

HOUSE BILL No. 2089

By Committee on Federal and State Affairs

1-23

1 AN ACT concerning alcoholic beverages; relating to licensure; relating to
2 undisclosed beneficial interests in a license; amending K.S.A. 2014
3 Supp. 41-311 and 41-2623 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 2014 Supp. 41-311 is hereby amended to read as
7 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
8 liquor control act to a person:

9 (1) Who is not a citizen of the United States;

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

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16 person whose license was revoked for the conviction of a misdemeanor at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

18 (4) who has been convicted of being the keeper or is keeping any
19 property, whether real or personal, where sexual relations are being sold or
20 offered for sale by a person who is 18 years of age or older or has forfeited
21 bond to appear in court to answer charges of being a keeper of any
22 property, whether real or personal, where sexual relations are being sold or
23 offered for sale by a person who is 18 years of age or older;

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

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

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

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

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

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

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

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

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

18 (14) who does not provide any data or information required by K.S.A.
19 2014 Supp. 41-311b, and amendments thereto; *or*

20 (15) *who, after a hearing before the director, has been found to have*
21 *held an undisclosed beneficial interest in any license issued pursuant to*
22 *the liquor control act which was obtained by means of fraud or any false*
23 *statement made on the application for such license.*

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

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

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

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

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

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

38 (6) a corporation; or

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

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

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

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

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

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

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

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

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

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

1 corporation shall not be denied a distributor's license or have its
2 distributor's license revoked if the corporation meets all of the other
3 requirements necessary to have a distributor's license;

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

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

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

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

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

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

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

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

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

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

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

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

41 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),
42 (f)(1), (f)(2) and K.S.A. 2014 Supp. 41-311b, and amendments thereto,
43 shall not apply in determining eligibility for the 10th, or a subsequent,

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

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

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

17 (3) has been convicted of being the keeper or is keeping any property,
18 whether real or personal, where sexual relations are being sold or offered
19 for sale by a person who is 18 years of age or older or has forfeited bond to
20 appear in court to answer charges of being a keeper of any property,
21 whether real or personal, where sexual relations are being sold or offered
22 for sale by a person who is 18 years of age or older;

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

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

28 Sec. 2. K.S.A. 2014 Supp. 41-2623 is hereby amended to read as
29 follows: 41-2623. (a) No license shall be issued under the provisions of
30 this act to:

31 (1) Any person described in ~~subsection (a)(1), (2), (4), (5), (6), (7),~~
32 ~~(8), (9), (12) or (13) of K.S.A. 41-311(a)(1), (2), (4), (5), (6), (7), (8), (9),~~
33 ~~(12), (13) or (15)~~, and amendments thereto, except that the provisions of
34 subsection (a)(7) of such section shall not apply to nor prohibit the
35 issuance of a license for a class A club to an officer of a post home of a
36 congressionally chartered service or fraternal organization, or a benevolent
37 association or society thereof.

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

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

42 (4) A person who has a beneficial interest in the manufacture,
43 preparation or wholesaling or the retail sale of alcoholic liquors or a

1 beneficial interest in any other club, drinking establishment or caterer
2 licensed hereunder, except that:

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

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

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

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

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

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

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

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

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

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

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

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

1 license.

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

4 (1) A person who does not own the premises for which a license is
5 sought, or does not, at the time the application is submitted, have a written
6 lease thereon, except that an applicant seeking a license for a premises
7 which is owned by a city or county, or is a stadium, arena, convention
8 center, theater, museum, amphitheater or other similar premises may
9 submit an executed agreement to provide alcoholic beverage services at
10 the premises listed in the application in lieu of a lease.

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

13 Sec. 3. K.S.A. 2014 Supp. 41-311 and 41-2623 are hereby repealed.

14 Sec. 4. This act shall take effect and be in force from and after its
15 publication in the statute book.