

## SENATE BILL No. 15

By Special Committee on Assessment and Taxation

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9 AN ACT concerning taxation; relating to delinquent taxes; licenses;  
10 amending K.S.A. 77-512 and K.S.A. 2004 Supp. 41-311 and 41-2623  
11 and repealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. As used in sections 1 through 6, and amendments  
15 thereto:

16 (a) "License" means a certificate, permit, registration or other doc-  
17 ument issued or approved by a licensing body in this state, issued pursuant  
18 to K.S.A. 1-301 *et seq.*, K.S.A. 7-103 *et seq.*, K.S.A. 9-2201 *et seq.*, K.S.A.  
19 15-1501 *et seq.*, K.S.A. 17-1254 *et seq.*, K.S.A. 36-501 *et seq.*, K.S.A. 40-  
20 201 *et seq.*, K.S.A. 40-240 *et seq.*, K.S.A. 40-3701 *et seq.*, K.S.A. 40-3801  
21 *et seq.*, K.S.A. 40-5001 *et seq.*, K.S.A. 47-814 *et seq.*, K.S.A. 47-1001 *et*  
22 *seq.*, K.S.A. 47-1201 *et seq.*, K.S.A. 47-1301 *et seq.*, K.S.A. 47-1501 *et seq.*,  
23 K.S.A. 47-1701 *et seq.*, K.S.A. 47-1801 *et seq.*, K.S.A. 55-155 *et seq.*,  
24 K.S.A. 58-2801 *et seq.*, K.S.A. 58-4121 *et seq.*, K.S.A. 58-3034 *et seq.*,  
25 K.S.A. 65-401 *et seq.*, K.S.A. 65-502 *et seq.*, K.S.A. 65-688 *et seq.*, K.S.A.  
26 65-1101 *et seq.*, K.S.A. 65-1401 *et seq.*, K.S.A. 65-1501 *et seq.*, K.S.A.  
27 1601 *et seq.*, K.S.A. 65-1626 *et seq.*, K.S.A. 65-1701 *et seq.*, K.S.A. 65-  
28 1808 *et seq.*, K.S.A. 65-1901 *et seq.*, K.S.A. 65-2001 *et seq.*, K.S.A. 65-  
29 2801 *et seq.*, K.S.A. 65-28a01 *et seq.*, K.S.A. 65-2901 *et seq.*, K.S.A. 65-  
30 3424b *et seq.*, K.S.A. 65-34,145 *et seq.*, K.S.A. 65-3501 *et seq.*, K.S.A.  
31 65-4001 *et seq.*, K.S.A. 65-4101 *et seq.*, K.S.A. 65-4201 *et seq.*, K.S.A. 65-  
32 4501 *et seq.*, K.S.A. 65-5101 *et seq.*, K.S.A. 65-5401 *et seq.*, K.S.A. 65-  
33 5501 *et seq.*, K.S.A. 65-5801 *et seq.*, K.S.A. 65-5901 *et seq.*, K.S.A. 65-  
34 6101 *et seq.*, K.S.A. 65-6301 *et seq.*, K.S.A. 65-6401 *et seq.*, K.S.A. 65-6501  
35 *et seq.*, K.S.A. 65-6601 *et seq.*, K.S.A. 65-6901 *et seq.*, K.S.A. 65-7201 *et*  
36 *seq.*, K.S.A. 68-2205 *et seq.*, K.S.A. 68-2236 *et seq.*, K.S.A. 72-1371 *et seq.*,  
37 K.S.A. 74-5301 *et seq.*, K.S.A. 74-5801 *et seq.*, K.S.A. 74-7001 *et seq.*,  
38 K.S.A. 75-7601 *et seq.*, and K.S.A. 82a-1201 *et seq.* and amendments  
39 thereto;

40 (b) "licensing body" means the abstractor's board of examiners, board  
41 of accountancy, board of adult care home administrators, animal health  
42 board, attorney general, banking commission, board of barbering, behav-  
43 iorral sciences regulatory board, department of commerce, corporation

1 commission, board of cosmetology, dental board, emergency medical  
2 services board, department of health and environment, board of healing  
3 arts, board of examiners in fitting and dispensing hearing aids, insurance  
4 department, board of mortuary arts, board of nursing, board of examiners  
5 in optometry, board of pharmacy, real estate appraisal board, real estate  
6 commission, securities commissioner, speech-language pathology and au-  
7 diology board, state board of education, supreme court, board of technical  
8 professions, department of transportation and board of veterinary  
9 examiners;

10 (c) “licensee” means any person who is applying for issuance of or  
11 has been issued a license. “Licensee” shall include, but not be limited to,  
12 an abstractor, adult care home administrator, barber school, barber col-  
13 lege, barber instructor, barber, noncompetitive boxing, karate, kick box-  
14 ing, competitive boxing, mixed martial arts, professional wrestling, school  
15 of cosmetology, school of nail technology, school of esthetics, school of  
16 electrology, cosmetology instructor, salon, clinic, tanning facility, cosme-  
17 tologist, cosmetology technician, cosmetology apprentice, electrologist,  
18 electrologist apprentice, manicurist, manicurist apprentice, esthetician,  
19 esthetician apprentice, tattoo artist, tattoo facility, permanent color tech-  
20 nician, permanent color facility, body piercer, body piercing facility, pub-  
21 lic livestock market operator, animal carcass disposal plant, garbage feed-  
22 ing operator, feedlot operator, animal distributor, animal breeder, hobby  
23 breeder, retail breeder, pet shop operator, pound or animal shelter, ken-  
24 nel operator, animal research facility, livestock dealer, private detective,  
25 private detective agency, mortgage business, clinical psychologist, master  
26 level psychologist, attorney, certified public accountant, municipal public  
27 accountant, professional counselor, clinical professional counselor, master  
28 social worker, specialist clinical social worker, social work associate, social  
29 worker, marriage and family therapist, clinical marriage and family ther-  
30 apist, alcohol or drug abuse counselor, dentist, dental intern, dental hy-  
31 gienist, highway advertising, junkyard certificate of compliance, insurance  
32 company, viatical settlement provider or broker, insurer administrator,  
33 insurance broker, bail bondsman, emergency medical services attendant,  
34 emergency medical technician, emergency medical technician-defibril-  
35 lator, emergency medical technician-intermediate, first responder, emer-  
36 gency medical instructor-coordinator, mobile intensive care technician,  
37 ambulance operator, emergency medical training officer, medical doctor,  
38 surgeon, osteopathic physician, chiropractor, podiatrist, physician assis-  
39 tant, physical therapist, physical therapist assistant, occupational therapist,  
40 respiratory therapist, athletic trainer, naturopathic doctor, insurance  
41 agent, embalmer, funeral director, assistant funeral director, apprentice  
42 funeral director, funeral establishment, branch funeral establishment,  
43 crematory, practical nurse, professional nurse, mental health technician,

1 oil and gas well operator or contractor, optometrist, diagnostic optome-  
2 trist, therapeutic optometrist, glaucoma optometrist, pharmacy, phar-  
3 macist, pharmacy technician, controlled substance manufacturer, con-  
4 trolled substance distributor, controlled substance dispenser, researcher  
5 with controlled substance, drug manufacturer, retail drug dealer, whole-  
6 sale drug distributor, drug sample distributor or dispenser, drug auction-  
7 eer, institutional drug room, pharmacy student, veterinary medical re-  
8 search hospital pharmacy, real estate appraiser, real estate salesperson,  
9 real estate broker, securities broker-dealer, securities investment advisor,  
10 speech-language pathologist, audiologist, hearing aid fitting and dispens-  
11 ing, teacher, engineer, architect, land surveyor, landscape architect, ge-  
12 ologist, veterinarian and veterinarian technician, water supply system op-  
13 erator, wastewater treatment facility operator, home health agency, home  
14 health aide, alcoholism and intoxication treatment facility, dietician, med-  
15 ical care facility, child care facility or maternity center, family day care  
16 home, retail food store, food processing plant, lodging establishment, food  
17 service establishment, food vending machine company, dry cleaning fa-  
18 cility, water well contractor, mobile waste tire processor, waste tire proc-  
19 essing facility, waste tire transporter and waste tire collection center;

20 (d) “person” means an individual, firm, partnership, limited partner-  
21 ship, association, corporation, limited liability partnership or limited li-  
22 ability company;

23 (e) “taxes” means income, employer withholding, privilege, estate,  
24 retailers’ sales, compensating use, franchise, mineral, new tire, motor ve-  
25 hicle rental, transient guest, drug, drycleaning and laundering excise taxes  
26 owed by the licensee, including any associated penalties and interest;

27 (f) “secretary” means the secretary of revenue; and

28 (g) “tax clearance certificate” means notification from the secretary  
29 that an applicant for the issuance of a new license or renewal or rein-  
30 statement of an existing license is not delinquent in the payment of taxes  
31 or the filing of tax returns.

32 New Sec. 2. A licensing body shall not process for issuance, renewal  
33 or reinstatement a license issuance, renewal or reinstatement application  
34 if the licensing body receives notification from the secretary that the li-  
35 censee is delinquent in the payment of taxes or the filing of tax returns.  
36 Such license status shall not be considered a suspension, denial or revo-  
37 cation of license issuance, renewal or reinstatement and shall exist only  
38 while the licensee is delinquent in the payment of taxes or the filing of  
39 tax returns.

40 New Sec. 3. For purposes of sections 1 through 6, and amendments  
41 thereto, a tax liability shall be considered delinquent when payment in  
42 full has not been remitted on or before the due date for such payment  
43 as established by law. The filing of a tax return shall be considered delin-

1 quent when the return has not been filed on or before the due date for  
2 such return as established by law. Delinquent taxes shall not include taxes  
3 which are under audit, administrative appeal, the subject of a pending  
4 court case or bankruptcy proceeding or for which an agreement for the  
5 payment of such taxes has been entered into by the licensee and the  
6 secretary and the licensee is current in the payments under such  
7 agreement.

8 New Sec. 4. (a) The secretary shall establish a tax clearance process  
9 whereby all license applications will be reviewed for tax delinquency prior  
10 to issuance, renewal or reinstatement in a manner consistent with each  
11 licensing body's procedures and timelines. Such process shall provide  
12 options to process applications electronically or in paper form, individu-  
13 ally or in batches, in a manner consistent with the licensing body's proc-  
14 esses. The secretary shall notify the licensing body if the licensee is de-  
15 linquent in the payment of taxes or the filing of returns after the appeal  
16 rights set forth in subsection (d) have expired or are exhausted.

17 (b) The secretary may require a licensing body to provide a list of all  
18 licensees including name, address, social security number or taxpayer  
19 identification number or federal employer identification number, which-  
20 ever is applicable, and the date of renewal for each licensee. Such list  
21 shall be provided electronically in the format required by the secretary  
22 not less than 60 days prior to the renewal date. Within 30 days of receipt  
23 of such list from the licensing body, the secretary shall review the listed  
24 licensees for tax delinquency and shall mail a notice of tax delinquency  
25 to any licensee who is delinquent in the payment of taxes or the filing of  
26 returns, and shall inform such licensee that the license may not be proc-  
27 essed for issuance, renewal or reinstatement so long as such delinquency  
28 continues, and of the right to request an informal conference concerning  
29 such delinquency, as set forth in subsection (d). The secretary shall notify  
30 the licensing agency of the names of all listed licensees receiving tax  
31 clearance.

32 (c) (1) The secretary may require a licensing body to obtain a tax  
33 clearance certificate from the licensee to be submitted with the applica-  
34 tion for license issuance, renewal or reinstatement. Upon receipt of a  
35 request for a tax clearance certificate from any licensee, if such licensee  
36 is not delinquent in the payment of taxes or the filing of returns, the  
37 secretary shall issue, by mail or electronically, such certificate of tax clear-  
38 ance within 30 days to the licensee.

39 (2) If the licensee is delinquent in the payment of taxes or the filing  
40 of returns, the secretary shall mail to such licensee a notice of tax delin-  
41 quency and shall inform such licensee of the right to request an informal  
42 conference concerning such delinquent status.

43 (d) (1) Within 30 days after the mailing of a notice of tax delinquency

1 by the secretary, the licensee may request an informal conference with  
2 the secretary or the secretary's designee relating to the licensee's tax de-  
3 linquency by filing a written request with the secretary or secretary's  
4 designee setting forth all reasons why such delinquency is contended to  
5 be incorrect. The purpose of such conference shall be to review and  
6 reconsider the facts and issues concerning the licensee's tax delinquency,  
7 but any final tax liability for which appeal rights have previously expired  
8 or been exhausted shall not be reviewable. The secretary of revenue or  
9 the secretary's designee shall hold an informal conference with the li-  
10 censee and shall issue a written final determination thereon within 30  
11 days after receipt of the request for an informal conference from the  
12 taxpayer. The informal conference shall not constitute an adjudicative  
13 proceeding under the Kansas administrative procedure act and shall be  
14 conducted in accordance with the procedures set forth in K.S.A. 79-3226,  
15 and amendments thereto.

16 (2) The written final determination shall be subject to appeal to the  
17 board of tax appeals, pursuant to K.S.A. 74-2438, and amendments  
18 thereto.

19 (3) Upon receipt of a request for informal conference from the li-  
20 censee, the secretary shall issue to the licensee a provisional tax clearance  
21 certificate, to be provided to the licensing body, which shall remain in  
22 effect until the written final determination is issued and any appeal rights  
23 concerning such written final determination are exhausted.

24 (4) If the licensee remains delinquent in the payment of taxes or the  
25 filing of returns following the exhaustion or expiration of appeal rights  
26 concerning the written final determination, the secretary shall provide to  
27 the licensing body a copy of the written final determination stating that  
28 the licensee is delinquent in the payment of taxes or the filing of returns.  
29 Upon receipt of such written final determination, such licensing body  
30 shall not process the issuance, renewal or reinstatement of any such li-  
31 cense until the licensee provides to the licensing body a tax clearance  
32 certificate issued by the secretary indicating that the licensee is no longer  
33 delinquent in the payment of taxes or the filing of returns. The pendency  
34 of any administrative or judicial appeal concerning a licensee's tax delin-  
35 quency shall not stay or otherwise affect the secretary's ability to take  
36 action to collect any taxes owed by the taxpayer.

37 New Sec. 5. If application for issuance, renewal or reinstatement of  
38 a license is not processed pursuant to sections 1 through 6, and amend-  
39 ments thereto, any funds paid by the licensee for such issuance, renewal  
40 or reinstatement shall not be refunded by the licensing body.

41 New Sec. 6. (a) Notwithstanding any provision of law prohibiting dis-  
42 closure by the secretary of the contents of taxpayer records or information  
43 and notwithstanding any confidentiality statute of any state agency or

1 licensing body, all information exchanged among or disclosed by the sec-  
2 retary, the licensing body and the licensee necessary to accomplish and  
3 effectuate the intent of sections 1 through 6, and amendments thereto,  
4 is lawful.

5 (b) The information obtained by a licensing body from the depart-  
6 ment of revenue as authorized by subsection (a) shall be used only for  
7 the purpose authorized by this act. Any person employed by, or formerly  
8 employed by, a licensing body, and who receives such information shall  
9 be subject to the provisions of K.S.A. 79-3234, and amendments thereto,  
10 or K.S.A. 79-3614, and amendments thereto, as applicable, with respect  
11 to any confidential taxpayer information, and shall be subject to the same  
12 duty of confidentiality with respect to such confidential information im-  
13 posed by law on officers and employees of the department of revenue  
14 and shall be subject to any civil or criminal penalties imposed by law for  
15 violations of such duty of confidentiality.

16 New Sec. 7. The provisions of sections 1 through 6 are expressly  
17 declared to be nonseverable.

18 Sec. 8. K.S.A. 2004 Supp. 41-311 is hereby amended to read as fol-  
19 lows: 41-311. (a) No license of any kind shall be issued pursuant to the  
20 liquor control act to a person:

21 (1) Who has not been a citizen of the United States for at least 10  
22 years, except that the spouse of a deceased retail licensee may receive  
23 and renew a retail license notwithstanding the provisions of this subsec-  
24 tion (a)(1) if such spouse is otherwise qualified to hold a retail license and  
25 is a United States citizen or becomes a United States citizen within one  
26 year after the deceased licensee's death;

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

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

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

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

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

43 (7) who, other than as a member of the governing body of a city or

- 1 county, appoints or supervises any law enforcement officer, who is a law  
2 enforcement official or who is an employee of the director;
- 3 (8) who intends to carry on the business authorized by the license as  
4 agent of another;
- 5 (9) who at the time of application for renewal of any license issued  
6 under this act would not be eligible for the license upon a first application,  
7 except as provided by subsection (a)(12);
- 8 (10) who is the holder of a valid and existing license issued under  
9 article 27 of chapter 41 of the Kansas Statutes Annotated unless the per-  
10 son agrees to and does surrender the license to the officer issuing the  
11 same upon the issuance to the person of a license under this act, except  
12 that a retailer licensed pursuant to K.S.A. 41-2702, and amendments  
13 thereto, shall be eligible to receive a retailer's license under the Kansas  
14 liquor control act;
- 15 (11) who does not own the premises for which a license is sought, or  
16 does not have a written lease thereon for at least  $\frac{3}{4}$  of the period for  
17 which the license is to be issued;
- 18 (12) whose spouse would be ineligible to receive a license under this  
19 act for any reason other than citizenship, residence requirements or age,  
20 except that this subsection (a)(12) shall not apply in determining eligibility  
21 for a renewal license;
- 22 (13) whose spouse has been convicted of a felony or other crime  
23 which would disqualify a person from licensure under this section and  
24 such felony or other crime was committed during the time that the spouse  
25 held a license under this act; ~~or~~
- 26 (14) who does not provide any data or information required by K.S.A.  
27 2004 Supp. 41-311b, and amendments thereto; *or*
- 28 (15) *who is not current in the payment of all taxes related directly to*  
29 *the business for which the license is issued and imposed pursuant to K.S.A.*  
30 *41-501 et seq., 79-3294 et seq., 79-3601 et seq., 79-4101 et seq. and 79-*  
31 *41a01 et seq., and amendments thereto, unless such taxes are under for-*  
32 *mal appeal or for which an agreement for the payment of such taxes has*  
33 *been entered into by the department of revenue and the person seeking*  
34 *licensure and such person is current in the payments under such agree-*  
35 *ment, and if the licensee is a corporation, partnership, trust or association,*  
36 *the individual officers, directors, stockholders, partners, managers or*  
37 *other individual members shall not be required to be current in the pay-*  
38 *ment of their own individual taxes as a condition of license issuance or*  
39 *renewal of any such entity's license.*
- 40 (b) No retailer's license shall be issued to:
- 41 (1) A person who is not a resident of this state;
- 42 (2) a person who has not been a resident of this state for at least four  
43 years immediately preceding the date of application;

- 1 (3) a person who has beneficial interest in the manufacture, prepara-  
2 tion or wholesaling of alcoholic beverages;
- 3 (4) a person who has beneficial interest in any other retail establish-  
4 ment licensed under this act, except that the spouse of a licensee may  
5 own and hold a retailer's license for another retail establishment;
- 6 (5) a copartnership, unless all of the copartners are qualified to obtain  
7 a license;
- 8 (6) a corporation; or
- 9 (7) a trust, if any grantor, beneficiary or trustee would be ineligible  
10 to receive a license under this act for any reason, except that the provi-  
11 sions of subsection (a)(6) shall not apply in determining whether a ben-  
12 efiticiary would be eligible for a license.
- 13 (c) No manufacturer's license shall be issued to:
- 14 (1) A corporation, if any officer or director thereof, or any stockholder  
15 owning in the aggregate more than 25% of the stock of the corporation  
16 would be ineligible to receive a manufacturer's license for any reason  
17 other than citizenship and residence requirements;
- 18 (2) a copartnership, unless all of the copartners shall have been res-  
19 idents of this state for at least five years immediately preceding the date  
20 of application and unless all the members of the copartnership would be  
21 eligible to receive a manufacturer's license under this act;
- 22 (3) a trust, if any grantor, beneficiary or trustee would be ineligible  
23 to receive a license under this act for any reason, except that the provi-  
24 sions of subsection (a)(6) shall not apply in determining whether a ben-  
25 efiticiary would be eligible for a license;
- 26 (4) an individual who is not a resident of this state; or
- 27 (5) an individual who has not been a resident of this state for at least  
28 five years immediately preceding the date of application.
- 29 (d) No distributor's license shall be issued to:
- 30 (1) A corporation, if any officer, director or stockholder of the cor-  
31 poration would be ineligible to receive a distributor's license for any rea-  
32 son. It shall be unlawful for any stockholder of a corporation licensed as  
33 a distributor to transfer any stock in the corporation to any person who  
34 would be ineligible to receive a distributor's license for any reason, and  
35 any such transfer shall be null and void, except that: (A) If any stockholder  
36 owning stock in the corporation dies and an heir or devisee to whom stock  
37 of the corporation descends by descent and distribution or by will is in-  
38 eligible to receive a distributor's license, the legal representatives of the  
39 deceased stockholder's estate and the ineligible heir or devisee shall have  
40 14 months from the date of the death of the stockholder within which to  
41 sell the stock to a person eligible to receive a distributor's license, any  
42 such sale by a legal representative to be made in accordance with the  
43 provisions of the probate code; or (B) if the stock in any such corporation

1 is the subject of any trust and any trustee or beneficiary of the trust who  
2 is 21 years of age or older is ineligible to receive a distributor's license,  
3 the trustee, within 14 months after the effective date of the trust, shall  
4 sell the stock to a person eligible to receive a distributor's license and  
5 hold and disburse the proceeds in accordance with the terms of the trust.  
6 If any legal representatives, heirs, devisees or trustees fail, refuse or ne-  
7 glect to sell any stock as required by this subsection, the stock shall revert  
8 to and become the property of the corporation, and the corporation shall  
9 pay to the legal representatives, heirs, devisees or trustees the book value  
10 of the stock. During the period of 14 months prescribed by this subsec-  
11 tion, the corporation shall not be denied a distributor's license or have its  
12 distributor's license revoked if the corporation meets all of the other  
13 requirements necessary to have a distributor's license;

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

16 (3) a trust, if any grantor, beneficiary or trustee would be ineligible  
17 to receive a license under this act for any reason, except that the provi-  
18 sions of subsection (a)(6) shall not apply in determining whether a ben-  
19 efitary would be eligible for a license.

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

25 (f) No microbrewery license or farm winery license shall be issued to  
26 a:

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

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

30 (3) person who has beneficial interest in the manufacture, prepara-  
31 tion or wholesaling of alcoholic beverages other than that produced by  
32 such brewery or winery;

33 (4) person, copartnership or association which has beneficial interest  
34 in any retailer licensed under this act or under K.S.A. 41-2702, and  
35 amendments thereto;

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

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

42 (7) a trust, if any grantor, beneficiary or trustee would be ineligible  
43 to receive a license under this act for any reason, except that the provi-

1 sions of subsection (a)(6) shall not apply in determining whether a ben-  
2 eficiary would be eligible for a license.

3 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),  
4 (f)(1), (f)(2) and K.S.A. 2004 Supp. 41-311b, and amendments thereto,  
5 shall not apply in determining eligibility for the 10th, or a subsequent,  
6 consecutive renewal of a license if the applicant has appointed a citizen  
7 of the United States who is a resident of Kansas as the applicant's agent  
8 and filed with the director a duly authenticated copy of a duly executed  
9 power of attorney, authorizing the agent to accept service of process from  
10 the director and the courts of this state and to exercise full authority,  
11 control and responsibility for the conduct of all business and transactions  
12 within the state relative to alcoholic liquor and the business licensed. The  
13 agent must be satisfactory to and approved by the director, except that  
14 the director shall not approve as an agent any person who:

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

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

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

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

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

30 Sec. 9. K.S.A. 2004 Supp. 41-2623 is hereby amended to read as  
31 follows: 41-2623. (a) No license shall be issued under the provisions of  
32 this act to:

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

39 (2) A person who has had the person's license revoked for cause un-  
40 der the provisions of this act.

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

43 (4) A person who has a beneficial interest in the manufacture, prep-

- 1 aration or wholesaling or the retail sale of alcoholic liquors or a beneficial  
2 interest in any other club, drinking establishment or caterer licensed here-  
3 under, except that:
- 4 (A) A license for premises located in a hotel may be granted to a  
5 person who has a beneficial interest in one or more other clubs or drinking  
6 establishments licensed hereunder if such other clubs or establishments  
7 are located in hotels.
- 8 (B) A license for a club or drinking establishment which is a resta-  
9 rant may be issued to a person who has a beneficial interest in other clubs  
10 or drinking establishments which are restaurants.
- 11 (C) A caterer's license may be issued to a person who has a beneficial  
12 interest in a club or drinking establishment and a license for a club or  
13 drinking establishment may be issued to a person who has a beneficial  
14 interest in a caterer.
- 15 (D) A license for a class A club may be granted to an organization of  
16 which an officer, director or board member is a distributor or retailer  
17 licensed under the liquor control act if such distributor or retailer sells  
18 no alcoholic liquor to such club.
- 19 (E) On and after January 1, 1988, a license for a class B club or  
20 drinking establishment may be granted to a person who has a beneficial  
21 interest in a microbrewery or farm winery licensed pursuant to the Kansas  
22 liquor control act.
- 23 (5) A copartnership, unless all of the copartners are qualified to ob-  
24 tain a license.
- 25 (6) A corporation, if any officer, manager or director thereof, or any  
26 stockholder owning in the aggregate more than 5% of the common or  
27 preferred stock of such corporation would be ineligible to receive a li-  
28 cense hereunder for any reason other than citizenship and residence  
29 requirements.
- 30 (7) A corporation, if any officer, manager or director thereof, or any  
31 stockholder owning in the aggregate more than 5% of the common or  
32 preferred stock of such corporation, has been an officer, manager or di-  
33 rector, or a stockholder owning in the aggregate more than 5% of the  
34 common or preferred stock, of a corporation which:
- 35 (A) Has had a license revoked under the provisions of the club and  
36 drinking establishment act; or
- 37 (B) has been convicted of a violation of the club and drinking estab-  
38 lishment act or the cereal malt beverage laws of this state.
- 39 ~~(8) A corporation organized under the laws of any state other than~~  
40 ~~this state.~~
- 41 ~~(9)~~ A trust, if any grantor, beneficiary or trustee would be ineligible  
42 to receive a license under this act for any reason, except that the provi-  
43 sions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall

1 not apply in determining whether a beneficiary would be eligible for a  
2 license.

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

5 (1) A person described in subsection (a)(11) of K.S.A. 41-311, and  
6 amendments thereto.

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

9 Sec. 10. K.S.A. 77-512 is hereby amended to read as follows: 77-512.  
10 A state agency may not revoke, suspend, modify, annul, withdraw, refuse  
11 to renew, or amend a license unless the state agency first gives notice and  
12 an opportunity for a hearing in accordance with this act, *or unless a state*  
13 *agency receives notification from the secretary of revenue that a licensee*  
14 *is delinquent in the payment of taxes or the filing of a tax return, in which*  
15 *case the provisions of section 1, et seq., and amendments thereto, shall*  
16 *apply. This section does not preclude a state agency from (a) taking im-*  
17 *mediate action to protect the public interest in accordance with K.S.A.*  
18 *77-536, and amendments thereto, or (b) adopting rules and regulations,*  
19 *otherwise within the scope of its authority, pertaining to a class of licens-*  
20 *ees, including rules and regulations affecting the existing licenses of a*  
21 *class of licensees.*

22 Sec. 11. K.S.A. 77-512 and K.S.A. 2004 Supp. 41-311 and 41-2623  
23 are hereby repealed.

24 Sec. 12. This act shall take effect and be in force from and after its  
25 publication in the statute book.