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Substitute for SENATE BILL NO. 381

By

AN ACT concerning alcoholic beverages; relating to retailer licenses under the Kansas liquor control act; relating to sales of cereal malt beverage; amending K.S.A. 41-304, 41-308, 41-713, 79-4101 and 79-4103 and K.S.A. 2011 Supp. 41-102, 41-301, 41-303, 41-310, 41-311, 41-313, 41-317 and 41-2702 and repealing the existing sections; also repealing K.S.A. 41-103 and 41-711.

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

New Section 1. (a) On and after January 1, 2013, the director may issue to qualified applicants a beer retailer's license. A beer retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, beer and cereal malt beverage for use or consumption off of and away from the premises specified in such license.

(b) A beer retailer's license shall permit the sale and delivery of beer only on the licensed premises and shall not permit the sale of beer for resale in any form, except that the licensee may:

(1) Sell beer to a temporary permit holder for resale by such temporary permit holder;  
and

(2) sell and deliver beer to a caterer or to the licensed premises of a club or drinking establishment, if such premises are in the county where the retailer's licensed premises are located or in an adjacent county, for resale by such caterer, club or drinking establishment.

(c) A beer retailer's licensee may:

(1) Charge a delivery fee for delivery of beer or cereal malt beverage to a caterer, club or drinking establishment pursuant to subsection (b);

(2) sell lottery tickets and shares to the public in accordance with the Kansas lottery act,

if the licensee is selected as a lottery retailer;

(3) include in the sale of beer or cereal malt beverage any goods included by the manufacturer in packaging with the beer or cereal malt beverage, subject to the approval of the director;

(4) distribute to the public, without charge, consumer advertising specialities bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialities so that they are not conditioned on or an inducement to the purchase of beer or cereal malt beverage;

(5) store beer in refrigerators, cold storage units, ice boxes or other cooling devices, and sell such beer and cereal malt beverage to consumers in a chilled condition; and

(6) sell any other good or service on the licensed premises.

(d) A beer retailer's license shall be subject to the provisions of K.S.A. 41-1101, and amendments thereto, prohibiting a retailer from purchasing alcoholic liquor from a distributor, who has not filed with the director a sworn statement agreeing to sell to all retailers in the distributor's franchised territory at the same unit price and prohibiting a distributor from selling alcoholic liquor to a retailer at a discount for multiple case lots. A beer retailer's license also shall be subject to the provisions of K.S.A. 41-729, and amendments thereto, prohibiting the sale of alcoholic liquor at less than the acquisition cost thereof.

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

New Sec. 2. (a) All retailers licensed pursuant to the Kansas liquor control act shall verify the age of any purchaser of alcoholic liquor who reasonably appears to be not more than 27 years of age. Retailers shall utilize age verification technology that is consistent with

nationally recognized industry standards for making such determinations.

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

Sec. 3. K.S.A. 2011 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) "Convenience store" means a retail business with primary emphasis placed on providing the public a convenient location to quickly purchase from a wide array of consumable products (predominantly food or food and gasoline) and services, and includes stores classified under the NAICS as NAICS 44512, 445120 or 447110 on the effective date of this act.

~~(g)~~ (h) "Director" means the director of alcoholic beverage control of the department of revenue.

~~(h)~~ (i) "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)~~ (j) "Domestic beer" means beer which contains not more than 10% alcohol by weight and which is manufactured in this state.

~~(j)~~ (k) "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.

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

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

(o) "Grocery store" means an establishment primarily engaged in retailing a general line of groceries, including, but not limited to, packaged food, fresh and frozen food, prepared foods and other consumable products, and includes establishments primarily engaged in retailing a general line of groceries in combination with general lines of new merchandise, including, but not limited to, establishments classified under the NAICS as NAICS 445110, 452910, 452111, 452112 or 446110 on the effective date of this act.

(p) "Liquor store" means a store whose primary business is the retail sale of alcoholic liquor in the original and unopened container and not for consumption on the premises, and includes stores classified under the North American industry classification system (NAICS) as NAICS 445310 on the effective date of this act.

~~(n)~~ (q) "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)~~ (r) (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)~~ (s) "Microbrewery" means a brewery licensed by the director to manufacture, store and sell domestic beer.

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

~~(r)~~ (u) "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)~~ (v) "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)~~ (w) "Person" means any natural person, corporation, partnership, trust or association.

~~(u)~~ (x) "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)~~ (y) (1) "Retailer" means a person who sells at retail, or offers for sale at retail, alcoholic liquors and cereal malt beverage.

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

(z) (1) "Retailer's license" means a license to sell at retail alcoholic liquor in the original package issued pursuant to the Kansas liquor control act.

(2) On and after January 1, 2013, the term "retailer's license" means a retailer's license and a beer retailer's license issued pursuant to the Kansas liquor control act.

~~(w)~~ (aa) "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)~~ (bb) "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.

~~(z)~~ (cc) "Secretary" means the secretary of revenue.

~~(z)~~ (dd) (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)~~ (ee) "To sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

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

~~(ee)~~ (gg) "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)~~ (hh) "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

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

~~(ff)~~ (jj) "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.

Sec. 4. From and after January 1, 2013, K.S.A. 2011 Supp. 41-301 is hereby amended to read as follows: 41-301. (a) ~~Except as provided by subsection (b), the director shall issue to qualified applicants, who have filed the bond and paid the registration and license fees required by this act, licenses to sell at retail alcoholic liquor in the original package on premises within the corporate limits of cities and outside the corporate limits of any city.~~

~~(b)—No retailer's license or beer retailer's license shall be issued for premises within a city if the governing body of such city, on or before February 15, 2006, adopts adopted an ordinance prohibiting the licensing of the sale at retail of alcoholic liquor in the original package within such city. Upon adoption of such ordinance, the city clerk promptly shall transmit a copy of such ordinance to the director and the director shall refuse to issue licenses to sell at retail alcoholic liquor in the original package in such city. If the governing body adopts such an ordinance, the holder of any valid existing retailer's license for premises in such city shall have the right to continue to operate under such license for a period of 90 days after the effective date of the ordinance or until the expiration of such license, whichever period of time is shorter. If such period of time expires before the expiration of the term for which the retailer's license was issued, the licensee shall be entitled to a refund of the license fee for the unexpired portion of the license period which remains, in accordance with rules and regulations adopted by the secretary.~~

~~(e)~~ (b) No retailer's license or beer retailer's license shall be issued for premises within a city if, after November 15, 2005, a majority of the qualified voters of such city voting at an



election held as provided by K.S.A. 41-302, and amendments thereto, votes against the licensing of the sale at retail of alcoholic liquor in the original package within such city unless, at a subsequent election, a majority of the qualified voters of such city voting at such election votes in favor of the licensing of the sale at retail of alcoholic liquor in the original package within such city.

Sec. 5. From and after January 1, 2013, K.S.A. 2011 Supp. 41-303 is hereby amended to read as follows: 41-303. (a) ~~The director may issue to qualified applicants licenses to sell at retail alcoholic liquor in the original package on premises not located in an incorporated city for use or consumption off the premises. No such license shall be issued to any applicant unless the applicant possesses all the qualifications required of other applicants for retailers' licenses except the qualification of residency within a city.~~

~~No such~~ No retailer's license or beer retailer's license shall be issued to any applicant under this section for premises not located in an incorporated city unless the board of county commissioners of the county in which the premises for which licensure is sought are located adopts a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a such license authorized by this section.

(b) ~~If a license has been issued under the provisions of this section in the unincorporated area of a county and thereafter the premises so licensed are annexed to a city wherein retail liquor licenses may be issued, such license shall continue to be valid and may be renewed at the appropriate time even though the licensee does not reside in the city to which the area is annexed if the licensee otherwise is qualified and resides in the township in which the premises were located prior to annexation or in the city to which the premises have been~~

annexed.

~~(e) Any retail~~ Any retailer's license issued prior to the effective date of this act for premises not located in an incorporated city shall continue to be valid and such premises shall continue to be eligible for licensure if the board of county commissioners of the county in which the premises are located has adopted a resolution approving the issuance of such license. A certified copy of such resolution shall accompany the application for a such license ~~authorized by this subsection.~~

Sec. 6. From and after January 1, 2013, K.S.A. 41-304 is hereby amended to read as follows: 41-304. Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) spirits distributor's license; (c) wine distributor's license; (d) beer distributor's license; (e) retailer's license; (f) beer retailer's license; (g) microbrewery license; ~~(g)~~ (h) farm winery license; and ~~(h)~~ (i) nonbeverage user's license.

Sec. 7. K.S.A. 41-308 is hereby amended to read as follows: 41-308. (a) A retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor and cereal malt beverage for use or consumption off of and away from the premises specified in such license. A retailer's license shall permit sale and delivery of alcoholic liquor and cereal malt beverage only on the licensed premises and shall not permit sale of alcoholic liquor and cereal malt beverage for resale in any form, except that a licensed retailer may:

- (1) Sell alcoholic liquor to a temporary permit holder for resale by such permit holder;
- and
- (2) sell and deliver alcoholic liquor to a caterer or to the licensed premises of a club or

drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such club, establishment or caterer.

(b) The holder of a retailer's license shall not sell, offer for sale, give away or permit to be sold, offered for sale or given away in or from the premises specified in such license any service or thing of value whatsoever except alcoholic liquor and cereal malt beverage in the original package, except that a licensed retailer may:

(1) Charge a delivery fee for delivery to a club, drinking establishment or caterer pursuant to subsection (a);

(2) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the retailer is selected as a lottery retailer;

(3) include in the sale of alcoholic liquor or cereal malt beverage any goods included by the manufacturer in packaging with the alcoholic liquor or cereal malt beverage, subject to the approval of the director; and

(4) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor or cereal malt beverage.

(c) No licensed retailer shall furnish any entertainment in such premises or permit any pinball machine or game of skill or chance to be located in or on such premises.

(d) A retailer's license shall allow the licensee to store alcoholic liquor and cereal malt beverage in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor and cereal malt beverage to consumers in a chilled condition.

Sec. 8. K.S.A. 2011 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 fee for a manufacturer's license to manufacture alcohol and spirits shall be \$5,000.

(c) The 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, \$400.
- (2) For 100 to 150 barrel daily capacity, \$800.
- (3) For 150 to 200 barrel daily capacity, \$1,400.
- (4) For 200 to 300 barrel daily capacity, \$2,000.
- (5) For 300 to 400 barrel daily capacity, \$2,600.
- (6) For 400 to 500 barrel daily capacity, \$2,800.
- (7) For 500 or more barrel daily capacity, \$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 term of the license a fee of \$2,000.

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

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

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

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

(f) The 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 \$2,000.

(g) The 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 \$2,000.

(h) The 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 \$2,000.

(i) The fee for a nonbeverage user's license shall be:

(1) For class 1, \$20.

(2) For class 2, \$100.

(3) For class 3, \$200.

(4) For class 4, \$400.

(5) For class 5, \$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 a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the 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 a

biennial occupation or license tax on the licensee in an amount not exceeding the amount of the 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 fee for a retailer's license or a beer retailer's license shall be \$500.

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

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$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 may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$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 term for a license shall commence on the date the license is issued by the director and shall end 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. 9. K.S.A. 2011 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~~ an individual:

(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;
- (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. 2011 Supp. 41-



311b, and amendments thereto.

(b)(1) Except as provided in paragraph (2), no retailer's license or beer retailer's license shall be issued to:

- (1)(A) A person who is not a resident of this state;
- (2)(B) a person who has not been a resident of this state for at least four years immediately preceding the date of application;
- (3)(C) 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)(D) 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)(E) a copartnership, unless all of the copartners are qualified to obtain a license;
- (6)(F) a corporation; or
- (7)(G) 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.

(2) On and after January 1, 2013, the provisions of paragraph (1) shall have no force and effect, and on and after such date, no retailer's license or beer retailer's license shall be issued:

- (A) To 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:

(B) to a corporation, if any officer, director or manager of the licensed premises, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a retailer's license for any reason specified in subsection (a) other than citizenship requirements; or

(C) to a person who is not engaged in business as a liquor store, a convenience store or a grocery store.

(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 one year immediately preceding the date of application;

(3) person who has a beneficial interest in a manufacturer or distributor licensed under this act, 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), (b)(1)(A), (b)(1)(B)~~, (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2011 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. 10. From and after January 1, 2013, K.S.A. 2011 Supp. 41-313 is hereby amended to read as follows: 41-313. (a) No corporation, either organized under the laws of this state, any other state or a foreign country, shall be issued a retailer's, beer retailer's, manufacturer's, distributor's, microbrewery or farm winery license unless the corporation has first ~~procured a certificate of authority from~~ filed a formation document with the secretary of state to do business in this state as provided by law, appointed a citizen of the United States, and resident of Kansas, as its resident 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 of the corporation and full authority, control and responsibility for the conduct of all business and transactions of the corporation within the state relative to alcoholic liquor and the business licensed. ~~The agent must be satisfactory to and approved by the director with respect to the agent's character.~~ The agent shall at all times be maintained by the corporation.

~~In addition, any corporation organized under the laws of any other state or foreign country, as a condition precedent to the issuance to it of any license, shall file with the secretary of state of the state of Kansas, a duly authorized and executed power of attorney, authorizing the secretary of state to accept service of process from the director and the courts of this state and to accept service of any notice or order provided for in this act, and all such acts by the secretary of state shall be fully binding upon the corporation.~~

(b) Every nonresident applicant on applying for a license or permit under this act, and as a condition precedent to obtaining such license or permit, shall file with the secretary of state of this state its written consent, irrevocable, that any action or garnishment proceeding may be commenced against such applicant in the proper court of any county in this state in which the cause of action shall arise or in which the plaintiff may reside by the service of process on the resident agent specified in subsection (a), and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant. The written consent shall state that the courts of this state have jurisdiction over the person of such applicant and are the proper and convenient forum for such action and shall waive the right to request a change of jurisdiction or venue to a court outside this state and that all actions arising under this act and commenced by the applicant shall be brought in this state's courts as the proper and convenient forum. Such consent shall be executed by the applicant and if a corporation, by the president and secretary of the corporate applicant, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers authorizing the president and secretary to execute the same.

Sec. 11. From and after January 1, 2013, K.S.A. 2011 Supp. 41-317 is hereby amended

to read as follows: 41-317. (a) Applications for all licenses under this act shall be completed and submitted to the director in a manner prescribed by the director. Each applicant shall submit an application fee of \$50 for each initial application and \$10 for each renewal application to defray the cost of processing the application.

(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.

(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 or a beer 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 (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.

(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. 12. From and after January 1, 2013, K.S.A. 41-713 is hereby amended to read as follows: 41-713. (a) It shall be unlawful for a ~~retailer of alcoholic liquor~~ retailer's licensee: (1) To permit any person to mix drinks in or on the licensed premises; (2) to employ any person under the age of ~~twenty-one (21)~~ 21 years in connection with the operation of such retail establishment; or (3) to employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony.

(b) It shall be unlawful for a beer retailer's licensee: (1) To permit any person to mix drinks in or on the licensed premises; (2) to authorize or allow any person under the age of 18 years to sell at retail any alcoholic liquor at the point of sale; or (3) to authorize or allow any person who has been adjudged guilty of a felony to sell at retail any alcoholic liquor at the point of sale.

Sec. 13. K.S.A. 2011 Supp. 41-2702 is hereby amended to read as follows: 41-2702. (a) No retailer shall sell any cereal malt beverage without having first secured a license for each place of business as herein provided. In case such place of business is located within the

corporate limits of a city, the application for license shall be made to the governing body of such city. In all other cases, the application for license shall be made to the board of county commissioners in the county in which such place of business is to be located, except that the application for license to sell on railway cars shall be made to the director as hereinafter provided.

(b) A board of county commissioners shall not issue or renew a retailer's license without giving the clerk of the township where the place of business is to be located written notice by registered mail of the filing of the application for licensure or renewal. The township board may within 10 days file advisory recommendations as to the granting of such license or renewal and such advisory recommendations shall be considered by the board of county commissioners before such license is issued. If an original license is granted and issued, the board of county commissioners shall grant and issue renewals thereof upon application of the license holder, if the license holder is qualified to receive the same and the license has not been revoked as provided by law.

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

- (1) The name and residence of the applicant;
- (2) the length of time that the applicant has resided within the state of Kansas;
- (3) the particular place of business for which a license is desired;
- (4) the name of the owner of the premises upon which the place of business is located;

and

- (5) a statement that the applicant is a citizen of the United States and not less than 21

years of age and that the applicant has not within two years immediately preceding the date of making application been convicted of a felony, any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

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

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

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

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

(f) The director shall remit all fees collected 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, except that the director may provide for the deposit in the cereal malt beverage tax refund fund of such amounts as necessary for the refund of any license

fees collected hereunder.

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

(h) No license issued under this act shall be transferable.

(i) No retailer shall sell or offer for sale any alcoholic liquor without having first been issued a license in accordance with the Kansas liquor control act.

Sec. 14. K.S.A. 79-4101 is hereby amended to read as follows: 79-4101. (a) For the purpose of providing revenue which may be used by the state, counties and cities in the enforcement of the provisions of this act, from and after the effective date of this act, for the privilege of engaging in the business of selling alcoholic liquor or cereal malt beverage by ~~retailers or~~ retailers holding a retailer's license to consumers in this state, selling beer by retailers holding a beer retailer's license to consumers in this state, selling alcoholic liquor by farm wineries to consumers in this state or selling alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments or caterers in this state, there is hereby levied and there shall be collected and paid a tax at the rate of 8% upon the gross receipts received from: (1) The sale of alcoholic liquor and cereal malt beverage by retailers; holding a retailer's license to consumers in this state; (2) the sale of beer by retailers holding a beer retailer's license to consumers in this state; (3) the sale of alcoholic liquor by microbreweries or farm wineries to

consumers ~~within~~ in this state; and ~~(2)~~ (4) the sale of alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments or caterers in this state.

(b) The tax imposed by this section shall be in addition to the license fee imposed on distributors, retailers, microbreweries and farm wineries by K.S.A. 41-310, and amendments thereto.

Sec. 15. K.S.A. 79-4103 is hereby amended to read as follows: 79-4103. On or before the 25th day of each calendar month, every person engaged in the business of selling alcoholic liquor at retail or cereal malt beverage under a retailer's license, every person engaged in the business of selling beer under a beer retailer's license, every microbrewery selling beer to consumers, every farm winery selling wine to consumers in this state and every distributor selling alcoholic liquor or cereal malt beverage to clubs, drinking establishments or caterers in this state during the preceding calendar month shall make a return to the director of taxation upon forms prescribed and furnished by the director, stating: (a) The name and address of the seller; (b) the total amount of gross sales subject to the tax imposed by K.S.A. 79-4101, and amendments thereto, during the preceding calendar month; and (c) any other pertinent information the director requires. The person making the return shall, at the time of making the return, pay to the director of taxation the amount of tax imposed by K.S.A. 79-4101, and amendments thereto. The director of taxation may extend the time for making returns and paying the tax for any period not to exceed 60 days, under rules and regulations adopted by the secretary of revenue.

Sec. 16. K.S.A. 41-103, 41-308, 79-4101 and 79-4103 and K.S.A. 2011 Supp. 41-102, 41-310 and 41-2702 are hereby repealed.

Sec. 17. From and after January 1, 2013, K.S.A. 41-304, 41-711 and 41-713 and K.S.A. 2011 Supp. 41-301, 41-303, 41-311, 41-313 and 41-317 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.

