

SENATE BILL No. 433

By Committee on Federal and State Affairs

2-13

1 AN ACT concerning alcoholic liquor; relating to the Kansas liquor control
2 act; club and drinking establishment act; *{licensure;}* violation of order
3 issued by director; suspension or revocation of licensees; amending
4 K.S.A. 2019 Supp. *{41-311,}* 41-320a and 41-2611 and repealing the
5 existing sections.
6

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

8 *{Section 1. K.S.A. 2019 Supp. 41-311 is hereby amended to read as*
9 *follows: 41-311. (a) No license of any kind shall be issued pursuant to*
10 *the liquor control act to a person:*

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

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

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18 *a person whose license was revoked for the conviction of a misdemeanor*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

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

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

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

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

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

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

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

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

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

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

22 ***(14) who does not provide any data or information required by***
23 ***K.S.A. 2019 Supp. 41-311b, and amendments thereto; or***

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

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

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

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

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

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

41 ***(5) a copartnership, unless all of the copartners are qualified to***
42 ***obtain a license;***

43 ***(6) a corporation; or***

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

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

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

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

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

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

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

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

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

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

1 *accordance with the terms of the trust. If any legal representatives, heirs,*
2 *devisees or trustees fail, refuse or neglect to sell any stock as required by*
3 *this subsection, the stock shall revert to and become the property of the*
4 *corporation, and the corporation shall pay to the legal representatives,*
5 *heirs, devisees or trustees the book value of the stock. During the period*
6 *of 14 months prescribed by this subsection, the corporation shall not be*
7 *denied a distributor's license or have its distributor's license revoked if*
8 *the corporation meets all of the other requirements necessary to have a*
9 *distributor's license;*

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

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

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

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

23 *(f) No microbrewery license, microdistillery license or farm winery*
24 *license shall be issued to a:*

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

26 *(2) person who has a beneficial interest in a manufacturer or*
27 *distributor licensed under this act, except as provided in K.S.A. 41-305,*
28 *and amendments thereto;*

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

35 *(4) copartnership, unless all of the copartners are qualified to*
36 *obtain a license;*

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

41 *(6) 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*
43 *provisions of subsection (a)(6) shall not apply in determining whether a*

1 *beneficiary would be eligible for a license.*

2 *(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),*
 3 *(f)(1) and K.S.A. 2019 Supp. 41-311b, and amendments thereto, shall*
 4 *not apply in determining eligibility for the 10th, or a subsequent,*
 5 *consecutive renewal of a license if the applicant has appointed a citizen*
 6 *of the United States who is a resident of Kansas as the applicant's agent*
 7 *and filed with the director a duly authenticated copy of a duly executed*
 8 *power of attorney, authorizing the agent to accept service of process*
 9 *from the director and the courts of this state and to exercise full*
 10 *authority, control and responsibility for the conduct of all business and*
 11 *transactions within the state relative to alcoholic liquor and the business*
 12 *licensed. The agent must be satisfactory to and approved by the director,*
 13 *except that the director shall not approve as an agent any person who:*

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

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

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

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

31 *(5) is less than 21 years of age.}*

32 ~~Section 1.~~ *{Sec. 2.}* K.S.A. 2019 Supp. 41-320a is hereby amended to
 33 read as follows: 41-320a. (a) The director may suspend, involuntarily
 34 cancel or revoke any license issued pursuant to the Kansas liquor control
 35 act if, after notice and an opportunity for a hearing, the director determines
 36 that the licensee has:

37 (1) Fraudulently obtained the license by providing false information
 38 on the application therefor, or at any hearing thereon;

39 (2) violated any of the provisions of the Kansas liquor control act, ~~or~~
 40 any rules or regulations adopted pursuant to such act *or any lawful order*
 41 *issued by the director;* or

42 (3) become ineligible to obtain a license or permit under K.S.A. 41-
 43 311 or K.S.A. 2019 Supp. 41-311b, and amendments thereto.

1 (b) This section shall be a part of and supplemental to the Kansas
2 liquor control act.

3 Sec. ~~2.~~ **{3.}** K.S.A. 2019 Supp. 41-2611 is hereby amended to read as
4 follows: 41-2611. The director may suspend, involuntarily cancel or
5 revoke any license issued pursuant to the club and drinking establishment
6 act for any one or more of the following reasons:

7 (a) The licensee has fraudulently obtained the license by giving false
8 information in the application therefor or any hearing thereon.

9 (b) The licensee has violated any of the provisions of ~~this the club~~
10 *and drinking establishment act* ~~or~~, any rules or regulations adopted
11 ~~hereunder pursuant to such act or any lawful order issued by the director.~~

12 (c) The licensee has become ineligible to obtain a license or permit
13 under this act.

14 (d) The licensee's manager or employee has been intoxicated while
15 on duty.

16 (e) The licensee, or its manager or employee, has permitted any
17 disorderly person to remain on premises where alcoholic liquor is sold by
18 such licensee.

19 (f) There has been a violation of a provision of the laws of this state,
20 or of the United States, pertaining to the sale of intoxicating or alcoholic
21 liquors or cereal malt beverages, or any crime involving a morals charge,
22 on premises where alcoholic liquor is sold by such licensee.

23 (g) The licensee, or its managing officers or any employee, has
24 purchased and displayed, on premises where alcoholic liquor is sold by
25 such licensee, a federal wagering occupational stamp issued by the United
26 States treasury department.

27 (h) The licensee, or its managing officers or any employee, has
28 purchased and displayed, on premises where alcoholic liquor is sold by
29 such licensee, a federal coin operated gambling device stamp for the
30 premises issued by the United States treasury department.

31 (i) The licensee holds a license as a class B club, drinking
32 establishment or caterer and:

33 (1) Has been found guilty of a violation of article 10 of chapter 44 of
34 the Kansas Statutes Annotated, and amendments thereto, under a decision
35 or order of the Kansas human rights commission ~~which~~ *that* has become
36 final; or

37 (2) such licensee has been found guilty of a violation of K.S.A. 21-
38 4003, prior to its repeal, or K.S.A. 2019 Supp. 21-6102, and amendments
39 thereto.

40 (j) There has been a violation of K.S.A. 21-4106 or 21-4107, prior to
41 their repeal, or K.S.A. 2019 Supp. 21-6204, and amendments thereto, on
42 premises where alcoholic liquor is sold by such licensee.

43 Sec. ~~3.~~ **{4.}** K.S.A. 2019 Supp. **{41-311,}** 41-320a and 41-2611 are

1 hereby repealed.

2 Sec. ~~4.~~ {5.} This act shall take effect and be in force from and after its

3 publication in the statute book.