
9 pandering or any other crime opposed to decency and morality or has
10 forfeited bond to appear in court to answer charges for any of those
11 crimes;
- 12 (6) who is not at least 21 years of age;
- 13 (7) who, other than as a member of the governing body of a city or
14 county, appoints or supervises any law enforcement officer, who is a law
15 enforcement official or who is an employee of the director;
- 16 (8) who intends to carry on the business authorized by the license as
17 agent of another;
- 18 (9) who at the time of application for renewal of any license issued
19 under this act would not be eligible for the license upon a first application,
20 except as provided by subsection (a)(12);
- 21 (10) who is the holder of a valid and existing license issued under
22 article 27 of chapter 41 of the Kansas Statutes Annotated unless the per-
23 son agrees to and does surrender the license to the officer issuing the
24 same upon the issuance to the person of a license under this act, except
25 that a retailer licensed pursuant to K.S.A. 41-2702, and amendments
26 thereto, shall be eligible to receive a retailer's license under the Kansas
27 liquor control act;
- 28 (11) who does not own the premises for which a license is sought, or
29 does not have a written lease thereon for at least $\frac{3}{4}$ of the period for
30 which the license is to be issued;
- 31 (12) whose spouse would be ineligible to receive a license under this
32 act for any reason other than citizenship, residence requirements or age,
33 except that this subsection (a)(12) shall not apply in determining eligibility
34 for a renewal license;
- 35 (13) whose spouse has been convicted of a felony or other crime
36 which would disqualify a person from licensure under this section and
37 such felony or other crime was committed during the time that the spouse
38 held a license under this act; or
- 39 (14) who does not provide any data or information required by K.S.A.
40 2009 Supp. 41-311b, and amendments thereto.
- 41 (b) No retailer's license shall be issued to:
- 42 (1) A person who is not a resident of this state;
- 43 (2) a person who has not been a resident of this state for at least four

1 years immediately preceding the date of application;

2 (3) a person who has a beneficial interest in a manufacturer, distrib-
3 utor, farm winery or microbrewery licensed under this act, *except that*
4 *the spouse of a licensee* **an applicant for a retailer's license** *may own*
5 *and hold a farm winery license, microbrewery license, or both, if they*
6 ~~*do*~~ **the spouse does** *not hold a retailer's license issued under this act;*

7 (4) a person who has a beneficial interest in any other retail estab-
8 lishment licensed under this act, except that the spouse of a licensee may
9 own and hold a retailer's license for another retail establishment;

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

12 (6) a corporation; or

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

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

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

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

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

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

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

33 (6) a person who has a beneficial interest in a distributor, retailer,
34 ~~farm winery or microbrewery~~ licensed under this act.

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

36 (1) A corporation, if any officer, director or stockholder of the cor-
37 poration would be ineligible to receive a distributor's license for any rea-
38 son. It shall be unlawful for any stockholder of a corporation licensed as
39 a distributor to transfer any stock in the corporation to any person who
40 would be ineligible to receive a distributor's license for any reason, and
41 any such transfer shall be null and void, except that: (A) If any stockholder
42 owning stock in the corporation dies and an heir or devisee to whom stock
43 of the corporation descends by descent and distribution or by will is in-

1 eligible to receive a distributor's license, the legal representatives of the
 2 deceased stockholder's estate and the ineligible heir or devisee shall have
 3 14 months from the date of the death of the stockholder within which to
 4 sell the stock to a person eligible to receive a distributor's license, any
 5 such sale by a legal representative to be made in accordance with the
 6 provisions of the probate code; or (B) if the stock in any such corporation
 7 is the subject of any trust and any trustee or beneficiary of the trust who
 8 is 21 years of age or older is ineligible to receive a distributor's license,
 9 the trustee, within 14 months after the effective date of the trust, shall
 10 sell the stock to a person eligible to receive a distributor's license and
 11 hold and disburse the proceeds in accordance with the terms of the trust.
 12 If any legal representatives, heirs, devisees or trustees fail, refuse or ne-
 13 glect to sell any stock as required by this subsection, the stock shall revert
 14 to and become the property of the corporation, and the corporation shall
 15 pay to the legal representatives, heirs, devisees or trustees the book value
 16 of the stock. During the period of 14 months prescribed by this subsec-
 17 tion, the corporation shall not be denied a distributor's license or have its
 18 distributor's license revoked if the corporation meets all of the other
 19 requirements necessary to have a distributor's license;

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

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

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

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

33 (f) No microbrewery license or farm winery license shall be issued to
 34 a:

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

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

38 (3) person who has a beneficial interest in a ~~manufacturer or distrib-~~
 39 ~~utor licensed under this act or a person who currently has a beneficial~~
 40 ~~interest in a farm winery;~~

41 (4) person, copartnership or association which has a beneficial inter-
 42 est in any retailer licensed under this act or under K.S.A. 41-2702, and
 43 amendments thereto, ***except that the spouse of an applicant for a***

1 ***microbrewery or farm winery license may own and hold a retailer's***
2 ***license if the spouse does not hold a microbrewery or farm winery***
3 ***license issued under this act;***
4 (5) copartnership, unless all of the copartners are qualified to obtain
5 a license;
6 (6) corporation, unless stockholders owning in the aggregate 50% or
7 more of the stock of the corporation would be eligible to receive such
8 license and all other stockholders would be eligible to receive such license
9 except for reason of citizenship or residency; or
10 (7) 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 efiticiary would be eligible for a license.
14 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),
15 (f)(1), (f)(2) and K.S.A. 2009 Supp. 41-311b, and amendments thereto,
16 shall not apply in determining eligibility for the 10th, or a subsequent,
17 consecutive renewal of a license if the applicant has appointed a citizen
18 of the United States who is a resident of Kansas as the applicant's agent
19 and filed with the director a duly authenticated copy of a duly executed
20 power of attorney, authorizing the agent to accept service of process from
21 the director and the courts of this state and to exercise full authority,
22 control and responsibility for the conduct of all business and transactions
23 within the state relative to alcoholic liquor and the business licensed. The
24 agent must be satisfactory to and approved by the director, except that
25 the director shall not approve as an agent any person who:
26 (1) Has been convicted of a felony under the laws of this state, any
27 other state or the United States;
28 (2) has had a license issued under the alcoholic liquor or cereal malt
29 beverage laws of this or any other state revoked for cause, except that a
30 person may be appointed as an agent if the person's license was revoked
31 for the conviction of a misdemeanor and 10 years have lapsed since the
32 date of the revocation;
33 (3) has been convicted of being the keeper or is keeping a house of
34 prostitution or has forfeited bond to appear in court to answer charges of
35 being a keeper of a house of prostitution;
36 (4) has been convicted of being a proprietor of a gambling house,
37 pandering or any other crime opposed to decency and morality or has
38 forfeited bond to appear in court to answer charges for any of those
39 crimes; or
40 (5) is less than 21 years of age.
41 Sec. ~~2~~ **4**. K.S.A. 2009 Supp. **41-308a, 41-308b and 41-311** ~~is~~ **are**
42 hereby repealed.
43

1 Sec. ~~3~~ **5**. This act shall take effect and be in force from and after its
2 publication in the statute book.