

Approved February 8, 1983
DateMINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRSThe meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson11:00 a.m./p.m. on January 25, 1983 in room 254-E of the Capitol.All members were present. ~~except~~Committee staff present: Russell Mills, Legislative Research
Fred Carman, Assistant Revisor of Statutes
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee: Thomas J. Kennedy, Director, Alcoholic Beverage Control

The Chairman recognized Senator Gannon, who said that he has been approached by the professional plumbers of the state to introduce a bill to set up an in-house policing activity for their profession. It would include a grandfather clause and would police the new plumbers coming into the work force. Senator Gannon moved that the bill be introduced as a committee bill. 2d by Senator Francisco. Senator Pomeroy asked that he be recorded as voting "no." The motion carried.

Senator Reilly announced the meeting to be held on Thursday of the Alcoholic Beverage Control Review Board, January 27, 1983, Old Supreme Court Room, State House. The Chairman encouraged all Federal and State Affairs Committee Members to attend if possible. The Chairman appointed a sub-committee to study the hearing: Senator Morris, Chairman; and Senators Pomeroy and Parrish.

Senator Winter moved to have the Committee introduce legislation for study that would eliminate the prior residency requirement for individuals in order to obtain a private club license. (For the reason that the conceptual bill he would propose for study would be to address the inconsistencies in the law with respect to licensing requirements between individuals and corporations.) 2d by Senator Gannon. Motion carried. Senator Roitz said that he thought the Committee should honor the request to introduce the bill suggested by Senator Winter.

The Chairman introduced General Tom Kennedy, ABC Director, and said that the Director was prepared to present to the Committee a copy of the license fees for various outlets for surrounding states, and he wants to review this with the Committee. Discussion will follow.

General Kennedy distributed material for the Committee, including the Present Rate of License Fees in Kansas, Colorado, Missouri, Nebraska, Oklahoma, Arkansas, Minnesota and Texas, (Attachment #1); reasons for increasing registration fees (Attachment #2); fees charged for on-sale liquor licenses (Attachment #3) for the State of Minnesota. The Chairman stated that the ABC is making this information available to the Committee so a decision can be made to determine whether or not any action should be taken by the Legislature.

Director Kennedy also distributed Instructions for Completion of Gross Receipts Affidavit (Attachment #4); as well as a copy of the Memorandum concerning the ABC Board of Review (Attachment #5.)

Senator Francisco moved to introduce a bill to increase the original registration fee from \$50 to \$100 and the renewal registration fee from \$10 to \$50. 2d by Senator Winter. Motion carried.

The Chairman announced that the Committee will continue tomorrow to discuss the level of license and registration fees.

The meeting adjourned at 12:00 noon.

1/25/83 #1
Attachment

PRESENT RATE OF LICENSE FEES

<u>TYPES OF LICENSES</u>	<u>KANSAS</u>	<u>COLORADO</u>	<u>MISSOURI</u>	<u>NEBRASKA</u>	<u>OKLAHOMA</u>	<u>ARKANSAS</u>	<u>MINNESOTA</u>	<u>TEXAS</u>	<u>ACTUAL COLLECTION</u> <u>FY 1982</u>
Retail Liquor Store	\$ 100	\$ 171	\$ 100 Urban 50 Rural	\$ 150	\$200-600 Depending on Popul.	\$ 500	\$100-1000 Depending on Popul.	\$ 250 Urban 125 Rural	
Wholesale Liquor Distributor	1,250	1,000	500	500	2,500	1,000	7,500	1,250	
Cereal Malt Beverage Distributor	300	500	50	N/A	N/A	50-250	N/A	N/A	
Strong Beer Distributor	150	500	100	250	625		200	200	
Class "A" Private Club	250			25-200 Depending on Popul.		500			
Class "B" Private Club	1,000	110			Bottle Club	500-1,000 Based on Seating (50-99) (100-1000)	200-3,000 Based on Members	2,000 (open saloon)	
Non-Beverage License	10-50								
Salesmen Permits	10				35			5	
Bonded Carrier Permits	5				15				
Alcohol & Spirits Manufacturer	2,500		200	1,000	3,125	1,500	7,500	1,000	
Registration Fee- New	50								TOTAL
Registration Fee- Renewal	10								<u>\$1,125,708.84</u>
									<u>\$ 45,556.00</u>

LICENSEES/PERMITS AS OF DECEMBER 31, 1982:

Retail Liquor Store	1,110	Non-Beverage User License	10
Liquor Wholesalers	15	Class "A" Clubs	411
CMB Distributors	63	Class "B" Clubs	799
Strong Beer Distributors	79	Distributor/Supplier Permits	822
Alcohol & Spirits Manufacturer	1	Bonded Carrier Permits	75

Attch. 1

Attachment #2

Reasons for increasing Registration fees:

<u>Processing Cost of NEW Applications for License</u>	<u>Cost for Labor</u>	<u>Postage</u>	<u>Total</u>
1. Mail Application to Applicant 5 min. @ 5.28	\$.45	\$.80	\$ 1.25
2. Cost of handling application in Fiscal & Quality and Control 10 min. @ 6.27	1.00		1.00
3. Enter in Ledger and Check Application 15 min @ 5.28	1.35		1.35
4. Lease Checked by Law Clerk 20 min. @ 6.73	2.20		2.20
5. Write Correction Letter and File Some require 3 letters 15 min @ 5.28	1.35	.60	1.95
6. When Correction is read, request is checked 10 min @ 5.28	.90		.90
7. Type hearing notices Mail to Applicant, City Clerk, County Attorney 10 min. @ 5.28	.90	.60	1.50
8. Type Investigation Notice and Mail to Agent 5 min. @ 5.28	.45	.20	.65
9. Agents time required to check Applicant 2 hours @ 9.28 Time and Mileage	18.56 9.00		18.56 9.00
10. Cost to hold hearing Administrative Personnel	20.00		20.00
11. License Typed & Documents filed 15 min. @ 5.28	1.35		1.35
12. Cost of delivery by Agent Time and Mileage	9.28 9.00		9.28 9.00
13. Type Insurance Notice of Effective Bond Date 5 min. @ 5.28 Postage	.45		.45
	_____	.20	.20
TOTALS	\$76.24	\$ 2.40	\$78.64

Renewal costs would be slightly over half this amount.

Attch. 2



Attachment #3

STATE OF MINNESOTA
 DEPARTMENT OF PUBLIC SAFETY
 SAINT PAUL 55155

Fee charged for each On-Sale Liquor License:

From	\$0 to	\$499	-----	17
	\$500 to	\$999	-----	58
	\$1,000 to	\$1,999	-----	224
	\$2,000 to	\$2,999	-----	126
	\$3,000 to	\$3,999	-----	49
	\$4,000 to	\$4,999	-----	24
	\$5,000 to	\$10,880	-----	36

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OFF SALE

- \$1,000 - 1st Class Cities - Population over 100,000
- \$200 - Population over 10,000
- \$150 - Population 5,000 to 10,000
- \$100 - Population less than 5,000

Retail by Stores

CLUBS

- 200 Members - Fee up to \$300
- 201-500 Members - Fee up to \$500
- 501-1000 Members - Fee up to \$650
- 1001-2000 Members - Fee up to \$800
- 2000-4000 Members - Fee up to \$1,000
- 4001-6000 Members - Fee up to \$2,000
- 6000 & More - Fee up to \$3,000

RECEIVED

DEC 15 1982

DEPARTMENT OF REVENUE
 ALCOHOLIC BEVERAGE CONTROL DIV.

AN EQUAL OPPORTUNITY EMPLOYER



Attch. 3

1/25/83

#4

INSTRUCTIONS FOR COMPLETION OF GROSS RECEIPTS AFFIDAVIT

This affidavit must be completed if you are seeking either (1) multiple licensing for class B clubs pursuant to K.S.A. 1980 Supp. 41-2624 or (2) if you desire to enter a reciprocal agreement with another class B club pursuant to K.S.A. 1980 Supp. 41-2637.

In calculating the applicable income percentages, please note the "food income" definitions which follow:

MULTIPLE LICENSING

"Food Income" means the gross receipts from the sale of food in the entire licensed food service establishment, i.e. you may include the gross receipts from the sale of food in both the licensed club premises and any public area in the establishment.

RECIPROCAL AGREEMENT

"Food Income" means the gross receipts from the sale of food on the licensed club premises only. You may not include receipts from the sale of food in an adjacent, public dining area. You may include receipts from the sale of food in the licensed club which are generated during hours that you are open to the public pursuant to ABC Letter of Approval.

ALH. 4

MEMORANDUM

Attached please find (1) a sample reciprocity agreement, (2) general information regarding applicability of reciprocity, and (3) a gross receipts affidavit.

These materials are provided pursuant to your recent request for same directed to this office. You should review the general information and then file the completed reciprocity agreement in quadruplicate (4) and the original gross receipts statement. Separate agreements must be filed and approved for each reciprocal relationship that a club establishes.

Upon approval, a copy of the reciprocity agreement will be returned to you stamped APPROVED.

GENERAL INFORMATION REGARDING RECIPROCITY IN CLASS "B" RESTAURANT CLUBS

I. All Class "A" and Class "B" Clubs:

All Class "A" and Class "B" clubs, which enter into reciprocal agreements, are required to keep a Reciprocity Guest Book which all reciprocity members must legibly sign when they enter the club. The reciprocity member is to sign their name, personal address and club of original membership.

II. Class "B" Restaurant Clubs:

1. Definition of Restaurant: Restaurant means a licensed food service establishment as defined by K.S.A. 1978 Supp. 36-501 and amendments thereto, which, as determined by the Director derives not less than fifty percent (50%) of its gross receipts in each calendar year from the sale of food for consumption on the club premises. Food means any raw, cooked, or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.
2. Process for determination of Class "B" club as a restaurant: For the purpose of making the determination as to whether or not a Class "B" club qualifies as a restaurant under the above definition, the club at the time of submitting its first reciprocity agreement shall also submit on a separate form provided for this purpose, the food service establishment license number and date of expiration. In addition, a signed affidavit showing a breakdown of food sales compared to alcoholic liquor and cereal malt beverage sales for the prior year shall be provided. If there is doubt about the truthfulness of this affidavit, a hearing may be conducted at which time the licensee will be required to produce his or her books. Where there is no previous operation, and the truthfulness of an affidavit is in question, on-premise investigation and inspection of the facilities to ascertain the existence of a bona fide kitchen, may be undertaken. Clubs with no prior food experience should provide anticipated sales figures in the affidavit.
3. Temporary Members: Members of motel/hotel clubs who are "temporary members," may make use of any reciprocal privilege that the motel-hotel club has pursuant to approved agreements. Motel/hotel clubs, if qualified as a "restaurant," may enter into reciprocal agreements with other "restaurant" clubs.

Section D. (ALL APPLICANTS SHALL ATTACH A TRUE COPY OF ITS PROPOSED MENU TO THIS FORM.)

I hereby certify that the attached menu is a true and correct copy of the club or organization's menu for food sales for the present calendar year.

PERSONAL OATH

STATE OF KANSAS)
COUNTY OF _____)

_____, being
(print name)

first duly sworn, upon oath deposes and says: That he or she is the authorized agent of the above-named organization; that he or she has read the above information sheet; knows the contents thereof and that all statements therein contained are true.

Signature of owner, partner or authorized officer

Subscribed in my presence and sworn to before me this _____ day of _____, 19_____.

Notary Public

My Commission expires: _____.

* * * * *

- * "Calendar year" means the period from January 1 to December 31 next thereafter, inclusive.
- * "Food" means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.
- * K.A.R. 92-24-1. GROSS RECEIPTS. The gross receipts derived from the sale by a club, as defined in K.S.A. 1979 Supp. 41-2601, of a drink containing alcoholic liquor, including any portion of the amount charged for any ingredient mixed with or added to the alcoholic liquor, is subject to a tax at the rate of ten percent (10%). The tax shall apply to ingredients whether mixed by the licensee or sold separately. The term "gross receipts" shall also include charges made incidental to charges for drinks containing alcoholic liquor including, but not by way of limitation, service charges, corkage charges, cooling charges, serving charges, fees or charges for the use of club-owned equipment incidental to the serving of drinks containing alcoholic liquor and, except as hereinafter provided, gratuities. Gratuities shall not be included within the gross receipts subject to the tax if such gratuities are voluntarily given by the consumer or are separately stated on a billing statement and are entirely distributed to employees of the club not in the form of wages, salaries or other compensation. Where alcoholic liquor is provided by a club in connection with room rental, soft drinks, water and ice and a single fee or charge is made for all such property or services, the entire fee or charge, less the amount normally charged for the room rental is subject to the tax.

RECIPROCAL
SAMPLE AGREEMENT*

This Agreement made and entered into this _____ day of _____,
19____, by and between the following class "B" clubs:

(name of club)	(address of club)
(name of club)	(address of club)

WITNESSETH: and that

WHEREAS, the Alcoholic Beverage Control acting under the 1965 Club Licensing Act, as amended by S.B. 467 and the 1979 Legislature, may permit members of class B clubs to have access to the premises and facilities of other class B clubs which are parties to said agreement.

THEREFORE, it is agreed that members of each of the undersigned class B clubs have access to the premises and facilities of each of the other undersigned class B clubs and that members of each club shall be subject to such rules and regulations established and followed by the management of the host club; provided, however, that such privileges shall in no event be in contravention of Laws of 1965, known specifically as the Kansas Club Licensing Act of 1965, as amended.

IT SHALL BE MANDATORY by this agreement that each club being a party to this agreement maintain on the club premises a permanently bound book known as a "Reciprocal Members Registration Book" and that each visiting reciprocal member shall be required to sign his or her name and address (hometown or city) and the name and city of his or her member club. The club will require visiting reciprocal members to show proper identification and some type of proof that they are in fact a member of good standing of the reciprocating club.

EACH PARTY HERETO WARRANTS THAT it has been certified as a "restaurant club" by the Director of the Alcoholic Beverage Control which renders the party eligible to enter into reciprocal agreements as a class B club. A "restaurant" means a licensed food service establishment as defined by K.S.A. 1978 Supp. 36-501 and amendments thereto, which, as determined by the Director of the Alcoholic Beverage Control, derives no less than fifty (50%) percent of its gross receipts in each calendar year from the sale of food for consumption on the club premises. Food means any raw, cooked or processed, edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use, for sale, in whole or in part, for human consumption.

THIS AGREEMENT MUST BE SIGNED by either the owner, partner or authorized corporate officer of each club being a party to this agreement.

FURTHER, IN WITNESS WHEREOF, the undersigned have hereunto set their hands this _____ day of _____, 19____.

(name of club)

(name of owner or corporate officer)

(name of club)

(name of owner or corporate officer)

* Separate agreements must be filed and approved for each reciprocal relationship that a club establishes. Agreements must be signed by owner or corporate officer. If this form is reproduced delete the word "sample."

MEMORANDUM

1/25/83- #5

TO: Whom It May Concern

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: January Meeting of Alcoholic Beverage Control
Board of Review

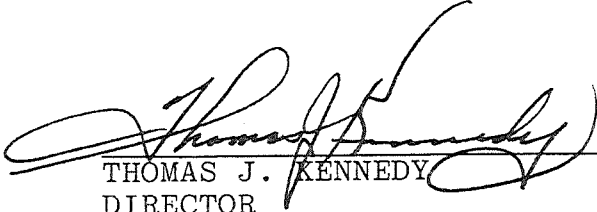
DATE: January 24, 1983

This memorandum is notification that the January Meeting of the Alcoholic Beverage Control Board of Review, which was scheduled at 10:00 A.M. Thursday, January 27, 1983, in the Cafeteria Auditorium, Basement, State Office Building, Topeka, Kansas, has been moved to the Old Supreme Court Room, Room 313S, 3rd Floor, State Capitol, Topeka. No change in time or date.

For those not receiving notification, a representative of the ABC Office will be at the Cafeteria Auditorium, from 9:30 AM to 10:30 AM to direct attendees to the new location.

As a matter of information, Senator Reilly, Chairman of the Senate Federal and State Affairs Committee has appointed a committee to attend the hearing. They are: Senator Bill Morris, Chairman, Senator Nancy Parrish and Senator Elwaine Pomeroy. In addition, Senator Reilly has encouraged other members available to attend.

Representative Neal Whitaker, Chairman of the House Federal and State Affairs Committee and Representative Stephen R. Cloud, Chairman, House Governmental Organization Committee, will probably be present or be represented.


THOMAS J. KENNEDY
DIRECTOR

TJK:cjs

Atch. 5

33111

PROPOSED

KANSAS PROFESSIONAL PLUMBERS LICENSE LAW

AN ACT creating the professional plumbers license law.
Be it enacted by the Legislature of the State of Kansas:

Section 1. General purposes of act. In order to safeguard life, health and property; and to promote the public welfare, any person in either public or private capacity practicing or offering to practice professional plumbing shall hereafter be required to submit evidence as to qualification to practice and shall be licensed as hereafter provided; and it shall be unlawful for any person to practice or to offer to practice, in the State of Kansas, professional plumbing as defined in the provisions of this act, or to use in connection with his or her name or otherwise assume, use or advertise any title or description tending to convey the impression that he or she is a professional plumber, unless such person has been duly licensed under the provisions of this act.

Section. 2. Definitions. As used in this act: (a) the term "plumbing" shall mean the assembly, installation and maintenance of air, gas, water and waste disposal systems and fixtures; (b) the term "plumber" shall mean a person who, by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of plumbing analysis and design, acquired by education and experience, is qualified to practice plumbing; (c) the term "professional plumber" shall mean a person who has been duly registered and licensed by the state board of plumbing examiners; (d) the term "practice of plumbing" within the intent of this act, shall mean any service or creative work, the adequate performance of which requires plumbing education, training and experience in the application of special knowledge of mathematical, physical, and plumbing sciences to such services or creative work as consultation, investigation, evaluation, planning and design of plumbing works and systems, and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects.

A person shall be construed to practice or offer to practice plumbing within the meaning and intent of this act, who practices any branch of the profession of plumbing; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way makes representation as a plumber, or through the use of some other title implies that he or she is a plumber or licensed under the provisions of this act; or who holds himself or herself out as able to perform, or who does perform any plumbing service or work of any other service designated by the practitioner which is recognized as plumbing: provided, however, that the provisions of this act shall not apply to or interfere with those persons and practices set forth in Section 15.

(e) The term "board" shall mean the state board of plumbing examiners, hereinafter provided by this act.

(f) The term "contractor" as used in this act shall mean a person who practices or is engaged in the profession of plumbing or who has practiced the profession of plumbing and was practicing the profession in this state at the time this act takes effect.

Section 3. State board of plumbing examiners. (a) There is hereby created within the department of health and environment the Kansas plumbers examining board. The board shall consist of five members who shall be appointed by the governor and all of whom shall have experience in design, construction, inspection and operation of plumbing systems. A majority of the members shall be registered professional plumbers. (b) The initial appointees to the board shall serve for terms as follows and the governor shall designate the term of each: One for a term of one year, one for a term of two years, one for a term of three years, and two for terms of four years. Thereafter, members shall serve for terms of four years.

(c) The governor may remove any member of the board at any time for cause.

(d) Upon any vacancy in the membership of the board, the governor shall appoint a successor of like qualifications. Any appointment to a vacancy which occurs prior to the end of a member's term shall be only for the unexpired term.

(e) Each member of the board shall be representative of one of the following:

(1) licensed professional plumbers, (2) residents of the State of Kansas not normally involved in the plumbing industry, and (3) secretary of health and environment or the secretary's representative.

(f) The board shall elect one of its members to serve as chairperson for a term determined by the board, not to exceed four years.

(g) Members of the board attending meetings of the board, or attending a sub-committee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

(h) The board shall advise the secretary on the enforcement and administration of this act and the adoption of rules and regulations hereunder, in addition to any other duties provided by this act.

(i) The board shall hold a meeting within thirty days after its members are first appointed, and thereafter shall hold at least four meetings each year. Notice of all meetings shall be given in such manner as the bylaws may provide. A quorum of the board shall consist of not less than three of the boards members.

(j) The board shall have the power to adopt and amend all bylaws and rules and regulations, including rules of professional conduct, not inconsistent with the

constitution and laws of Kansas, which may be reasonably necessary for the proper performance of its duties and regulations of the proceedings before it. The board shall adopt and have an official seal.

In carrying into effect the provisions of this act, the board, under the hands of its chairman and the approval of the board may, at any time subpoena witnesses, require the production of books, papers, documents, et cetera, in any case involving the revocation or suspension of license or practicing or offering to practice without a license. The board may cause the deposition of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers or documents, the board may present its petition to the district court of the county in which it may be in session, setting forth the facts and thereupon such court shall, in a proper case, issue its subpoena to such person, requiring attendance before such court and there to testify or to produce such books, papers and documents, as may be deemed necessary by the board. Any person failing or refusing to obey the subpoena or order of the court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the court.

(k) The board is hereby authorized to cancel, recall, suspend or restrict the license of any professional plumber or contractor for any or all of the following reasons: (1) Abandonment of any contract without legal cause.

(2) Diversion of funds or property received for performance or completion of a specific contract for a specified purpose, in the performance or completion of any contract, and their application or use for any other contract, obligation or purpose or the failure, neglect, or refusal to use such funds or property for the performance or completion of the contract.

(3) Committing any act in violation of any provision of this Act or the refusal or failure to comply with any lawful and reasonable order of the board.

(4) Misrepresentation of a material fact by the applicant in obtaining a license.

(5) Failure of any contractor to fully certify all claims for labor and materials used in the performance of any work for which he or she has been engaged or for which he or she has been paid.

(6) Fraudulent use of the license.

(7) Carelessness or negligence in providing reasonable safety measures for the protection of workmen and the public.

(8) Unreasonable delay in the performance and carrying out of any contract.

Section 4. Rules and Regulations. The secretary shall; (a) adopt such rules and regulations as necessary to carry out the provisions of this act; (b) take action necessary for the enforcement of this act and of the rules and regulations adopted hereunder; (c) establish annually, by rules and regulations, a schedule of license fees in the amount necessary to carry out and administer the requirements of this act. Such fee schedule may include a penalty for late payment of fees.

Section 5. Disposition of moneys. The secretary shall receive and account for all moneys collected under this act and shall pay the same monthly into the state treasury and the state treasurer shall credit the amounts prescribed by K.S.A. 75-3170 to the general fund of the state for the purpose of reimbursing such fund as provided for in K.S.A. 75-3170; and the balance thereof shall be placed in the "professional plumbers' fund". Such fund shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only for the expense and compensation of said board as provided in this act upon the warrant of the state controller upon itemized vouchers approved by the chairman and attested by the secretary.

Under no circumstances shall the total amount of warrants issued by the state controller in payment of the expenses and compensation provided for in this act exceed the amount of the examination and license fees collected as herein provided.

Section 6. Records of proceedings; register of applications. The secretary shall keep a record of the board proceedings, and a register of all applications for license, which register shall show (a) the name, age, and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his educational and other qualifications; (e) whether or not an examination was required; (f) the action of the board upon the application; (g) the date of the action of the board, and (h) such other information as may be deemed necessary by the board. The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary shall be admissible in evidence with same force and effect as if the original were produced.

Section 7. Roster of licensees published annually. A roster showing the names and places of business of all licensed professional plumbers shall be published by the secretary during the month of July of each year. Copies of this roster shall be mailed to each so licensed, placed on file with the secretary of state and with the clerk of each county, city, and town in the state, and furnished to the public upon request.

Section 8. Examinations. The board shall meet and designate the times and places for examination of all applicants desiring to engage in the business of plumbing as a professional plumber or plumbing contractor. The board shall examine each applicant as to particular knowledge of plumbing, and if satisfied as to the competency of the applicant, shall thereupon direct that said license be issued to the applicant. Examinations may be made in whole or in part in writing, orally, or by actual demonstration as the board may deem necessary, but sufficiently broad to test the qualifications of the applicant.

Section 9. Application forms, license fee. Applications for license shall be on forms prescribed and furnished by the secretary, shall contain statements made under oath, showing the applicants education and detailed summary of technical work performed, and shall contain not less than five references, of whom two or more shall be licensed professional plumbers having personal knowledge of the applicants plumbing experience.

(1) The secretary may require by rule and regulation, an examination fee, which shall accompany the application form. (2) Should the applicant be successful in obtaining the license, the examination fee shall be credited toward the license fee. (3) Should the applicant fail to obtain the license, the examination fee shall be retained by the secretary as an application fee. (4) An applicant failing on examination may apply for re-examination at the expiration of six months, which subsequent examination will be granted upon payment of a fee to be determined by the secretary.

Section 10. Bond required. Before a professional plumbers license shall be issued, the applicant therefore shall post with the secretary a surety bond in the amount of \$10,000.00, which shall be approved as to form by the secretary, the condition of such bond to be that the principal therein will comply with all the provisions of this act, and to hold and save the State harmless on any and all damages to persons or property resulting from or growing out of any of the principles actions pertinent to this act.

Section 11. License issuance. The secretary shall issue a license, upon payment of license fee and posting of the bond, as provided in this act, to any applicant, who, in the opinion of the board, has satisfactorily met all the requirements of this act. Licenses shall show the full name of the person to whom issued, shall have a serial number, and shall be signed by the secretary and the chairman of the board under the seal of the board. (1) The issuance of a license by this board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a licensed professional plumber, while the license remains in full force and effect.

Section 12. Revocation of license; hearing of charges; reinstatement; issuance of duplicate license. Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any licensed plumber. In addition, the board on its own motion, the attorney general, or county attorney, may file charges against any plumber licensed under the provisions of this act. Such charges shall be in writing, and shall be sworn to by the person making them, and shall be filed with the secretary. Charges filed by the board on its own motion shall be signed by the chairman and bear the seal of the board. All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they shall have been preferred. The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such plumber at least thirty days before the date fixed for the hearing. At any hearing, the accused plumber shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in defense. If after such hearing, three or more members of the board vote in favor to finding the accused guilty, the board shall reprimand or otherwise discipline, or shall suspend or revoke the license of such licensed professional plumber. The board, for reasons it may deem sufficient, may reissue a license to any person whose license has been revoked and may remove the suspension of the license of any person whose license has been suspended providing three or more members of the board vote in favor of such reissuance. A new license, to replace any revoked, lost, destroyed, or mutilated license, may be issued subject to the rules of the board, and a charge, established by rules and regulations, shall be made for such issuance.

Section 13. Notice of denial or revocation of license; appeal to district court; notice; transcript. Notice of the action of the board in denying or suspending or revoking a license shall be given by sending a copy of the order by certified mail to the last known address of the applicant or licensee. Any applicant or licensee who believes to be aggrieved by any decision of the board may within thirty days after notice or receipt of a copy of the order of the board of appeal to the district court of the county in which said applicant or licensee resides, which court shall try the appeal de novo and shall have jurisdiction to affirm, reverse, vacate or modify the decision complained of. Notice of said appeal shall be filed in the office of the clerk of the district court and a copy thereof served upon the secretary within five days thereafter. Upon the filing of said appeal, the board shall within twenty days file with the clerk of the district court a certified copy to the transcript including the records of the board and all evidence introduced during the proceedings.

Section 14. Penalties and violations. Any person who shall practice, or offer to practice professional plumbing in the State of Kansas without being licensed in accordance with the provisions of this act, or any person presenting or attempting to use as his own the license of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a license or any person who shall falsely impersonate any other plumber of like or different name, or any person who shall attempt to use an expired, suspended or revoked license, or any person who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and shall upon conviction, be sentenced to pay a fine of not less than one hundred dollars, nor more than one thousand dollars, or suffer imprisonment for a period not exceeding six months, or both. The attorney general of the state or the county attorney of any county shall at the request of the board render such legal assistance as may be necessary in carrying out the provisions of this act. Upon the request of the board, the attorney general or county attorney of the proper county shall institute in the name of the state or board the proper proceedings against any person regarding whom a complaint has been made charging the violation of any provisions of this act. The attorney general and such county attorney, at the request of the attorney general or of the board, shall appear and prosecute any and all such actions.

Whenever in the judgment of the board any person has engaged or is about to engage, in any acts or practices which constitute, or will constitute, a violation of this act, or any valid rule or regulation of the board, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

Section 15. Act not to apply or interfere with certain practices. This act shall not be construed to apply to or interfere with: The design, installation or maintenance of plumbing on any owner-occupied single family structure by the owner thereof, upon that single family structure, for the owner-occupants own use.

Section 16. Act not to prevent or affect certain practices. This act shall not be construed to prevent or to affect: (1) The practice of any other recognized profession or trade; or (2) the practice of a person not a resident of and having no established place of business in the state of Kansas, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty days the profession of plumbing if he or she shall have filed with the secretary an application for a license and shall have paid the fee required by this act: Provided, that such a person is legally qualified by license or registration to

practice said profession in his or her own state or country in which the requirements and qualification for obtaining a license or certificate of registration are not lower than those specified in this act. Such practice shall continue only for such time as the board requires for the consideration of the application for license; or (3) the work of an employee or a subordinate of a person holding a license under this act; Provided that the licensed professional plumber or plumbing contractor shall be responsible for all work performed by such employee or subordinate is in compliance with the provisions of this act.

Section 17. Licenses to plumbers practicing on adoption of this act. At any time within one year after this act becomes effective, upon due application therefor and the payment of the license fee, the secretary shall issue a license without oral or written examinations, to any person who shall submit evidence under oath that he or she is of good character, has been a resident of the state of Kansas for at least one year immediately preceding the date of application, and was practicing plumbing at the time this act became effective. After this act shall have been in effect one year, the secretary shall issue licenses only as provided for in Section 11 hereof, except that any person serving in the armed forces of the United States at the time this act becomes effective may, at any time within one year after honorable discharge from such service, apply for licensure under the terms of this section and shall be licensed upon presentation of satisfactory evidence that he or she was practicing plumbing in the state of Kansas immediately preceding the beginning of such service.

Section 18. Title of act. This act may be known and cited as the Kansas professional plumbers license act.

Section 19. Invalidity of part. If any section or sections of this act shall be declared unconstitutional or invalid, this shall not invalidate any other sections of this act.

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