

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 22, 2011, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Jason Long, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Others attending:

See attached list.

Introduction of Bills

Senator Faust-Goudeau requested a bill introduction concerning wage payment act; additional penalties for employers who repeatedly fail to pay wages.

Senator Faust-Goudeau moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Final Action:

SB 112 - Amendments to statutes pertaining to land surveyors

Staff updated the committee on the bill.

Senator Francisco spoke to the committee about a change in the definition regarding townhouse plats and condominium plats; in one place it talks about boundaries of walks, floors, and ceilings and in another section walls, floors and ceilings. Senator Francisco would like the definition to be consistent and to walls instead of walks.

Senator Abrams moved the amendment to change reference from walks to walls. Senator Owens seconded the motion. The motion carried.

Senator Haley moved to pass SB 112 out favorably as amended. Senator Reitz seconded the motion. The motion carried.

SB 54 - Creating classes of license to sell alcoholic beverages at retail; fees, term and eligibility

Senator Abrams provided a balloon to have only one liquor license, and deals with Section 2 and 3 and striking sections 4 and 5 and cover pages 1 through 4 of the balloon. (Attachment 1)

Senator Abrams moved the amendment. Senator Faust-Goudeau seconded the motion. The motion carried.

Senator Abrams proposed capping the number of licenses and the change in population growth would open the market for issuance of future liquor licenses. The committee did not favor this proposal.

Senator Longbine moved a balloon that would keep the cap on the number of full licenses from 3 years to 5 years. Senator Ostmeyer seconded the motion. The motion carried. (Attachment 2)

Senator Brungardt moved the amendment for ABC for licensee to pay a state transfer fee of \$25 and a state application fee set forth in Statute. Senator Reitz seconded the motion. The motion carried.

CONTINUATION SHEET

The minutes of the Federal and State Committee at 10:30 a.m. on February 22, 2011, in Room 144-S of the Capitol.

Senator Ostmeyer moved that workers must be 21 years old to sell, to stock, or otherwise handle any alcoholic liquor. Senator Reitz seconded the motion. The motion carried.

Senator Brungardt provided the amendment in Tuck Duncan's testimony on wholesalers and distributors to set a minimum price and quantity of liquor.

Senator Brungardt moved the amendment to permit distributors to establish order minimums for quantity and/or dollar amounts. Senator Owens seconded the motion. The motion carried.

Staff provided a balloon that would cover definitions of corporations, board of directors or governing bodies, and a designated premise that would includes stores classified under the North American Industry Classification System (NAICS). (Attachment 3)

Senator Owens move the balloon on definitions and classifications. Senator Reitz seconded the motion. The motion carried.

Senator Longbine moved that liquor stores restrict the expanded products for 5 years. Senator Owens seconded the motion. The motion carried.

Staff provided the Secretary of State's balloon, which is a technical clean up. (Attachment 4)

Senator Abrams moved the Secretary of State's balloon. Senator Owens seconded the motion. The motion carried.

Senator Owens moved to pass **SB 54** out favorably as amended. Senator Longbine seconded the motion. The motion carried.

Senator Abrams requested to be recorded as a no vote.

The next meeting is scheduled for March 2, 2011. The meeting was adjourned at 11:40 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 2-22-11

NAME	REPRESENTING
Jack DUNEAN	KS wine & spirits wholesalers
Phil Bradley	KLBA, KCBA, KUFWA
Spencer Duvcan	Keep Kansans in Business
David A Drake	Topeka Club Liquor
Patricia A Drake	Topeka Club Liquor
Linda Langston	Eudora Wine & Spirits
Betty Knockstedt	Knocknecup Liquors
Larry J. Knockstedt	Knocknecup Liquors LLC
Stanley R. Mitchell	Ray's Discount Liquor
PAT Devlin	Devlin's Liquor
Clayton Devlin	Devlin's Wine & Spirits
John Hoytal	K&K Liquor
Sean Murphy	Murphy's Liquor
STEVE NELSON	Brown Bag LIQUOR
Kelly Jennings	Tipsy's Liquor
LEON ROBERTS	VALET WINE & SPIRITS
Mel Minor	Capitol Advantage
Wendy Jamn	Lucky Liquor Super Store
Brett Creech	BDA
Mandy Hill	SCOFFS
Tara Mays	KDOT
Colin Curtis	Sandstone Group
Jean Bolino	Bd of Tech. Professions
TED HENKEL	CS.
TOM PALACE	PMCA OF KS.
Dick Stoffer	H&Vee
Mike Murray	Ks Food Dirs Assn
Lorrie Ann Brown	Wine Institute

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE _____

[illegible]

SENATE BILL No. 54

By Committee on Federal and State Affairs

1-25

Balloon to have only one license

Prepared by: Jason B. Long

H:\StaffDocs\JasonL\SB 54 (Retailer liquor rewrite)\single_license_balloon.odt

Sn Fed & State
Attachment 1

2-22-11

1 AN ACT concerning alcoholic beverages; relating to retailer's licenses
2 under the Kansas liquor control act; amending K.S.A. 41-304 and 41-
3 713 and K.S.A. 2010 Supp. 41-102, 41-301, 41-303, 41-310, 41-311,
4 41-313, 41-317, 41-326¹ and 79-4108 and repealing the existing
5 sections; also repealing K.S.A. 41-103, 41-308 and 41-711.

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

8 New Section 1. (a) On and after July 1, 2011, the total number of
9 retailer's licenses issued by the director to sell alcoholic liquor shall not
10 exceed the number of such valid licenses issued as of June 30, 2011.

11 (b) From July 1, 2011, to December 31, 2011, the director may only
12 issue a retailer's license to sell alcoholic liquor to a qualified applicant if
13 the issuance of such license would not cause the total number of such
14 valid licenses issued to exceed the number determined pursuant to
15 subsection (a).

16 (c) From January 1, 2012, to December 31, 2014, the total number
17 of retailer's class C licenses issued by the director shall not exceed the
18 number determined pursuant to subsection (a).

19 New Sec. 2. (a) On and after January 1, 2012, all retailer's licenses
20 to sell alcoholic liquor issued by the director prior to such date shall be
21 deemed to be retailer's class C licenses.

22 (b) A retailer's class C license shall allow the licensee to sell and
23 offer for sale at retail and deliver in the original package, as therein
24 prescribed, alcoholic liquor for use or consumption off of and away from
25 the premises specified in such license.

26 (c) A retailer's class C license shall permit the sale and delivery of
27 alcoholic liquor only on the licensed premises and shall not permit the
28 sale of alcoholic liquor for resale in any form, except that the licensee
29 may:

30 (1) Sell alcoholic liquor to a temporary permit holder for resale by
31 such temporary permit holder; and

32 (2) sell and deliver alcoholic liquor to a caterer or to the licensed
33 premises of a club or drinking establishment, if such premises are in the
34 county where the retailer's licensed premises are located or in an adjacent
35 county, for resale by such caterer, club or drinking establishment.

, 41-710

Except as otherwise provided in subsection (b),

(1) When the premises to be licensed is located in a county in which there is one or more licensed premises at the time the application for a retailer's license is submitted to the director, the director shall issue a license to a qualified applicant only if the percentage of population growth for such county is equal to or greater than the percentage of retailer's license growth in such county.

(A) The percentage of population growth shall be determined as follows:

(i) Divide the population of such county as of the previous July 1 by the population of such county on July 1 of the year in which the last retailer's license was issued for a premises located in such county; and

(ii) subtract one from the resulting quotient. The resulting difference is the percentage of population growth.

The population of the county shall be the population as certified to the secretary of state by the director of the division of the budget on July 1 in accordance with K.S.A 11-201, and amendments thereto.

(B) The percentage of retailer's license growth shall be determined as follows:

(i) Add one to the number of existing retailer's licenses issued for premises located in such county;

(ii) divide the sum determined under (i) by the number of existing retailer's licenses issued for premises located in such county; and

(iii) subtract one from the resulting quotient. The resulting difference is the percentage of retailer's license growth.

(2) When the premises to be licensed is located in a county in which there is no existing licensed premises at the time the application for a retailer's license is submitted to the director, the director shall issue a retailer's license to a qualified applicant who meets all of the requirements of the Kansas liquor control act.

A retailer's license transferred pursuant to section 3, and amendments thereto, shall not be considered a new retailer's license for the purposes of this section.

1 (d) A retailer's class C licensee may:

2 (1) Charge a delivery fee for delivery of alcoholic liquor to a caterer,
3 club or drinking establishment pursuant to subsection (b);

4 (2) sell lottery tickets and shares to the public in accordance with
5 the Kansas lottery act, if the licensee is selected as a lottery retailer;

6 (3) include in the sale of alcoholic liquor any goods included by the
7 manufacturer in packaging with the alcoholic liquor, subject to the
8 approval of the director;

9 (4) distribute to the public, without charge, consumer advertising
10 specialties bearing advertising matter, subject to rules and regulations of
11 the secretary limiting the form and distribution of such specialties so that
12 they are not conditioned on or an inducement to the purchase of alcoholic
13 liquor;

14 (5) store alcoholic liquor in refrigerators, cold storage units, ice
15 boxes or other cooling devices, and sell such alcoholic liquor to
16 consumers in a chilled condition; and

17 (6) sell any other good or service on the licensed premises.

18 New Sec. 3. (a) On and after January 1, 2012, any licensee holding
19 a valid retailer's class C license may transfer such license to any person
20 qualified to hold such license under the Kansas liquor control act. The
21 transferee's proposed premises to be licensed shall be located in the same
22 county as the licensed premises of the transferor.

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

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

42 New Sec. 4. (a) On and after January 1, 2012, the director may
43 issue to qualified applicants a retailer's class A license. A retailer's class A

(a)

The parties to any such transfer agreement may agree to include any existing inventory as part of the transfer agreement. In such event the price of such existing inventory shall be one-half of the price of such inventory paid to the distributor as set forth on the invoice for such inventory.

1 license shall allow the licensee to sell and offer for sale at retail and
2 deliver in the original package, as therein prescribed, beer for use or
3 consumption off of and away from the premises specified in such license.

4 (b) A retailer's class A license shall permit the sale and delivery of
5 beer only on the licensed premises and shall not permit the sale of beer
6 for resale in any form, except that the licensee may:

7 (1) Sell beer to a temporary permit holder for resale by such
8 temporary permit holder; and

9 (2) sell and deliver beer to a caterer or to the licensed premises of a
10 club or drinking establishment, if such premises are in the county where
11 the retailer's licensed premises are located or in an adjacent county, for
12 resale by such caterer, club or drinking establishment.

13 (c) A retailer's class A licensee may:

14 (1) Charge a delivery fee for delivery of beer to a caterer, club or
15 drinking establishment pursuant to subsection (b);

16 (2) sell lottery tickets and shares to the public in accordance with
17 the Kansas lottery act, if the licensee is selected as a lottery retailer;

18 (3) include in the sale of beer any goods included by the
19 manufacturer in packaging with the beer, subject to the approval of the
20 director;

21 (4) distribute to the public, without charge, consumer advertising
22 specialties bearing advertising matter, subject to rules and regulations of
23 the secretary limiting the form and distribution of such specialties so that
24 they are not conditioned on or an inducement to the purchase of beer;

25 (5) store beer in refrigerators, cold storage units, ice boxes or other
26 cooling devices, and sell such beer to consumers in a chilled condition;
27 and

28 (6) sell any other good or service on the licensed premises.

29 New Sec. 5. (a) On and after January 1, 2012, the director may issue
30 to qualified applicants a retailer's class B license. A retailer's class B
31 license shall allow the licensee to sell and offer for sale at retail and
32 deliver in the original package, as therein prescribed, beer and wine for
33 use or consumption off of and away from the premises specified in such
34 license.

35 (b) A retailer's class B license shall permit the sale and delivery of
36 beer and wine only on the licensed premises and shall not permit the sale
37 of beer and wine for resale in any form, except that the licensee may:

38 (1) Sell beer and wine to a temporary permit holder for resale by such
39 temporary permit holder; and

40 (2) sell and deliver beer and wine to a caterer or to the licensed
41 premises of a club or drinking establishment, if such premises are in the
42 county where the retailer's licensed premises are located or in an adjacent
43 county, for resale by such caterer, club or drinking establishment.

(c) A retailer's class B licensee may:

(1) Charge a delivery fee for delivery of beer and wine to a caterer, club or drinking establishment pursuant to subsection (b);

(2) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the licensee is selected as a lottery retailer;

(3) include in the sale of beer and wine any goods included by the manufacturer in packaging with the beer and wine, subject to the approval of the director;

(4) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of beer or wine;

(5) store beer and wine in refrigerators, cold storage units, ice boxes or other cooling devices, and sell such beer and wine to consumers in a chilled condition; and

(6) sell any other good or service on the licensed premises.

New Sec. 6. On and after January 1, 2015, the director may issue to qualified applicants a retailer's class C license. A holder of a retailer's class C license shall have all the privileges granted to such licensees as set forth in section 2, and amendments thereto.

New Sec. 7.5. The provisions of sections 1 through 7, and amendments thereto, shall be a part of and supplemental to the Kansas liquor control act.

Sec. 8.6. K.S.A. 2010 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

(a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(d) "Caterer" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-

5

New Sec. 4. A retailer's licensee that sells goods or services other than alcoholic liquor pursuant to subsection (d)(6) of section 2, and amendments thereto, shall display all alcoholic liquor as follows:

(a) In a room or area of the licensed premises that is separated from the rest of the premises by solid walls. Such separate room or area may have an open doorway for access to and from the rest of the licensed premises and may have windows; or

(b) in a locked display counter or cooler located within the licensed premises.

And by renumbering the remaining sections accordingly

1 2701, and amendments thereto.

2 (f) "Club" has the meaning provided by K.S.A. 41-2601, and
3 amendments thereto.

4 (g) "Director" means the director of alcoholic beverage control of
5 the department of revenue.

6 (h) "Distributor" means the person importing or causing to be
7 imported into the state, or purchasing or causing to be purchased within
8 the state, alcoholic liquor for sale or resale to retailers licensed under this
9 act or cereal malt beverage for sale or resale to retailers licensed under
10 K.S.A. 41-2702, and amendments thereto.

11 (i) "Domestic beer" means beer which contains not more than 8%
12 alcohol by weight and which is manufactured in this state.

13 (j) "Domestic fortified wine" means wine which contains more than
14 14%, but not more than 20% alcohol by volume and which is
15 manufactured in this state.

16 (k) "Domestic table wine" means wine which contains not more than
17 14% alcohol by volume and which is manufactured without rectification
18 or fortification in this state.

19 (l) "Drinking establishment" has the meaning provided by K.S.A.
20 41-2601, and amendments thereto.

21 (m) "Farm winery" means a winery licensed by the director to
22 manufacture, store and sell domestic table wine and domestic fortified
23 wine.

24 (n) "Manufacture" means to distill, rectify, ferment, brew, make,
25 mix, concoct, process, blend, bottle or fill an original package with any
26 alcoholic liquor, beer or cereal malt beverage.

27 (o) (1) "Manufacturer" means every brewer, fermenter, distiller,
28 rectifier, wine maker, blender, processor, bottler or person who fills or
29 refills an original package and others engaged in brewing, fermenting,
30 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
31 beverage.

32 (2) "Manufacturer" does not include a microbrewery or a farm
33 winery.

34 (p) "Microbrewery" means a brewery licensed by the director to
35 manufacture, store and sell domestic beer.

36 (q) "Minor" means any person under 21 years of age.

37 (r) "Nonbeverage user" means any manufacturer of any of the
38 products set forth and described in K.S.A. 41-501, and amendments
39 thereto, when the products contain alcohol or wine, and all laboratories
40 using alcohol for nonbeverage purposes.

41 (s) "Original package" means any bottle, flask, jug, can, cask, barrel,
42 keg, hogshead or other receptacle or container whatsoever, used, corked
43 or capped, sealed and labeled by the manufacturer of alcoholic liquor, to

1 contain and to convey any alcoholic liquor. Original container does not
2 include a sleeve.

3 (t) "Person" means any natural person, corporation, partnership, trust
4 or association.

5 (u) "Primary American source of supply" means the manufacturer,
6 the owner of alcoholic liquor at the time it becomes a marketable product
7 or the manufacturer's or owner's exclusive agent who, if the alcoholic
8 liquor cannot be secured directly from such manufacturer or owner by
9 American wholesalers, is the source closest to such manufacturer or
10 owner in the channel of commerce from which the product can be secured
11 by American wholesalers.

12 (v) (1) "Retailer" means a person who sells at retail, or offers for
13 sale at retail, alcoholic liquors.

14 (2) "Retailer" does not include a microbrewery or a farm winery.

15 (w) (1) "Retailer's license" means a license to sell at retail alcoholic
16 liquor in the original package issued pursuant to the Kansas liquor
17 control act.

18 (2) On and after January 1, 2012, the term "retailer's license"
19 means a retailer's class A, class B or class C license, or other license to
20 sell at retail alcoholic liquor in the original package, issued pursuant to
21 the Kansas liquor control act.

22 (x) "Sale" means any transfer, exchange or barter in any manner
23 or by any means whatsoever for a consideration and includes all sales
24 made by any person, whether principal, proprietor, agent, servant or
25 employee.

26 (y) "Salesperson" means any natural person who:

27 (1) Procures or seeks to procure an order, bargain, contract or
28 agreement for the sale of alcoholic liquor or cereal malt beverage; or

29 (2) is engaged in promoting the sale of alcoholic liquor or cereal
30 malt beverage, or in promoting the business of any person, firm or
31 corporation engaged in the manufacturing and selling of alcoholic liquor
32 or cereal malt beverage, whether the seller resides within the state of
33 Kansas and sells to licensed buyers within the state of Kansas, or whether
34 the seller resides without the state of Kansas and sells to licensed buyers
35 within the state of Kansas.

36 (z) "Secretary" means the secretary of revenue.

37 (aa) (1) "Sell at retail" and "sale at retail" refer to and mean sales
38 for use or consumption and not for resale in any form and sales to clubs,
39 licensed drinking establishments, licensed caterers or holders of
temporary permits.

40 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by
41 a distributor, a microbrewery, a farm winery, a licensed club, a licensed
42 drinking establishment, a licensed caterer or a holder of a temporary
43

1 permit.

2 ~~(aa)~~ (bb) "To sell" includes to solicit or receive an order for, to keep
3 or expose for sale and to keep with intent to sell.

4 ~~(bb)~~ (cc) "Sleeve" means a package of two or more 50-milliliter
5 (3.2-fluid-ounce) containers of spirits.

6 ~~(ee)~~ (dd) "Spirits" means any beverage which contains alcohol
7 obtained by distillation, mixed with water or other substance in solution,
8 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
9 such liquors when rectified, blended or otherwise mixed with alcohol or
10 other substances.

11 ~~(dd)~~ (ee) "Supplier" means a manufacturer of alcoholic liquor or
12 cereal malt beverage or an agent of such manufacturer, other than a
13 salesperson.

14 ~~(ee)~~ (ff) "Temporary permit" has the meaning provided by K.S.A.
15 41-2601, and amendments thereto.

16 ~~(ff)~~ (gg) "Wine" means any alcoholic beverage obtained by the
17 normal alcoholic fermentation of the juice of sound, ripe grapes, fruits,
18 berries or other agricultural products, including such beverages
19 containing added alcohol or spirits or containing sugar added for the
20 purpose of correcting natural deficiencies.

21 Sec. ~~9.7~~ On and after January 1, 2012, K.S.A. 2010 Supp. 41-301 is
22 hereby amended to read as follows: 41-301. ~~(a) Except as provided by~~
23 ~~subsection (b), the director shall issue to qualified applicants, who have~~
24 ~~filed the bond and paid the registration and license fees required by this~~
25 ~~act, licenses to sell at retail alcoholic liquor in the original package on~~
26 ~~premises within the corporate limits of cities and outside the corporate~~
27 ~~limits of any city.~~

28 ~~(b)~~ (a) No retailer's license shall be issued for premises within a city
29 if the governing body of such city, on or before February 15, 2006, ~~adopts~~
30 ~~adopted~~ an ordinance prohibiting the licensing of the sale at retail of
31 alcoholic liquor in the original package within such city. ~~Upon adoption~~
32 ~~of such ordinance, the city clerk promptly shall transmit a copy of such~~
33 ~~ordinance to the director and the director shall refuse to issue licenses to~~
34 ~~sell at retail alcoholic liquor in the original package in such city. If the~~
35 ~~governing body adopts such an ordinance, the holder of any valid existing~~
36 ~~retailer's license for premises in such city shall have the right to continue~~
37 ~~to operate under such license for a period of 90 days after the effective~~
38 ~~date of the ordinance or until the expiration of such license, whichever~~
39 ~~period of time is shorter. If such period of time expires before the~~
40 ~~expiration of the term for which the retailer's license was issued, the~~
41 ~~licensee shall be entitled to a refund of the license fee for the unexpired~~
42 ~~portion of the license period which remains, in accordance with rules and~~
43 ~~regulations adopted by the secretary.~~

(e) (b) No retailer's license shall be issued for premises within a city if, after November 15, 2005, a majority of the qualified voters of such city voting at an election held as provided by K.S.A. 41-302, and amendments thereto, votes against the licensing of the sale at retail of alcoholic liquor 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 alcoholic liquor in the original package within such city.

Sec. 10.8. On and after January 1, 2012, K.S.A. 2010 Supp. 41-303 is hereby amended to read as follows: 41-303. (a) ~~The director may issue to qualified applicants licenses to sell at retail alcoholic liquor 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~~ No retailer's license shall be issued to any applicant under this section for premises not located in an incorporated city 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 *such* 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.~~

(e) (b) Any ~~retail~~ retailer's 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 *such* license authorized by this subsection. .

Sec. 11. On and after January 1, 2012, K.S.A. 41-304 is hereby amended to read as follows: 41-304. Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) spirits distributor's license; (c) wine distributor's license; (d) beer distributor's license; (e) retailer's class A license; (f) retailer's class B license; (g) retailer's class C license; (h) (f) microbrewery license; (g) (i) (g) farm

winery license; and ~~(h)~~ (i) nonbeverage user's license.

Sec. 12.9. K.S.A. 2010 Supp. 41-310 is hereby amended to read as follows: 41-310. (a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

(b) The fee for a manufacturer's license to manufacture alcohol and spirits shall be \$5,000.

(c) The fee for a manufacturer's license to manufacture beer and cereal malt beverage shall be:

- (1) For 1 to 100 barrel daily capacity or any part thereof, \$400.
- (2) For 100 to 150 barrel daily capacity, \$800.
- (3) For 150 to 200 barrel daily capacity, \$1,400.
- (4) For 200 to 300 barrel daily capacity, \$2,000.
- (5) For 300 to 400 barrel daily capacity, \$2,600.
- (6) For 400 to 500 barrel daily capacity, \$2,800.
- (7) For 500 or more barrel daily capacity, \$3,200.

As used in this subsection, "daily capacity" means the average daily barrel production for the previous 12 months of manufacturing operation. If no basis for comparison exists, the licensee shall pay in advance for operation during the first term of the license a fee of \$2,000.

(d) The fee for a manufacturer's license to manufacture wine shall be \$1,000.

(e) (1) The fee for a microbrewery license or a farm winery license shall be \$500.

(2) The fee for a winery outlet license shall be \$100.

(3) The fee for a microbrewery packaging and warehousing facility license shall be \$200.

(f) The fee for a spirits distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing spirits shall be \$2,000.

(g) The fee for a wine distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing wine shall be \$2,000.

(h) The fee for a beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the licensee and wholesaling or jobbing beer and cereal malt beverage shall be \$2,000.

(i) The fee for a nonbeverage user's license shall be:

- (1) For class 1, \$20.
- (2) For class 2, \$100.
- (3) For class 3, \$200.
- (4) For class 4, \$400.
- (5) For class 5, \$1,000.

(j) In addition to the license fees prescribed by subsections (b), (c), (d), (f), (g), (h) and (i):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the license, but no city shall impose an occupation or privilege tax on the licensee in excess of that amount; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the license, but no township shall impose an occupation or privilege tax on the licensee in excess of that amount; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(k) *(1) Except as provided in paragraph (2),* The fee for a retailer's license shall be \$500.

(2) On and after January 1, 2012, the fee for a retailer's license shall be:

(A) For class A, \$100;

(B) for class B, \$300;

(C) for class C, \$500.

(l) In addition to the license fee prescribed by subsection (k):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$600, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$600; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(m) The license term for a license shall commence on the date the license is issued by the director and shall end two years after that date. The director may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond the date such license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the

1 licensee of any occupation or license tax levied by a city or township
2 pursuant to this section by the same number of days the director has
3 extended the license term.

4 Sec. 13.10. K.S.A. 2010 Supp. 41-311 is hereby amended to read as
5 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
6 liquor control act to ~~a person~~ *an individual*:

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

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

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

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

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
36 application, except as provided by subsection (a)(12);

37 (10) who is the holder of a valid and existing license issued under
38 article 27 of chapter 41 of the Kansas Statutes Annotated, *and*
39 *amendments thereto*, unless the person agrees to and does surrender the
40 license to the officer issuing the same upon the issuance to the person of a
41 license under this act, except that a retailer licensed pursuant to K.S.A.
42 41-2702, and amendments thereto, shall be eligible to receive a retailer's
43 license under the Kansas liquor control act;

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

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

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

(14) who does not provide any data or information required by K.S.A. 2010 Supp. 41-311b, and amendments thereto.

(b) (1) *Except as provided in paragraph (2), no retailer's license shall be issued to:*

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

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

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

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

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

~~(6)~~ (F) a corporation; or

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

(2) *On and after January 1, 2012, the provisions of paragraph (1) shall have no force and effect, and on and after such date, no retailer's license shall be issued to a person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act.*

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

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for

1 any reason other than citizenship and residence requirements;

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

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

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

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

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

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

17 (1) A corporation, if any officer, director or stockholder of the
18 corporation would be ineligible to receive a distributor's license for any
19 reason. It shall be unlawful for any stockholder of a corporation licensed
20 as a distributor to transfer any stock in the corporation to any person who
21 would be ineligible to receive a distributor's license for any reason, and
22 any such transfer shall be null and void, except that: (A) If any
23 stockholder owning stock in the corporation dies and an heir or devisee to
24 whom stock of the corporation descends by descent and distribution or by
25 will is ineligible to receive a distributor's license, the legal representatives
26 of the deceased stockholder's estate and the ineligible heir or devisee shall
27 have 14 months from the date of the death of the stockholder within
28 which to sell the stock to a person eligible to receive a distributor's
29 license, any such sale by a legal representative to be made in accordance
30 with the provisions of the probate code; or (B) if the stock in any such
31 corporation is the subject of any trust and any trustee or beneficiary of the
32 trust who is 21 years of age or older is ineligible to receive a distributor's
33 license, the trustee, within 14 months after the effective date of the trust,
34 shall sell the stock to a person eligible to receive a distributor's license
35 and hold and disburse the proceeds in accordance with the terms of the
36 trust. If any legal representatives, heirs, devisees or trustees fail, refuse or
37 neglect to sell any stock as required by this subsection, the stock shall
38 revert to and become the property of the corporation, and the corporation
39 shall pay to the legal representatives, heirs, devisees or trustees the book
40 value of the stock. During the period of 14 months prescribed by this
41 subsection, the corporation shall not be denied a distributor's license or
2 have its distributor's license revoked if the corporation meets all of the
3 other requirements necessary to have a distributor's license;

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

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

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

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

14 (f) No microbrewery license or farm winery license shall be issued
15 to a:

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

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

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

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

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

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

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

38 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),
39 (f)(1), (f)(2) and K.S.A. 2010 Supp. 41-311b, and amendments thereto,
40 shall not apply in determining eligibility for the 10th, or a subsequent,
41 consecutive renewal of a license if the applicant has appointed a citizen of
42 the United States who is a resident of Kansas as the applicant's agent and
43 filed with the director a duly authenticated copy of a duly executed power

1 of attorney, authorizing the agent to accept service of process from the
2 director and the courts of this state and to exercise full authority, control
3 and responsibility for the conduct of all business and transactions within
4 the state relative to alcoholic liquor and the business licensed. The agent
5 must be satisfactory to and approved by the director, except that the
6 director shall not approve as an agent any person who:

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

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

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

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

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

22 Sec. 14, 11. On and after January 1, 2012, K.S.A. 2010 Supp. 41-
23 313 is hereby amended to read as follows: 41-313. (a) No corporation,
24 either organized under the laws of this state, any other state or a foreign
25 country, shall be issued a *retailer's*, manufacturer's, distributor's,
26 microbrewery or farm winery license unless the corporation has first
27 procured a certificate of authority from the secretary of state to do
28 business in this state as provided by law, appointed a citizen of the United
29 States, and resident of Kansas, as its agent and filed with the director a
30 duly authenticated copy of a duly executed power of attorney, authorizing
31 the agent to accept service of process from the director and the courts of
32 this state and to exercise full authority of the corporation and full
33 authority, control and responsibility for the conduct of all business and
34 transactions of the corporation within the state relative to alcoholic liquor
35 and the business licensed. The agent must be satisfactory to and approved
36 by the director with respect to the agent's character. The agent shall at all
37 times be maintained by the corporation.

38 In addition, any corporation organized under the laws of any other
39 state or foreign country, as a condition precedent to the issuance to it of
40 any license, shall file with the secretary of state of the state of Kansas, a
41 duly authorized and executed power of attorney, authorizing the secretary
42 of state to accept service of process from the director and the courts of
43 this state and to accept service of any notice or order provided for in this

1 act, and all such acts by the secretary of state shall be fully binding upon
2 the corporation.

3 (b) Every nonresident applicant on applying for a license or permit
4 under this act, and as a condition precedent to obtaining such license or
5 permit, shall file with the secretary of state of this state its written
6 consent, irrevocable, that any action or garnishment proceeding may be
7 commenced against such applicant in the proper court of any county in
8 this state in which the cause of action shall arise or in which the plaintiff
9 may reside by the service of process on the resident agent specified in
10 subsection (a), and stipulating and agreeing that such service shall be
11 taken and held in all courts to be as valid and binding as if due service
12 had been made upon the applicant. The written consent shall state that the
13 courts of this state have jurisdiction over the person of such applicant and
14 are the proper and convenient forum for such action and shall waive the
15 right to request a change of jurisdiction or venue to a court outside this
16 state and that all actions arising under this act and commenced by the
17 applicant shall be brought in this state's courts as the proper and
18 convenient forum. Such consent shall be executed by the applicant and if
19 a corporation, by the president and secretary of the corporate applicant,
20 and shall be accompanied by a duly certified copy of the order or
21 resolution of the board of directors, trustees or managers authorizing the
22 president and secretary to execute the same.

23 Sec. 15.12. K.S.A. 2010 Supp. 41-317 is hereby amended to read as
24 follows: 41-317. (a) Applications for all licenses under this act shall be
25 completed and submitted to the director in a manner prescribed by the
26 director. Each applicant shall submit an application fee of \$50 for each
27 initial application and \$10 for each renewal application to defray the cost
28 of processing the application.

29 (b) Each applicant shall submit to the division of alcoholic beverage
30 control the full amount of the application fee and:

31 (1) The full amount of the license fee required to be paid for the kind
32 of license specified in the application; or

33 (2) one-half of the full amount of the license fee required to be paid
34 for the kind of license specified in the application.

35 (c) If the applicant elects to pay only one-half of the license fee
36 pursuant to subsection (b)(2), the remaining one-half of the license fee
37 plus 10% of such remaining balance shall be due and payable one year
38 from the date of issuance of the license. Notwithstanding any other
39 provision of law, failure to pay the full amount due under this paragraph
40 on the date it is due shall result in the automatic cancellation of such
41 license for the remainder of the license term. The director may, at the
42 director's sole discretion and after examination of the circumstances,
43 extend the date payment is due pursuant to this paragraph for not more

1 than 30 days beyond the date such payment is originally due.

2 (d) Any license fee paid by an applicant shall be returned to the
3 applicant if the application is denied.

4 (e) Payment of all fees required to be paid pursuant to this section
5 may be made by personal, certified or cashier's check, United States post
6 office money order, debit or credit card or cash, or by electronic payment
7 authorized by the applicant in a manner prescribed by the director.

8 (f) All fees received by the director pursuant to this section shall be
9 remitted by the director to the state treasurer in accordance with the
10 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
11 each such remittance, the state treasurer shall deposit the entire amount in
12 the state treasury to the credit of the state general fund.

13 (g) Every applicant for a manufacturer's, distributor's, nonbeverage
14 user's, microbrewery, farm winery, retailer's or special order shipping
15 license shall file with the application a joint and several bond on a form
16 prescribed by the director and executed by good and sufficient corporate
17 sureties licensed to do business within the state of Kansas to the director,
18 in the following amounts:

19 (1) For a manufacturer, \$25,000;

20 (2) for a spirits distributor, \$15,000 or an amount equal to the
21 highest monthly liability of the distributor for taxes imposed by the
22 Kansas liquor control act for any of the 12 months immediately prior to
23 renewal of the distributor's license, whichever amount is greater;

24 (3) for a beer or wine distributor, \$5,000 or an amount equal to the
25 highest monthly liability of the distributor for taxes imposed by the
26 Kansas liquor control act for any of the 12 months immediately prior to
27 renewal of the distributor's license, whichever amount is greater;

28 (4) *(A) except as provided in subparagraph (B).* For a retailer,
29 \$2,000;

30 *(B) on and after January 1, 2012, for a retailer, \$500 for class A,*
31 *\$1,000 for class B and \$2,000 for class C;*

32 (5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000
33 for class 3, \$5,000 for class 4 and \$10,000 for class 5;

34 (6) for a microbrewery or a farm winery, \$2,000; and

35 (7) for a winery holding a special order shipping license, \$750,
36 unless the winery has already complied with subsection (g)(6).

37 If a distributor holds or applies for more than one distributor's license,
38 only one bond for all such licenses shall be required, which bond shall be
39 in an amount equal to the highest applicable bond.

40 (h) All bonds required by this section shall be conditioned on the
41 licensee's compliance with the provisions of this act and payment of all
2 taxes, fees, fines and forfeitures which may be assessed against the
43 licensee.

1 Sec. 16, 13. K.S.A. 2010 Supp. 41-326 is hereby amended to read as
2 follows: 41-326. *Except as otherwise provided by law, a license shall be*
3 *purely a personal privilege, valid for not to exceed two years after*
4 *issuance, except as otherwise provided by law, unless sooner suspended*
5 *or revoked, and shall not constitute property, nor shall it be subject to*
6 *attachment, garnishment or execution, nor shall it be alienable or*
7 *transferable, voluntarily or involuntarily, or subject to being encumbered*
8 *or hypothecated. A license shall not descend by the laws of testate or*
9 *intestate devolution but shall cease and expire upon the death of the*
10 *licensee except that executors, administrators or representatives of the*
11 *estate of any deceased licensee and the trustee of any insolvent or*
12 *bankrupt licensee, when such estate consists in part of alcoholic liquor,*
13 *may continue the business of the sale, distribution or manufacture of*
14 *alcoholic liquor under order of the appropriate court and may exercise the*
15 *privilege of the deceased, insolvent or bankrupt licensee after the death of*
16 *such decedent, or after such insolvency or bankruptcy, until the expiration*
17 *of such license but not longer than one year after the death, bankruptcy or*
18 *insolvency of such licensee.*

19 When the licensee pays the full amount of the license fee upon
20 application and is prevented from operating under such license in
21 accordance with the provisions of this act for the entire second year of the
22 license term, a refund shall be made of one-half of the license fee paid by
23 such licensee. The secretary of revenue may adopt rules and regulations
24 pursuant to K.S.A. 41-210, and amendments thereto, which provide for
25 the authorization of refunds of one-half of the license fee paid when the
26 licensee does not use such license for the entire second year of the license
27 term as a result of the cancellation of the license upon the request of the
28 licensee for voluntary reasons.

29 Sec. 17, 15. On and after January 1, 2012, K.S.A. 41-713 is hereby
30 amended to read as follows: 41-713. It shall be unlawful for a retailer of
31 alcoholic liquor: (1) To permit any person to mix drinks in or on the
32 licensed premises; (2) to employ any person under the age of twenty-one
33 (21) years in connection with the operation of such retail establishment;
34 or (3) to employ any person in connection with the operation of such
35 retail establishment who has been adjudged guilty of a felony. *authorize*
36 *or allow any person under the age of 18 years to sell at retail any beer or*
37 *wine; (3) to authorize or allow any person under the age of 21 years to*
38 *sell at retail any spirits or any other alcoholic liquor other than beer or*
39 *wine; or (4) to authorize or allow any person who has been adjudged*
40 *guilty of a felony to sell at retail any alcoholic liquor.*

41 Sec. 18, 16. K.S.A. 2010 Supp. 79-4108 is hereby amended to read
42 as follows: 79-4108. All revenue collected or received by the director of
43 taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and

Sec. 14. K.S.A. 2010 Supp. 41-710 is hereby amended to read
as follows: 41-710. (a) No retailer's license shall be issued for
premises unless such premises comply with all applicable zoning
regulations.

(b) No microbrewery license or farm winery license shall be
issued for premises which are zoned for any purpose except
agricultural, commercial or business purposes.

(c) No retailer's, microbrewery or farm winery license shall be
issued for premises which:

(1) Are located within 200 feet of any public or parochial
school or college or church, except that if any such school, college
or church is established within 200 feet of any licensed premises
after the premises have been licensed, the premises shall be an
eligible location for retail licensing; or

(2) do not conform to all applicable building regulations.

(d) *No retailer's license shall be issued for premises which*
are located within 500 feet of the property line of the licensed
premises of a retailer's licensee.

And by renumbering the remaining sections accordingly

, or to stock or otherwise handle any alcoholic liquor

(3)

1 amendments thereto, shall be remitted to the state treasurer in accordance
2 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
3 receipt of each such remittance, the state treasurer shall deposit the entire
4 amount in the state treasury to the credit of the state general fund, *except*
5 *that 3% of the revenue remitted to the state treasurer during the prior*
6 *calendar year quarter and deposited in the state treasury shall be*
7 *credited to the local cereal malt beverage sales tax fund, which is hereby*
8 *created in the state treasury. Moneys credited to the local cereal malt*
9 *beverage sales tax fund shall be distributed quarterly as part of the*
10 *January, April, July and October sales tax distribution to each city and*
11 *county which levied a local retailers' sales tax. The amount to be*
12 *distributed to each city and county shall be determined by the department*
13 *of revenue based on a weighted population average. The weighted*
14 *population average shall be computed by multiplying the total tax rate in*
15 *effect for the city or county by the population of such city or county. The*
16 *weighted population average for each city and county shall then be*
17 *divided by the total Kansas population. The resulting quotient is the*
18 *percentage of distribution for such city or county. The population data*
19 *shall be updated annually with the issuance of the certified population*
20 *data through the division of the budget.* The state treasurer shall transfer
21 any moneys remaining in the county and city alcoholic liquor control
22 enforcement fund on the effective date of this act to the state general
23 fund.

24 Sec. 19. 17. K.S.A. 2010 Supp. 41-102, 41-310, 41-311, 41-317, 41-
25 326 and 79-4108 are hereby repealed.

26 Sec. 20. 18. On January 1, 2012, K.S.A. 41-103, 41-304, 41-308, 41-
27 711 and 41-713 and K.S.A. 2010 Supp. 41-301, 41-303 and 41-313 are
28 hereby repealed.

29 Sec. 21. 19. This act shall take effect and be in force from and after
30 its publication in the statute book.

, 41-710

SENATE BILL No. 54

By Committee on Federal and State Affairs

1-25

Balloon to extend cap to 5 years

Prepared by: Jason B. Long

H:\StaffDocs\JasonL\SB 54 (Retailer liquor rewrite)\5yr_cap_balloon.odt

Sn Fed & State
Attachment 2

2-22-11

1 AN ACT concerning alcoholic beverages; relating to retailer's licenses
2 under the Kansas liquor control act; amending K.S.A. 41-304 and 41-
3 713 and K.S.A. 2010 Supp. 41-102, 41-301, 41-303, 41-310, 41-311,
4 41-313, 41-317, 41-326 and 79-4108 and repealing the existing
5 sections; also repealing K.S.A. 41-103, 41-308 and 41-711.

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

8 New Section 1. (a) On and after July 1, 2011, the total number of
9 retailer's licenses issued by the director to sell alcoholic liquor shall not
10 exceed the number of such valid licenses issued as of June 30, 2011.

11 (b) From July 1, 2011, to December 31, 2011, the director may only
12 issue a retailer's license to sell alcoholic liquor to a qualified applicant if
13 the issuance of such license would not cause the total number of such
14 valid licenses issued to exceed the number determined pursuant to
15 subsection (a).

16 (c) From January 1, 2012, to December 31, 2014, the total number
17 of retailer's class C licenses issued by the director shall not exceed the
18 number determined pursuant to subsection (a).

2016

19 New Sec. 2. (a) On and after January 1, 2012, all retailer's licenses
20 to sell alcoholic liquor issued by the director prior to such date shall be
21 deemed to be retailer's class C licenses.

22 (b) A retailer's class C license shall allow the licensee to sell and
23 offer for sale at retail and deliver in the original package, as therein
24 prescribed, alcoholic liquor for use or consumption off of and away from
25 the premises specified in such license.

26 (c) A retailer's class C license shall permit the sale and delivery of
27 alcoholic liquor only on the licensed premises and shall not permit the
28 sale of alcoholic liquor for resale in any form, except that the licensee
29 may:

30 (1) Sell alcoholic liquor to a temporary permit holder for resale by
31 such temporary permit holder; and

32 (2) sell and deliver alcoholic liquor to a caterer or to the licensed
33 premises of a club or drinking establishment, if such premises are in the
34 county where the retailer's licensed premises are located or in an adjacent
5 county, for resale by such caterer, club or drinking establishment.

36 (d) A retailer's class C licensee may:

1 (1) Charge a delivery fee for delivery of alcoholic liquor to a caterer,
2 club or drinking establishment pursuant to subsection (b);

3 (2) sell lottery tickets and shares to the public in accordance with
4 the Kansas lottery act, if the licensee is selected as a lottery retailer;

5 (3) include in the sale of alcoholic liquor any goods included by the
6 manufacturer in packaging with the alcoholic liquor, subject to the
7 approval of the director;

8 (4) distribute to the public, without charge, consumer advertising
9 specialties bearing advertising matter, subject to rules and regulations of
10 the secretary limiting the form and distribution of such specialties so that
11 they are not conditioned on or an inducement to the purchase of alcoholic
12 liquor;

13 (5) store alcoholic liquor in refrigerators, cold storage units, ice
14 boxes or other cooling devices, and sell such alcoholic liquor to
15 consumers in a chilled condition; and

16 (6) sell any other good or service on the licensed premises.

17 New Sec. 3. (a) On and after January 1, 2012, any licensee holding
18 a valid retailer's class C license may transfer such license to any person
19 qualified to hold such license under the Kansas liquor control act. The
20 transferee's proposed premises to be licensed shall be located in the same
21 county as the licensed premises of the transferor.

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

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

41 New Sec. 4. (a) On and after January 1, 2012, the director may
42 issue to qualified applicants a retailer's class A license. A retailer's class A
43 license shall allow the licensee to sell and offer for sale at retail and

1 deliver in the original package, as therein prescribed, beer for use or
2 consumption off of and away from the premises specified in such license.

3 (b) A retailer's class A license shall permit the sale and delivery of
4 beer only on the licensed premises and shall not permit the sale of beer
5 for resale in any form, except that the licensee may:

6 (1) Sell beer to a temporary permit holder for resale by such
7 temporary permit holder; and

8 (2) sell and deliver beer to a caterer or to the licensed premises of a
9 club or drinking establishment, if such premises are in the county where
10 the retailer's licensed premises are located or in an adjacent county, for
11 resale by such caterer, club or drinking establishment.

12 (c) A retailer's class A licensee may:

13 (1) Charge a delivery fee for delivery of beer to a caterer, club or
14 drinking establishment pursuant to subsection (b);

15 (2) sell lottery tickets and shares to the public in accordance with
16 the Kansas lottery act, if the licensee is selected as a lottery retailer;

17 (3) include in the sale of beer any goods included by the
18 manufacturer in packaging with the beer, subject to the approval of the
19 director;

20 (4) distribute to the public, without charge, consumer advertising
21 specialities bearing advertising matter, subject to rules and regulations of
22 the secretary limiting the form and distribution of such specialities so that
23 they are not conditioned on or an inducement to the purchase of beer;

24 (5) store beer in refrigerators, cold storage units, ice boxes or other
25 cooling devices, and sell such beer to consumers in a chilled condition;
26 and

27 (6) sell any other good or service on the licensed premises.

28 New Sec. 5. (a) On and after January 1, 2012, the director may issue
29 to qualified applicants a retailer's class B license. A retailer's class B
30 license shall allow the licensee to sell and offer for sale at retail and
31 deliver in the original package, as therein prescribed, beer and wine for
32 use or consumption off of and away from the premises specified in such
33 license.

34 (b) A retailer's class B license shall permit the sale and delivery of
35 beer and wine only on the licensed premises and shall not permit the sale
36 of beer and wine for resale in any form, except that the licensee may:

37 (1) Sell beer and wine to a temporary permit holder for resale by such
38 temporary permit holder; and

39 (2) sell and deliver beer and wine to a caterer or to the licensed
40 premises of a club or drinking establishment, if such premises are in the
41 county where the retailer's licensed premises are located or in an adjacent
2 county, for resale by such caterer, club or drinking establishment.

.3 (c) A retailer's class B licensee may:

(1) Charge a delivery fee for delivery of beer and wine to a caterer, club or drinking establishment pursuant to subsection (b);

(2) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the licensee is selected as a lottery retailer;

(3) include in the sale of beer and wine any goods included by the manufacturer in packaging with the beer and wine, subject to the approval of the director;

(4) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of beer or wine;

(5) store beer and wine in refrigerators, cold storage units, ice boxes or other cooling devices, and sell such beer and wine to consumers in a chilled condition; and

(6) sell any other good or service on the licensed premises.

New Sec. 6. On and after January 1, 2015, the director may issue to qualified applicants a retailer's class C license. A holder of a retailer's class C license shall have all the privileges granted to such licensees as set forth in section 2, and amendments thereto.

New Sec. 7. The provisions of sections 1 through 7, and amendments thereto, shall be a part of and supplemental to the Kansas liquor control act.

Sec. 8. K.S.A. 2010 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

(a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(d) "Caterer" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.

2017

pursuant to this section by the same number of days the director has extended the license term.

Sec. 13. K.S.A. 2010 Supp. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to ~~a person an individual~~ a natural person

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

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

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

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

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

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

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

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

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

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

(11) who does not own the premises for which a license is sought, or

1 does not, at the time of application, have a written lease thereon;

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

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

10 (14) who does not provide any data or information required by
11 K.S.A. 2010 Supp. 41-311b, and amendments thereto.

12 (b) (1) *Except as provided in paragraph (2),* no retailer's license
13 shall be issued to:

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

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

17 (3) (C) a person who has a beneficial interest in a manufacturer,
18 distributor, farm winery or microbrewery licensed under this act, except
19 that the spouse of an applicant for a retailer's license may own and hold a
20 farm winery license, microbrewery license, or both, if the spouse does not
21 hold a retailer's license issued under this act;

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

25 (5) (E) a copartnership, unless all of the copartners are qualified to
26 obtain a license;

27 (6) (F) a corporation; or

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

32 (2) *On and after January 1, 2012, the provisions of paragraph (1)*
33 *shall have no force and effect, and on and after such date, no retailer's* : (A)
34 *license shall be issued to a person who has a beneficial interest in a*
35 *manufacturer, distributor, farm winery or microbrewery licensed under*
36 *this act, except that the spouse of an applicant for a retailer's license may*
37 *own and hold a farm winery license, microbrewery license, or both, if the* ; INSERT ATTACHED
38 *spouse does not hold a retailer's license issued under this act*

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

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

(B) to a corporation, if any officer or member of the board of directors or governing body thereof, or the manager of the licensed premises, would be ineligible to receive a retailer's license for any reason specified in subsection (a) other than citizenship requirements;

(C) to a corporation, if any officer or member of the board of directors or governing body thereof, or the manager of the licensed premises, has been an officer, manager or member of the board of directors or governing body of a corporation which has had a license revoked under the provisions of the liquor control act;

(D) to a person who is not engaged in business as a liquor store, a convenience store or a grocery store. As used herein: "liquor store" means a store whose primary business is the retail sale of alcoholic liquor in the original and unopened container and not for consumption on the premises and it includes stores classified under the north american industry classification system (NAICS) on the effective date of this act as NAICS 445310; "convenience store" means a retail business with primary emphasis placed on providing the public a convenient location to quickly purchase from a wide array of consumable products (predominantly food or food and gasoline) and services, and includes stores classified on the effective date of this act as either NAICS 44512, convenience stores, or NAICS 447110, gasoline stations with convenience stores; and "grocery store" means a store established primary for the retailing of food, and includes stores classified under NAICS 445110 on the effective date of this act;

(E) to a partnership, unless all of the partners are qualified to obtain a license; and

(F) to a trust, if any grantor, beneficiary or trustee thereof would be ineligible to receive a retailer's license for any reason specified in subsection (a) other than the age and citizenship requirements

SENATE BILL No. 54

By Committee on Federal and State Affairs

1-25

Balloon regarding Sec. Of State amendments

Prepared by: Jason B. Long

H:\StaffDocs\JasonL\SB 54 (Retailer liquor rewrite)\SOS_balloon.odt

Sn Fed & State
Attachment 4
2-22-11

AN ACT concerning alcoholic beverages; relating to retailer's licenses under the Kansas liquor control act; amending K.S.A. 41-304 and 41-713 and K.S.A. 2010 Supp. 41-102, 41-301, 41-303, 41-310, 41-311, 41-313, 41-317, 41-326 and 79-4108 and repealing the existing sections; also repealing K.S.A. 41-103, 41-308 and 41-711.

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

New Section 1. (a) On and after July 1, 2011, the total number of retailer's licenses issued by the director to sell alcoholic liquor shall not exceed the number of such valid licenses issued as of June 30, 2011.

(b) From July 1, 2011, to December 31, 2011, the director may only issue a retailer's license to sell alcoholic liquor to a qualified applicant if the issuance of such license would not cause the total number of such valid licenses issued to exceed the number determined pursuant to subsection (a).

(c) From January 1, 2012, to December 31, 2014, the total number of retailer's class C licenses issued by the director shall not exceed the number determined pursuant to subsection (a).

New Sec. 2. (a) On and after January 1, 2012, all retailer's licenses to sell alcoholic liquor issued by the director prior to such date shall be deemed to be retailer's class C licenses.

(b) A retailer's class C license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor for use or consumption off of and away from the premises specified in such license.

(c) A retailer's class C license shall permit the sale and delivery of alcoholic liquor only on the licensed premises and shall not permit the sale of alcoholic liquor for resale in any form, except that the licensee may:

(1) Sell alcoholic liquor to a temporary permit holder for resale by such temporary permit holder; and

(2) sell and deliver alcoholic liquor to a caterer or to the licensed premises of a club or drinking establishment, if such premises are in the county where the retailer's licensed premises are located or in an adjacent county, for resale by such caterer, club or drinking establishment.

(d) A retailer's class C licensee may:

1 director and the courts of this state and to exercise full authority, control
2 and responsibility for the conduct of all business and transactions within
3 the state relative to alcoholic liquor and the business licensed. The agent
4 must be satisfactory to and approved by the director, except that the
5 director shall not approve as an agent any person who:

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

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

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

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

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

21 Sec. 14. On and after January 1, 2012, K.S.A. 2010 Supp. 41-313 is
22 hereby amended to read as follows: 41-313. (a) No corporation, either
23 organized under the laws of this state, any other state or a foreign country,
24 shall be issued a *retailer's*, manufacturer's, distributor's, microbrewery or
25 farm winery license unless the corporation has first procured a certificate
26 of authority from the secretary of state to do business in this state as
27 provided by law, appointed a citizen of the United States, and resident of
28 Kansas, as its agent and filed with the director a duly authenticated copy
29 of a duly executed power of attorney, authorizing the agent to accept
30 service of process from the director and the courts of this state and to
31 exercise full authority of the corporation and full authority, control and
32 responsibility for the conduct of all business and transactions of the
33 corporation within the state relative to alcoholic liquor and the business
34 licensed. The agent must be satisfactory to and approved by the director
35 with respect to the agent's character. The agent shall at all times be
36 maintained by the corporation.

37 In addition, any corporation organized under the laws of any other
38 state or foreign country, as a condition precedent to the issuance to it of
39 any license, shall file with the secretary of state of the state of Kansas, a
40 duly authorized and executed power of attorney, authorizing the secretary
41 of state to accept service of process from the director and the courts of
42 this state and to accept service of any notice or order provided for in this
43 act, and all such acts by the secretary of state shall be fully binding upon

filed a formation document with

resident

1 the corporation.

2 (b) Every nonresident applicant on applying for a license or permit
3 under this act, and as a condition precedent to obtaining such license or
4 permit, shall file with the secretary of state of this state its written
5 consent, irrevocable, that any action or garnishment proceeding may be
6 commenced against such applicant in the proper court of any county in
7 this state in which the cause of action shall arise or in which the plaintiff
8 may reside by the service of process on the resident agent specified in
9 subsection (a), and stipulating and agreeing that such service shall be
10 taken and held in all courts to be as valid and binding as if due service
11 had been made upon the applicant. The written consent shall state that the
12 courts of this state have jurisdiction over the person of such applicant and
13 are the proper and convenient forum for such action and shall waive the
14 right to request a change of jurisdiction or venue to a court outside this
15 state and that all actions arising under this act and commenced by the
16 applicant shall be brought in this state's courts as the proper and
17 convenient forum. Such consent shall be executed by the applicant and if
18 a corporation, by the president and secretary of the corporate applicant,
19 and shall be accompanied by a duly certified copy of the order or
20 resolution of the board of directors, trustees or managers authorizing the
21 president and secretary to execute the same.

22 Sec. 15. K.S.A. 2010 Supp. 41-317 is hereby amended to read as
23 follows: 41-317. (a) Applications for all licenses under this act shall be
24 completed and submitted to the director in a manner prescribed by the
25 director. Each applicant shall submit an application fee of \$50 for each
26 initial application and \$10 for each renewal application to defray the cost
27 of processing the application.

28 (b) Each applicant shall submit to the division of alcoholic beverage
29 control the full amount of the application fee and:

30 (1) The full amount of the license fee required to be paid for the kind
31 of license specified in the application; or

32 (2) one-half of the full amount of the license fee required to be paid
33 for the kind of license specified in the application.

34 (c) If the applicant elects to pay only one-half of the license fee
35 pursuant to subsection (b)(2), the remaining one-half of the license fee
36 plus 10% of such remaining balance shall be due and payable one year
37 from the date of issuance of the license. Notwithstanding any other
38 provision of law, failure to pay the full amount due under this paragraph
39 on the date it is due shall result in the automatic cancellation of such
40 license for the remainder of the license term. The director may, at the
41 director's sole discretion and after examination of the circumstances,
3 extend the date payment is due pursuant to this paragraph for not more
4 than 30 days beyond the date such payment is originally due.