

HOUSE BILL No. 2206

By Committee on Taxation

2-4

1 AN ACT concerning alcoholic beverages; relating to retailer's licenses;
2 amending K.S.A. 41-713 and K.S.A. 2012 Supp. 41-102, 41-301, 41-
3 303, 41-308, 41-311, 41-313, 41-326 and 79-4108 and repealing the
4 existing sections; also repealing K.S.A. 41-103 and 41-711.

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

7 New Section 1. From July 1, 2013, to June 30, 2015, the total number
8 of retailer's licenses issued by the director to sell alcoholic liquor shall not
9 exceed the number of such valid licenses issued as of June 30, 2013. The
10 director may only issue a retailer's license to sell alcoholic liquor to a
11 qualified applicant if the issuance of such license would not cause the total
12 number of such valid licenses issued to exceed the number of such valid
13 licenses issued as of June 30, 2013.

14 New Sec. 2. (a) On and after January 1, 2014, any licensee holding a
15 valid retailer's license may transfer such license to any person qualified to
16 hold such license under the Kansas liquor control act. The transferee's
17 proposed premises to be licensed shall be located in the same county as the
18 licensed premises of the transferor.

19 (b) Any transfer of a license pursuant to this section shall be
20 approved by the director. The director may require the transferor, the
21 transferee, or both, to submit such information as the director deems
22 necessary in order to determine that the license transfer satisfies the
23 requirements of the Kansas liquor control act. Such information shall be
24 submitted in the manner and on such forms as prescribed by the director,
25 and may include, but shall not be limited to, such information concerning
26 the transferee that shows such transferee is qualified to hold a retailer's
27 license and a copy of the agreement to transfer the license.

28 (c) On the effective date of the transfer of a license in accordance
29 with this section, the director shall issue a retailer's license to the
30 transferee. Such license shall be issued for the premises of the transferee as
31 stated in the transfer agreement. The term of such license shall be for the
32 remainder of the term of the license held by the transferor immediately
33 prior to the effective date of the transfer. The director shall not require the
34 payment of any new or additional retailer's license fee by the transferee.
35 The transferee shall pay a transfer fee in the amount of \$25, which fee
36 shall be submitted to the director at the same time the request for approval

Proposed Amendments for HB 2206
March 18, 2013
Prepared by Ken Wilke
Office of the Revisor of Statutes

1 date of this act to the state general fund. See attached insert
2 Sec. ~~67~~ K.S.A. 41-103, 41-711 and 41-713 and K.S.A. 2012 Supp. 19.
3 41-102, 41-301, 41-303, 41-308, 41-311, 41-313, 41-326 and 79-4108 are
4 hereby repealed. 20.
5 Sec. ~~77~~ This act shall take effect and be in force from and after its
6 publication in the statute book.

New Sec. 16. (a) Notwithstanding the provisions of K.S.A. 41-301, 41-302 and 41-303, and amendments thereto, 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 beer or wine, in grocery stores or convenience stores, 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 shall be issued for premises within a city if the governing body of such city, on or before June 30, 2016, adopts an ordinance prohibiting the licensing of the sale at retail of beer or wine, in grocery stores or convenience stores, 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 beer or wine, in grocery stores or convenience stores, 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.

(c) No retailer's license shall be issued for premises for the sale at retail of beer or wine, in grocery stores or convenience stores, within a city if, after July 1, 2013, a majority of the qualified voters of such city voting at an election held as provided by section 17, and amendments thereto, votes against the licensing of the sale at retail of beer or wine, in grocery stores or convenience stores, 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 beer or wine, in grocery stores or convenience stores, in the original package within such city.

(d) This section shall be part of and supplemental to the provisions of the Kansas liquor control act, K.S.A. 41-101 et seq. and amendments thereto. New Sec. 17. (a) Notwithstanding the provisions of K.S.A. 41-301, 41-302 and 41-303, and amendments thereto, the question of licensing the sale at retail of beer or wine, in grocery stores or convenience stores, in the original package shall be submitted by the governing body of a city at any regular general city election occurring in such city whenever a petition requesting such submission has been filed with the city clerk of any such city as provided in this section. Such petition shall be signed by qualified voters of such city equal in number to not less than 30% of the total vote cast in such city at the last general election for the office of secretary of state. Each sheet of each petition shall comply with the provisions of K.S.A. 25-3601 through 25-3607, and amendments thereto. No signature on such petition shall be valid unless appended to the petition within the last 90 days prior to the date of filing the petition with the city clerk. Such petition shall be filed not less than 40 nor more than 60 days prior to the date of the election. After any such petition has been filed no signature shall be withdrawn and no signature shall be added. The governing body of the city shall have the power to determine the sufficiency of any such petition.

Any person who signs a petition authorized by this section and who knowingly is not a qualified voter of the city where submission of the question is sought, or who aids or abets any other in so doing, or any person who bribes, gives or pays any money or thing of value to any person directly or indirectly to induce such person to sign such petition shall be guilty of a misdemeanor. Upon conviction thereof such person shall be punished by a fine of not more than \$300 or by imprisonment of not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

(b) Upon the filing of a sufficient petition, the governing body shall call an election required by this section. Such election shall be called and held in the manner provided by law for question-submitted elections.

(c) The governing body of the city shall transmit to the director a copy of the results of any election held pursuant to this section. The director shall issue or refuse to issue licenses to sell at retail beer or wine, in grocery stores or convenience stores, in the original package in such city in accordance with the results of such election.

(d) If a majority of the voters voting at any election pursuant to this section votes against licensing the sale at retail of beer or wine, in grocery stores or convenience stores, in the original package, 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 result of such election is canvassed 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 licensee fee for the unexpired portion of the license period which remains, in accordance with rules and regulations adopted by the secretary of revenue.

(e) This section shall be part of and supplemental to the provisions of the Kansas liquor control act, K.S.A. 41-101 et seq., and amendments thereto. New Sec. 18. (a) Notwithstanding the provisions of K.S.A. 41-301, 41-302 and 41-303, and amendments thereto, the director may issue to qualified applicants licenses to sell at retail beer or wine, in grocery stores or convenience stores, 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 license shall be issued to any applicant under this section 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 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.

(c) Any retail 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 license authorized by this subsection.

(d) This section shall be part of and supplemental to the provisions of the Kansas liquor control act, K.S.A. 41-101 et seq., and amendments thereto.