

CHAPTER 142
SENATE BILL No. 452

AN ACT concerning alcoholic beverages; relating to licenses and eligibility; amending K.S.A. 41-326, 41-2601, 41-2605, 41-2607 and 41-2629 and K.S.A. 2009 Supp. 41-102, 41-308a, 41-308b, 41-310, 41-311, 41-317, 41-350, 41-727, 41-2606, 41-2622 and 41-2623 and repealing the existing sections.

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

New Section 1. (a) Any manufacturer or supplier of alcoholic liquor or cereal malt beverage, whether licensed in this state or any other state, may apply for an annual packaging and warehousing facility permit. The application shall be on a form prescribed by the director and shall include all information the director deems necessary.

(b) A packaging and warehousing facility permit shall allow:

(1) The transfer of alcoholic liquor or cereal malt beverage to the licensed premises of a packaging and warehousing facility for the purpose of packaging or storage, or both;

(2) the sale and transfer from the licensed premises of a packaging and warehousing facility to the licensed premises of a spirits, wine or beer distributor licensed in Kansas or to a Kansas supplier; and

(3) the transfer from the licensed premises of a packaging and warehousing facility to another state.

(c) The annual fee for a packaging and warehousing facility permit shall be \$2,500.

(d) Each brand and label of alcoholic liquor or cereal malt beverage that is intended for sale to distributors in Kansas and is transported, packaged or stored at a licensed packaging and warehousing facility must be registered in accordance with the provisions of K.S.A. 41-331, and amendments thereto.

(e) The tax imposed pursuant to K.S.A. 41-501, and amendments thereto, shall be paid on alcoholic liquor or cereal malt beverage imported into this state under a packaging and warehousing facility permit only if the alcoholic liquor or cereal malt beverage is sold to a distributor for sale at wholesale in this state and shall be paid by the distributor who purchases the alcoholic liquor or cereal malt beverage for sale at wholesale.

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

Sec. 2. K.S.A. 2009 Supp. 41-727 is hereby amended to read as follows: 41-727. (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a class C misdemeanor for which the minimum fine is \$200.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the revised Kansas juvenile justice code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than \$200 nor more than \$500.

(d) In addition to any other penalty provided for a violation of this section: (1) The court may order the offender to do either or both of the following:

(A) Perform 40 hours of public service; or

(B) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.

(2) Upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.

(3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for

90 days whether or not that person has a driver's license.

(4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) Any city ordinance or county resolution prohibiting the acts prohibited by this section shall provide a minimum penalty which is not less than the minimum penalty prescribed by this section.

(g) A law enforcement officer may request a person under 21 years of age to submit to a preliminary screening test of the person's breath to determine if alcohol has been consumed by such person if the officer has reasonable grounds to believe that the person has alcohol in the person's body except that, if the officer has reasonable grounds to believe the person has been operating or attempting to operate a vehicle under the influence of alcohol, the provisions of K.S.A. 8-1012, and amendments thereto, shall apply. No waiting period shall apply to the use of a preliminary breath test under this subsection. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made for violation of this section. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results or a refusal to submit to a preliminary breath test shall be admissible in court in any criminal action, but are not *per se* proof that the person has violated this section. The person may present to the court evidence to establish the positive preliminary screening test was not the result of a violation of this section.

(h) (1) *Any person less than 18 years of age who violates only this section shall not be detained or placed in a jail, as defined in K.S.A. 2009 Supp. 38-2302, and amendments thereto.*

(2) *Any person less than 18 years of age who is arrested only for a violation of this section shall not be detained or placed in a juvenile detention facility, as defined in K.S.A. 2009 Supp. 38-2302, and amendments thereto, for a period exceeding 24 hours, excluding Saturdays, Sundays and legal holidays.*

(3) *Any person less than 18 years of age at the time of the offense who is adjudicated only of a violation of this section shall not be detained in a jail, juvenile detention facility, juvenile correctional facility or sanctions house, as defined in K.S.A. 2009 Supp. 38-2302, and amendments thereto.*

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

Sec. 3. K.S.A. 2009 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

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

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

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

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

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

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

(g) "Director" means the director of alcoholic beverage control of the

department of revenue.

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

(i) "Domestic beer" means beer which contains not more than 8% alcohol by weight and which is manufactured in this state.

(j) "Domestic fortified wine" means wine which contains more than 14%, but not more than 20% alcohol by volume and which is manufactured in this state ~~without rectification~~.

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

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

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

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

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

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

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

(q) "Minor" means any person under 21 years of age.

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

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

(t) "Person" means any natural person, corporation, partnership, trust or association.

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

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

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

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

(x) "Salesperson" means any natural person who:

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

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

(y) "Secretary" means the secretary of revenue.

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

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

(aa) “To sell” includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

(bb) “Sleeve” means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

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

(dd) “Supplier” means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

(ee) “Temporary permit” has the meaning provided by K.S.A. 41-2601, and amendments thereto.

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

New Sec. 4. (a) The director shall issue a drinking establishment license to any municipal corporation that qualifies under K.S.A. 41-2601 et seq., and amendments thereto, for the premises specified in the license application.

(b) Municipal corporations applying for a drinking establishment license shall not be subject to the provisions of subsection (a)(1) or (a)(3) through (9) of K.S.A. 41-2623, and amendments thereto.

Sec. 5. K.S.A. 2009 Supp. 41-308a is hereby amended to read as follows: 41-308a. (a) A farm winery license shall allow:

(1) The manufacture of domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;

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

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

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

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

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

(7) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped; and

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

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

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

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

(3) the manufacture of domestic table wine and domestic fortified wine and the storage thereof; provided, that the aggregate quantity of wine produced by the farm winery licensee, including all winery outlets, shall not exceed 100,000 gallons per year.

(c) Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.

(d) A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

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

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

(g) No farm winery or winery outlet shall:

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

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

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

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

(h) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.

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

Sec. 6. K.S.A. 2009 Supp. 41-310 is hereby amended to read as follows: 41-310. (a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

(b) The ~~annual~~ fee for a manufacturer's license to manufacture alcohol and spirits shall be ~~\$2,500~~ \$5,000.

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

(1) For 1 to 100 barrel daily capacity or any part thereof, ~~\$200~~ \$400.

(2) For 100 to 150 barrel daily capacity, ~~\$400~~ \$800.

- (3) For 150 to 200 barrel daily capacity, ~~\$700~~ \$1,400.
- (4) For 200 to 300 barrel daily capacity, ~~\$1,000~~ \$2,000.
- (5) For 300 to 400 barrel daily capacity, ~~\$1,300~~ \$2,600.
- (6) For 400 to 500 barrel daily capacity, ~~\$1,400~~ \$2,800.
- (7) For 500 or more barrel daily capacity, ~~\$1,600~~ \$3,200.

As used in this subsection, “daily capacity” means the average daily barrel production for the previous 12 months of manufacturing operation. If no basis for comparison exists, the licensee shall pay in advance for *operation during the first year’s operation term of the license* a fee of ~~\$1,000~~ \$2,000.

(d) The ~~annual~~ fee for a manufacturer’s license to manufacture wine shall be ~~\$500~~ \$1,000.

(e) (1) The ~~annual~~ fee for a microbrewery license or a farm winery license shall be ~~\$250~~ \$500.

(2) The ~~annual~~ fee for a winery outlet license shall be ~~\$50~~ \$100.

(3) The ~~annual~~ fee for a microbrewery packaging and warehousing facility license shall be ~~\$100~~ \$200.

(f) The ~~annual~~ fee for a spirits distributor’s license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing spirits shall be ~~\$1,000~~ \$2,000.

(g) The ~~annual~~ fee for a wine distributor’s license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing wine shall be ~~\$1,000~~ \$2,000.

(h) The ~~annual~~ fee for a beer distributor’s license, for the first and each additional wholesale distributing place of business operated in this state by the licensee and wholesaling or jobbing beer and cereal malt beverage shall be ~~\$1,000~~ \$2,000.

(i) The ~~annual~~ fee for a nonbeverage user’s license shall be:

(1) For class 1, ~~\$10~~ \$20.

(2) For class 2, ~~\$50~~ \$100.

(3) For class 3, ~~\$100~~ \$200.

(4) For class 4, ~~\$200~~ \$400.

(5) For class 5, ~~\$500~~ \$1,000.

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

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

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

(k) The ~~annual~~ fee for a retailer’s license shall be ~~\$250~~ \$500.

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

(1) Any city in which the licensed premises are located ~~shall~~ *may* levy and collect ~~an annual~~ a *biennial* occupation or license tax on the licensee in an amount not less than ~~\$100~~ \$200 nor more than ~~\$300~~ \$600, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee; and

(2) any township in which the licensed premises are located ~~shall~~ *may* levy and collect ~~an annual~~ a *biennial* occupation or license tax on the licensee in an amount not less than ~~\$100~~ \$200 nor more than ~~\$300~~ \$600; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(m) The license ~~year~~ *term* for a license shall commence on the date the license is issued by the director and shall end ~~one year~~ *two years* after that date. *The director may, at the director’s sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond the date such license would expire*

pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to this section by the same number of days the director has extended the license term.

Sec. 7. K.S.A. 2009 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 the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping 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, except as provided by subsection (a)(12);

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

(11) who does not own the premises for which a license is sought, or does not, *at the time of application*, have a written lease thereon ~~for at least 3/4 of the period for which the license is to be issued~~;

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

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

(14) who does not provide any data or information required by K.S.A. 2009 Supp. 41-311b, and amendments thereto.

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

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

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

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

(4) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may

own and hold a retailer's license for another retail establishment;

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

(6) a corporation; or

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

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

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

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

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

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

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

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

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

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

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

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

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

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

(f) No microbrewery license or farm winery license shall be issued to

a:

- (1) Person who is not a resident of this state;
- (2) person who has not been a resident of this state for at least ~~four~~ *one year* immediately preceding the date of application;
- (3) person who has a beneficial interest in a manufacturer or distributor licensed under this act ~~or a person who currently has a beneficial interest in a farm winery, except as provided in K.S.A. 41-305, and amendments thereto;~~
- (4) person, copartnership or association which has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, *except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;*

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

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

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

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2009 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

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

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

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

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

(5) is less than 21 years of age.

Sec. 8. K.S.A. 2009 Supp. 41-317 is hereby amended to read as follows: 41-317. (a) 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~~ *completed and submitted to the director in a manner prescribed by the director.* Each application shall be accompanied by a state registration ~~applicant shall submit an application fee of \$50 for each initial application and \$10 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 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. All registration fees shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. 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 the director and shall be credited to the state general fund.

(b) Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:

(1) The full amount of the license fee required to be paid for the kind of license specified in the application; or

(2) one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.

(c) If the applicant elects to pay only one-half of the license fee pursuant to subsection (b)(2), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The director may, at the director's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this paragraph for not more than 30 days beyond the date such payment is originally due.

(d) Any license fee paid by an applicant shall be returned to the applicant if the application is denied.

(e) Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner prescribed by the director.

(f) All fees received by the director pursuant to this section shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

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

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

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

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

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

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

(6) for a microbrewery or a farm winery, \$2,000; and

(7) for a winery holding a special order shipping license, \$750, unless the winery has already complied with subsection ~~(b)(6)~~ (g)(6).

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

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

Sec. 9. K.S.A. 41-326 is hereby amended to read as follows: 41-326. A license shall be purely a personal privilege, valid for not to exceed ~~one~~ ~~year~~ two years after issuance, except as otherwise provided by law, unless sooner suspended or revoked, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A license shall not descend by the laws of testate or intestate devolution but shall cease and expire upon the death of the licensee except that executors, administrators or representatives of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor,

may continue the business of the sale, distribution or manufacture of alcoholic liquor under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such decedent, or after such insolvency or bankruptcy, until the expiration of such license but not longer than one year after the death, bankruptcy or insolvency of such licensee.

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

Sec. 10. K.S.A. 2009 Supp. 41-350 is hereby amended to read as follows: 41-350. (a) For the purposes of this act, the term “winery” means any maker or producer of wine whether in this state or in any other state, who holds a valid federal basic wine manufacturing permit. The terms “director” and “secretary” have the meaning ascribed to these terms in K.S.A. 2009 Supp. 41-102, and amendments thereto.

(b) Any winery may be authorized to make direct shipments of wine to consumers in this state upon obtaining a special order shipping license from the secretary pursuant to this act.

(1) A special order shipping license shall only be issued to a winery upon compliance with all applicable provisions of this act and the regulations promulgated pursuant to this act, and upon payment of a license fee in the amount of ~~\$50~~ \$100. *The license term for a special order shipping license shall commence on the date the license is issued by the director and shall end two years after that date.*

(2) A special order shipping license shall entitle the winery to ship wine upon order directly to consumers for personal or household use in this state. The purchaser shall pay the purchase price and all shipping costs directly to the permit holder. Enforcement taxes collected herein shall be paid solely on the purchase price and not on the shipping costs.

(c) No holder of a special order shipping license shall be permitted to ship in excess of 12 standard cases of wine of one brand or a combination of brands into this state to any one consumer or address per calendar year.

(d) (1) Before accepting an order from a consumer in this state, the holder of a special order shipping license shall require that the person placing the order to state affirmatively that he or she is 21 years of age or older and shall verify the age of such person placing the order either by the physical examination of an approved government issued form of identification or by utilizing an internet based age and identification service approved by the director of alcoholic beverage control, or the director’s designee.

(2) Every shipment of wine by the holder of a special order shipping license shall be clearly marked ‘Alcoholic Beverages, Adult Signature Required’ and the carrier delivering such shipment shall be responsible for obtaining the signature of an adult who is at least 21 years of age as a condition of delivery.

(e) A special order shipping license shall not authorize the shipment of any wine to any premises licensed to sell alcoholic beverages pursuant to this act or the club and drinking establishment act.

(f) The failure to comply strictly with the requirements of this act and rules and regulations promulgated pursuant to this act shall be grounds for the revocation of a special order shipping license or other disciplinary action by the director. After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke a shipping permit upon a finding that the permit holder has failed to comply with any provision of this section or K.S.A. 2009 Supp. 41-501 et seq., and amendments thereto, or any rules and regulations adopted pursuant to such statutes. Upon revocation of a special order shipping license for

shipment of wine to a person not of legal age as required herein such winery shall not be issued any special order shipping license pursuant to this act for a period of one year from the date of revocation.

(g) The holder of a special order shipping license shall collect all gallonage taxes imposed by K.S.A. 2009 Supp. 41-501 et seq., and amendments thereto, shall remit such taxes annually in a manner prescribed by the secretary and shall accompany such remittance with such reports, documentation and other information as may be required by the secretary. In addition, an applicant for and a holder of a special order shipping license, as a condition of receiving and holding a valid license, shall:

(1) Collect and pay the applicable Kansas enforcement tax on each sale shipped to a consumer in Kansas imposed by K.S.A. 79-4101 et seq., and amendments thereto;

(2) accompany each remittance with such sales tax reports, documentation and other information as may be required by the director of taxation; and

(3) if the holder of the license is an out-of-state shipper, the licensee shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A. 2009 Supp. 41-501 et seq., and amendments thereto, and any related laws and rules and regulations and to accept service of any notice or order provided for in the liquor control act.

(h) The secretary of revenue may adopt rules and regulations to implement, administer and enforce the provisions of this section.

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

Sec. 11. K.S.A. 41-2601 is hereby amended to read as follows: 41-2601. As used in the club and drinking establishment act:

(a) The following terms shall have the meanings provided by K.S.A. 41-102 and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3) "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

(b) "Beneficial interest" shall not include any interest a person may have as owner, operator, lessee or franchise holder of a licensed hotel or motel on the premises of which a club or drinking establishment is located.

(c) "Caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

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

(e) "Class A club" means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.

(f) "Class B club" means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) "Club" means a class A or class B club.

(h) "Minibar" means a closed cabinet, whether nonrefrigerated or wholly or partially refrigerated, access to the interior of which is restricted by means of a locking device which requires the use of a key, magnetic card or similar device.

(i) "Drinking establishment" means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

(j) "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) "Food service establishment" has the meaning provided by K.S.A. 36-501 and amendments thereto.

(l) "Hotel" has the meaning provided by K.S.A. 36-501 and amendments thereto.

(m) "Minor" means a person under 21 years of age.

(n) "Morals charge" means a charge involving prostitution; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.

(o) "*Municipal corporation*" means the governing body of any county or city.

~~(p)~~ (p) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642 and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 41-2642 and amendments thereto, a licensed food service establishment.

~~(q)~~ (q) "RV resort" means premises where a place to park recreational vehicles, as defined in K.S.A. 75-1212 and amendments thereto, is offered for pay, primarily to transient guests, for overnight or longer use while such recreational vehicles are used as sleeping or living accommodations.

~~(r)~~ (r) "Secretary" means the secretary of revenue.

~~(s)~~ (s) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 41-2645 and amendments thereto.

Sec. 12. K.S.A. 41-2605 is hereby amended to read as follows: 41-2605. The director shall issue ~~an annual~~ a license to each applicant for licensure which qualifies under this act. Such license shall be issued in the name of the corporation, *municipal corporation*, partners, trustees, association officers or individual applying.

Sec. 13. K.S.A. 2009 Supp. 41-2606 is hereby amended to read as follows: 41-2606. (a) 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~~ *completed and submitted to the director in a manner prescribed by the director*. Each ~~application shall be accompanied by applicant shall submit~~ an application fee of \$50, for each initial application, and \$10, 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 such application~~. Each application shall also be accompanied by 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 prescribed by K.S.A. 41-2622, and amendments thereto, which fee shall be returned to the applicant if the application is denied.

(b) Each application for licensure as a club shall be accompanied by a copy of the current bylaws and rules of the club and a current list of the officers of the club.

(c) *Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:*

(1) *The full amount of the license fee required to be paid for the kind of license specified in the application; or*

(2) *one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.*

(d) *If the applicant elects to pay only one-half of the license fee pursuant to subsection (c)(2), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The director may, at the director's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this paragraph for not more than 30 days beyond the date such payment is originally due.*

(e) *Any license fee paid by an applicant shall be returned to the applicant if the application is denied.*

(f) *Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post*

office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner prescribed by the director.

(e) (g) All application fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 14. K.S.A. 41-2607 is hereby amended to read as follows: 41-2607. (a) The license provided herein shall be issued for a term of ~~one year~~ *two years*, renewable on expiration. ~~The secretary of revenue shall adopt, in accordance with K.S.A. 41-210 and amendments thereto, rules and regulations providing for the authorization of refunds of the license fees paid for any period in which the licensee shall not use such license as the result of the license being canceled at the request of the licensee and for voluntary reasons. When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. The secretary shall adopt, in accordance with K.S.A. 41-210, and amendments thereto, rules and regulations providing for the authorization of refunds of one-half of the license fee paid when the licensee does not use such license for the entire second year of the license term as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.~~

(b) *The director, may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond such date the license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to K.S.A. 41-2622, and amendments thereto, by the same number of days the director has extended the license term.*

Sec. 15. K.S.A. 2009 Supp. 41-2622 is hereby amended to read as follows: 41-2622. (a) At the time application is made to the director for a license pursuant to the club and drinking establishment act, the applicant shall pay the following ~~annual~~ license fee in the manner provided by K.S.A. 41-2606, and amendments thereto:

(1) For a class A club which is a bona fide nonprofit fraternal or war veterans' club, as defined by rules and regulations of the secretary, ~~\$250~~ \$500;

(2) for a class A club which is a bona fide nonprofit social club, as defined by rules and regulations of the secretary, and which has not more than 500 members, ~~\$500~~ \$1,000;

(3) for a class A club which is a bona fide nonprofit social club, as defined by rules and regulations of the secretary, and which has more than 500 members, ~~\$1,000~~ \$2,000;

(4) for a class B club, ~~\$1,000~~ \$2,000;

(5) for a drinking establishment, \$1,000;

(6) for a hotel of which the entire premises are licensed as a drinking establishment, \$3,000;

(7) for a caterer, ~~\$500~~ \$1,000;

(8) for a drinking establishment/caterer, \$1,500; and

(9) for a drinking establishment/caterer, if the drinking establishment is a hotel of which the entire premises are licensed as a drinking establishment, \$3,500.

~~If a licensee is described by more than one of the above, the highest fee shall apply.~~

(b) *On and after July 1, 2011, at the time an application is submitted to the director for a drinking establishment license pursuant to the club and drinking establishment act, the applicant shall pay the following license fee in the manner provided by K.S.A. 41-2606, and amendments thereto:*

(1) *For a drinking establishment, \$2,000;*

(2) *for a hotel of which the entire premises are licensed as a drinking establishment, \$6,000;*

(3) *for a drinking establishment/caterer, \$3,000; and*

(4) *for a drinking establishment/caterer, if the drinking establishment is a hotel of which the entire premises are licensed as a drinking establishment, \$7,000.*

~~(b)~~ (c) In addition to the fee provided by ~~subsection (a)~~ *subsections (a) and (b)*, any city where the licensed premises of a club or drinking establishment are located or, if such licensed premises are not located in a city, the board of county commissioners of the county where the licensed premises are located may levy and collect ~~an annual~~ *a biennial* occupation or license tax from the licensee in an amount equal to not less than ~~\$100~~ \$200 nor more than ~~\$250~~ \$500.

~~(c)~~ (d) No occupational or excise tax or license fee other than that authorized by subsection ~~(b)~~ (c) shall be levied by any city or county against or collected from a licensed club or drinking establishment.

~~(d)~~ (e) The director shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Of each such deposit, 50% shall be credited to the state general fund, and the remaining 50% shall be credited to the other state fees fund of the department of social and rehabilitation services. In addition to other purposes for which expenditures may be made from the other state fees fund of the department of social and rehabilitation services, expenditures may be made by the secretary of social and rehabilitation services for the purpose of implementing the powers and duties of the secretary under the provisions of K.S.A. 65-4006 and 65-4007, and amendments thereto.

Sec. 16. K.S.A. 2009 Supp. 41-2623 is hereby amended to read as follows: 41-2623. (a) No license shall be issued under the provisions of this act to:

(1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7), (8), (9), (12) or (13) of K.S.A. 41-311, and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

(2) A person who has had the person's license revoked for cause under the provisions of this act.

(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

(A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more other clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotels.

(B) A license for a club or drinking establishment which is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments which are restaurants.

(C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer.

(D) A license for a class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club.

(E) Any person who has a beneficial interest in a microbrewery or farm winery licensed pursuant to the Kansas liquor control act may be issued any or all of the following: (1) Class B club license; (2) drinking establishment license; and (3) caterer's license.

(5) A copartnership, unless all of the copartners are qualified to obtain a license.

(6) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residence requirements.

(7) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the

common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(8) A corporation organized under the laws of any state other than this state.

(9) A trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to:

(1) A person ~~described in subsection (a)(11) of K.S.A. 41-311, and amendments thereto~~ *who does not own the premises for which a license is sought, or does not, at the time the application is submitted, have a written lease thereon, except that an applicant seeking a license for a premises which is owned by a city or county, or is a stadium, arena, convention center, theater, museum, amphitheater or other similar premises may submit an executed agreement to provide alcoholic beverage services at the premises listed in the application in lieu of a lease.*

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.

Sec. 17. K.S.A. 41-2629 is hereby amended to read as follows: 41-2629. (a) A class B club license, ~~drinking establishment license~~ or caterer's license shall be ~~purely a personal privilege, good for issued for a term not to exceed one year~~ *two years after issuance, except as otherwise provided by law*, unless sooner suspended or revoked as provided in this act.

(b) *Prior to July 1, 2011, a drinking establishment license shall be issued for a term not to exceed one year after issuance, except as otherwise provided by law, unless sooner suspended or revoked as provided by this act. On and after July 1, 2011, a drinking establishment license shall be issued for a term not to exceed two years after issuance, except as otherwise provided by law, unless sooner suspended or revoked as provided by this act.*

(c) *The director, may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond such date the license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to K.S.A. 41-2622, and amendments thereto, by the same number of days the director has extended the license term.*

(d) *A class B license, drinking establishment license or caterer's license shall be purely a personal privilege and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A class B club license, drinking establishment license or caterer's license shall not descend by the laws of testate or intestate devolution but shall cease or expire upon the death of the licensee subject to the following provision.*

(e) *An executor, administrator or representative of the estate of any deceased holder of a class B club, drinking establishment or caterer's license or the trustee of any insolvent or bankrupt class B club, drinking establishment or caterer's license may continue the licensee's business under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such licensee or after such insolvency or bankruptcy until the expiration of such license, but in no case longer than one year after the death, insolvency or bankruptcy of such licensee.*

(f) *A refund shall be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this act, other than that caused by suspension or revocation. When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. The secretary shall adopt, in*

accordance with K.S.A. 41-210, and amendments thereto, rules and regulations providing for the authorization of refunds of ~~the license fees paid for any period in which one-half of the license fee paid when the licensee does not use such license being canceled upon the request of the licensee and for voluntary reasons for the entire second year of the license term as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.~~

Sec. 18. K.S.A. 2009 Supp. 41-308b is hereby amended to read as follows: 41-308b. (a) A microbrewery license shall allow:

- (1) The manufacture of not less than 100 nor more than 15,000 barrels of domestic beer during the license year and the storage thereof;
- (2) the sale to beer distributors of beer, manufactured by the licensee;
- (3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of beer manufactured by the licensee;
- (4) the serving *free of charge* on the *licensed* premises of samples of beer manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;
- (5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; and
- (6) if the licensee is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

- (1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer manufactured by the licensee, for the purpose of packaging or storage, or both; and
- (2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of the microbrewery, of beer manufactured by the licensee; or
- (3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler.

(c) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(d) The director may issue to the Kansas state fair or any 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 and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of beer pursuant to this subsection and the conduct of tasting programs for which such beer is imported.

(e) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(f) No microbrewery shall:

- (1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;
- (2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the

on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

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

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

(g) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

Sec. 19. K.S.A. 41-326, 41-2601, 41-2605, 41-2607 and 41-2629 and K.S.A. 2009 Supp. 41-102, 41-308a, 41-308b, 41-310, 41-311, 41-317, 41-350, 41-727, 41-2606, 41-2622 and 41-2623 are hereby repealed.

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

Approved May 17, 2010.
