

HOUSE BILL No. 2212

By Committee on Federal and State Affairs

2-3

1 AN ACT concerning alcoholic liquor; relating to the liquor control act;
2 eligibility for licensure; eliminating residency requirements; amending
3 K.S.A. 2020 Supp. 41-311, 41-311b, 41-2623 and 41-2703 and
4 repealing the existing sections.

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

7 Section 1. K.S.A. 2020 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 is not a citizen of the United States;

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

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17 person whose license was revoked for the conviction of a misdemeanor at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

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

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

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

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

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

35 (9) who at the time of application for renewal of any license issued
36 under this act would not be eligible for the license upon a first application,

1 except as provided by subsection (a)(12);

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

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

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

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

19 (14) who does not provide any data or information required by
20 K.S.A. 2020 Supp. 41-311b, and amendments thereto; or

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

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

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

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

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

34 ~~(4)~~(2) a person who has a beneficial interest in any other retail
35 establishment licensed under this act, except that the spouse of a licensee
36 may own and hold a retailer's license for another retail establishment;

37 ~~(5)~~(3) a copartnership, unless all of the copartners are qualified to
38 obtain a license;

39 ~~(6)~~(4) a corporation; or

40 ~~(7)~~(5) a trust, if any grantor, beneficiary or trustee would be ineligible
41 to receive a license under this act for any reason, except that the provisions
42 of subsection (a)(6) shall not apply in determining whether a beneficiary
43 would be eligible for a license.

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

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

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

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

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

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

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

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

21 (1) A corporation, if any officer, director or stockholder of the
22 corporation would be ineligible to receive a distributor's license for any
23 reason. It shall be unlawful for any stockholder of a corporation licensed
24 as a distributor to transfer any stock in the corporation to any person who
25 would be ineligible to receive a distributor's license for any reason, and
26 any such transfer shall be null and void, except that: (A) If any stockholder
27 owning stock in the corporation dies and an heir or devisee to whom stock
28 of the corporation descends by descent and distribution or by will is
29 ineligible to receive a distributor's license, the legal representatives of the
30 deceased stockholder's estate and the ineligible heir or devisee shall have
31 14 months from the date of the death of the stockholder within which to
32 sell the stock to a person eligible to receive a distributor's license, any such
33 sale by a legal representative to be made in accordance with the provisions
34 of the probate code; or (B) if the stock in any such corporation is the
35 subject of any trust and any trustee or beneficiary of the trust who is 21
36 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 a beneficial interest in a manufacturer or
22 distributor licensed under this act, except as provided in K.S.A. 41-305,
23 and amendments thereto;

24 (3)(2) person, copartnership or association ~~which~~ has a beneficial
25 interest in any retailer licensed under this act or under K.S.A. 41-2702, and
26 amendments thereto, except that the spouse of an applicant for a
27 microbrewery or farm winery license may own and hold a retailer's license
28 if the spouse does not hold a microbrewery or farm winery license issued
29 under this act;

30 (4)(3) copartnership, unless all of the copartners are qualified to
31 obtain a license;

32 (5)(4) corporation, unless stockholders owning in the aggregate 50%
33 or more of the stock of the corporation would be eligible to receive such
34 license and all other stockholders would be eligible to receive such license
35 except for reason of citizenship or residency; or

36 (6)(5) a trust, if any grantor, beneficiary or trustee would be ineligible
37 to receive a license under this act for any reason, except that the provisions
38 of subsection (a)(6) shall not apply in determining whether a beneficiary
39 would be eligible for a license.

40 (g) ~~The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),~~
41 ~~(f)(1) and K.S.A. 2020 Supp. 41-311b, and amendments thereto, shall not~~
42 ~~apply in determining eligibility for the 10th, or a subsequent, consecutive~~
43 ~~renewal of a license. If the applicant is not a Kansas resident, no license~~

1 *shall be issued until the applicant* has appointed a citizen of the United
2 States who is a resident of Kansas as the applicant's agent and filed with
3 the director a duly authenticated copy of a duly executed power of
4 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. 2020 Supp. 41-311b is hereby amended to read as
29 follows: 41-311b. (a) If an applicant for licensure is not a resident of the
30 state of Kansas on the date of submission of such application ~~or has not~~
31 ~~been a resident for at least one year immediately preceding the date of~~
32 ~~submission of such application~~, the director ~~shall~~ *may* require the
33 individual applicant, or if the applicant is a corporation, partnership or
34 trust, each individual officer, director, stockholder, copartner or trustee to:

35 (1) Submit to a national criminal history record check and provide the
36 director with a legible set of fingerprints;

37 (2) disclose to the director any substantial financial interest the
38 applicant owns in any entity that receives proceeds from the sale of
39 alcoholic beverages; and

40 (3) submit a release allowing the director to have access to and
41 review of the applicant's financial records to verify ownership and to
42 ensure applicant is not an agent of another person. This release shall
43 remain in effect after the license has been issued until the license is

1 canceled or revoked.

2 (b) The director shall submit the fingerprints provided under
3 subsection (a) to the Kansas bureau of investigation and to the federal
4 bureau of investigation and receive a reply to enable the director to verify
5 the identity of such applicant or such individuals specified in subsection
6 (a) and whether such applicant or such individuals have been convicted of
7 any crimes that would disqualify the applicant or such individuals from
8 holding a license under the liquor control act. The director is authorized to
9 use the information obtained from the national criminal history record
10 check to determine such applicant's or individual's eligibility to hold a
11 license under the liquor control act.

12 (c) All costs incurred pursuant to this section to ensure that the
13 applicant is qualified for licensure shall be paid by the applicant.

14 Sec. 3. K.S.A. 2020 Supp. 41-2623 is hereby amended to read as
15 follows: 41-2623. (a) No license shall be issued under the provisions of
16 this act to:

17 (1) Any person described in K.S.A. 41-311(a)(1), (2), (4), (5), (6),
18 (7), (8), (9), (12), (13) or (15), and amendments thereto, except that the
19 provisions of subsection (a)(7) of such section shall not apply to nor
20 prohibit the issuance of a license for a class A club to an officer of a post
21 home of a congressionally chartered service or fraternal organization, or a
22 benevolent association or society thereof.

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

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

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

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

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

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

42 (D) A license for a class A club may be granted to an organization of
43 which an officer, director or board member is a distributor or retailer

1 licensed under the liquor control act if such distributor or retailer sells no
2 alcoholic liquor to such club.

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

7 ~~(5)(4)~~ A copartnership, unless all of the copartners are qualified to
8 obtain a license.

9 ~~(6)(5)~~ A corporation, if any officer, manager or director thereof, or
10 any stockholder owning in the aggregate more than 5% of the common or
11 preferred stock of such corporation would be ineligible to receive a license
12 hereunder for any reason other than citizenship ~~and residence~~
13 requirements.

14 ~~(7)(6)~~ A corporation, if any officer, manager or director thereof, or
15 any stockholder owning in the aggregate more than 5% of the common or
16 preferred stock of such corporation, has been an officer, manager or
17 director, or a stockholder owning in the aggregate more than 5% of the
18 common or preferred stock, of a corporation ~~which that~~.

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

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

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

25 ~~(9)(7)~~ A trust, if any grantor, beneficiary or trustee would be
26 ineligible to receive a license under this act for any reason, except that the
27 provisions of K.S.A. 41-311(a)(6), and amendments thereto, shall not
28 apply in determining whether a beneficiary would be eligible for a license.

29 (b) No club or drinking establishment license shall be issued under
30 the provisions of the club and drinking establishment act to: ~~(1)~~ a person
31 who does not own the premises for which a license is sought, or does not,
32 at the time the application is submitted, have a written lease thereon,
33 except that an applicant seeking a license for a premises ~~which that~~ is
34 owned by a city or county, or is a stadium, arena, convention center,
35 theater, museum, amphitheater or other similar premises may submit an
36 executed agreement to provide alcoholic beverage services at the premises
37 listed in the application in lieu of a lease.

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

40 Sec. 4. K.S.A. 2020 Supp. 41-2703 is hereby amended to read as
41 follows: 41-2703. (a) After examination of an application for a retailer's
42 license, the board of county commissioners or the director shall, if they
43 approve the same, issue a license to the applicant. The governing body of

1 the city shall, if the applicant is qualified as provided by law, issue a
2 license to such applicant.

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

4 ~~(1) A person who is not a resident of the county in which the place of~~
5 ~~business covered by the license is located, has not been a resident of such~~
6 ~~county for at least six months or has not been a resident in good faith of~~
7 ~~the state of Kansas.~~

8 ~~(2) A person who has not been a resident of this state for at least one~~
9 ~~year immediately preceding application for a retailer's license.~~

10 ~~(3) A person who is not of good character and reputation in the~~
11 ~~community in which the person resides.~~

12 ~~(4)~~(2) A person who is not a citizen of the United States.

13 ~~(5)~~(3) A person who, within two years immediately preceding the
14 date of application approval, has been convicted of, released from
15 incarceration for or released from probation or parole for a felony or any
16 crime involving moral turpitude, drunkenness, driving a motor vehicle
17 while under the influence of intoxicating liquor or violation of any other
18 intoxicating liquor law of any state or of the United States.

19 ~~(6)~~(4) A partnership, unless all the members of the partnership are
20 otherwise qualified to obtain a license.

21 ~~(7)~~(5) A corporation, if any manager, officer or director thereof, or
22 any stockholder owning in the aggregate more than 25% of the stock of
23 such corporation, would be ineligible to receive a license hereunder for
24 any reason other than the citizenship and residency requirements.

25 ~~(8)~~(6) A person whose place of business is conducted by a manager
26 or agent unless the manager or agent possesses all the qualifications of a
27 licensee.

28 ~~(9)~~(7) A person whose spouse would be ineligible to receive a
29 retailer's license for any reason other than citizenship, ~~residence~~
30 requirements or age, except that this ~~subsection (b)(9) paragraph~~ shall not
31 apply in determining eligibility for a renewal license.

32 ~~(10)~~(8) A person whose spouse has been convicted of a felony or
33 other crime ~~which that~~ would disqualify a person from licensure under this
34 section and such felony or other crime was committed during the time that
35 the spouse held a license under this act.

36 (c) After examination of an application for a retailer's license, the
37 board of county commissioners or the governing body of a city may deny a
38 license to a person, partnership or corporation if any manager, officer or
39 director thereof, or any stockholder owning in the aggregate more than
40 25% of the stock of such corporation, has been an officer, manager,
41 director or a stockholder owning in the aggregate more than 25% of the
42 stock, of a corporation ~~which that~~ has:

43 (1) Had a retailer's license revoked under K.S.A. 41-2708, and

1 amendments thereto; or

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

4 (d) Retailers' licenses shall be issued either on an annual basis or for
5 the calendar year. If such licenses are issued on an annual basis, the board
6 of county commissioners or the governing body of the city shall notify the
7 distributors supplying the county or city on or before April 1 of the year if
8 a retailer's license is not renewed.

9 (e) In addition to, and consistent with the requirements of K.S.A. 41-
10 2701 et seq., and amendments thereto, the board of county commissioners
11 of any county or the governing body of any city may provide by resolution
12 or ordinance for the issuance of a special event retailers' permit ~~which that~~
13 shall allow the permit holder to offer for sale, sell and serve cereal malt
14 beverage for consumption on unpermitted premises, ~~which that~~ may be
15 open to the public, subject to the following:

16 (1) A special event retailers' permit shall specify the premises for
17 which the permit is issued;

18 (2) a special event retailers' permit shall be issued for the duration of
19 the special event, the dates and hours of which shall be specified in the
20 permit;

21 (3) no more than four special event retailers' permits may be issued to
22 any one applicant in a calendar year; and

23 (4) a special event retailers' permit shall not be transferable or
24 assignable.

25 (f) A special event retailers' permit holder shall not be subject to the
26 provisions of the beer and cereal malt beverage keg registration act, K.S.A.
27 41-2901 et seq., and amendments thereto.

28 Sec. 5. K.S.A. 2020 Supp. 41-311, 41-311b, 41-2623 and 41-2703 are
29 hereby repealed.

30 Sec. 6. This act shall take effect and be in force from and after its
31 publication in the statute book.