

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2196

By Committee on Federal and State Affairs

2-1

1 AN ACT concerning alcoholic beverages; relating to ~~licensure of~~  
2 ~~distributors~~ **citizenship requirements for licensure under the Kansas**  
3 **liquor control act; relating to retailer licenses**; amending K.S.A.  
4 2012 Supp. 41-311 and repealing the existing section.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2012 Supp. 41-311 is hereby amended to read as  
8 follows: 41-311. (a) No license of any kind shall be issued pursuant to the  
9 liquor control act to a person:

10 (1) ~~Who has not been~~ **is not** a citizen of the United States ~~for at least~~  
11 ~~10 years, except that the spouse of a deceased retail licensee may receive~~  
12 ~~and renew a retail license notwithstanding the provisions of this subsection~~  
13 ~~(a)(1) if such spouse is otherwise qualified to hold a retail license and is a~~  
14 ~~United States citizen or becomes a United States citizen within one year~~  
15 ~~after the deceased licensee's death;~~

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

18 (3) who has had a license revoked for cause under the provisions of  
19 the liquor control act, the beer and cereal malt beverage keg registration  
20 act or who has had any license issued under the cereal malt beverage laws  
21 of any state revoked for cause except that a license may be issued to a  
22 person whose license was revoked for the conviction of a misdemeanor at  
23 any time after the lapse of 10 years following the date of the revocation;

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

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

31 (6) who is not at least 21 years of age;

32 (7) who, other than as a member of the governing body of a city or  
33 county, appoints or supervises any law enforcement officer, who is a law  
34 enforcement official or who is an employee of the director;

35 (8) who intends to carry on the business authorized by the license as  
36 agent of another;

1 (9) who at the time of application for renewal of any license issued  
2 under this act would not be eligible for the license upon a first application,  
3 except as provided by subsection (a)(12);

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

11 (11) who does not own the premises for which a license is sought, or  
12 does not, at the time of application, have a written lease thereon;

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

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

21 (14) who does not provide any data or information required by  
22 K.S.A. 2012 Supp. 41-311b, and amendments thereto.

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

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

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

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

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

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

37 ~~(6) (5) a corporation; or~~

38 ~~(7) (6) a trust, if any grantor, beneficiary or trustee would be~~  
39 ~~ineligible to receive a license under this act for any reason, except that the~~  
40 ~~provisions of subsection (a)(6) shall not apply in determining whether a~~  
41 ~~beneficiary would be eligible for a license.~~

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

43 (1) A corporation, if any officer or director thereof, or any

1 stockholder owning in the aggregate more than 25% of the stock of the  
2 corporation would be ineligible to receive a manufacturer's license for any  
3 reason other than citizenship and residence requirements;

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

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

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

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

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

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

19 (1) A corporation, if any officer, director or stockholder of the  
20 corporation would be ineligible to receive a distributor's license for any  
21 reason ~~other than citizenship and residence requirements, provided, that at~~  
22 ~~least one officer and one director of the corporation meet the residence~~  
23 ~~requirement~~. It shall be unlawful for any stockholder of a corporation  
24 licensed as a distributor to transfer any stock in the corporation to any  
25 person who would be ineligible to receive a distributor's license for any  
26 reason, and any such transfer shall be null and void, except that: (A) If any  
27 stockholder owning stock in the corporation dies and an heir or devisee to  
28 whom stock of the corporation descends by descent and distribution or by  
29 will is ineligible to receive a distributor's license, the legal representatives  
30 of the deceased stockholder's estate and the ineligible heir or devisee shall  
31 have 14 months from the date of the death of the stockholder within which  
32 to sell the stock to a person eligible to receive a distributor's license, any  
33 such sale by a legal representative to be made in accordance with the  
34 provisions of the probate code; or (B) if the stock in any such corporation  
35 is the subject of any trust and any trustee or beneficiary of the trust who is  
36 21 years of age or older is ineligible to receive a distributor's license, the  
37 trustee, within 14 months after the effective date of the trust, shall sell the  
38 stock to a person eligible to receive a distributor's license and hold and  
39 disburse the proceeds in accordance with the terms of the trust. If any legal  
40 representatives, heirs, devisees or trustees fail, refuse or neglect to sell any  
41 stock as required by this subsection, the stock shall revert to and become  
42 the property of the corporation, and the corporation shall pay to the legal  
43 representatives, heirs, devisees or trustees the book value of the stock.

1 During the period of 14 months prescribed by this subsection, the  
2 corporation shall not be denied a distributor's license or have its  
3 distributor's license revoked if the corporation meets all of the other  
4 requirements necessary to have a distributor's license;

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

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

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

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

18 (f) No microbrewery license, microdistillery license or farm winery  
19 license shall be issued to a:

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

21 (2) person who has not been a resident of this state for at least one  
22 year immediately preceding the date of application;

23 (3) person who has a beneficial interest in a manufacturer or  
24 distributor licensed under this act, except as provided in K.S.A. 41-305,  
25 and amendments thereto;

26 (4) person, copartnership or association which has a beneficial  
27 interest in any retailer licensed under this act or under K.S.A. 41-2702, and  
28 amendments thereto, except that the spouse of an applicant for a  
29 microbrewery or farm winery license may own and hold a retailer's license  
30 if the spouse does not hold a microbrewery or farm winery license issued  
31 under this act;

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

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

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

42 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),  
43 (f)(1), (f)(2) and K.S.A. 2012 Supp. 41-311b, and amendments thereto,

1 shall not apply in determining eligibility for the 10<sup>th</sup>, or a subsequent,  
2 consecutive renewal of a license if the applicant has appointed a citizen of  
3 the United States who is a resident of Kansas as the applicant's agent and  
4 filed with the director a duly authenticated copy of a duly executed power  
5 of attorney, authorizing the agent to accept service of process from the  
6 director and the courts of this state and to exercise full authority, control  
7 and responsibility for the conduct of all business and transactions within  
8 the state relative to alcoholic liquor and the business licensed. The agent  
9 must be satisfactory to and approved by the director, except that the  
10 director shall not approve as an agent any person who:

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

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

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

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

25 (5) is less than 21 years of age.

26 Sec. 2. K.S.A. 2012 Supp. 41-311 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after its  
28 publication in the statute book.