

## HOUSE BILL No. 2838

By Committee on Federal and State Affairs

Requested by Representative Thomas

3-13

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1 AN ACT concerning alcoholic beverages; relating to eligibility for  
2 licensure under the Kansas liquor control act and the club and drinking  
3 establishment act; authorizing the director to issue licenses to convicted  
4 felons when such conviction occurred more than 10 years prior to  
5 application for a license and a determination of sufficient rehabilitation  
6 is made; amending K.S.A. 41-2623 and K.S.A. 2023 Supp. 41-311 and  
7 repealing the existing sections.  
8

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

10 Section 1. K.S.A. 2023 Supp. 41-311 is hereby amended to read as  
11 follows: 41-311. (a) No license of any kind shall be issued pursuant to the  
12 liquor control act to a person:

- 13 (1) Who is not a citizen of the United States;
- 14 (2) who has been convicted of a felony under the laws of this state,  
15 any other state or the United States, *except as provided in subsection (h)*;
- 16 (3) who has had a license revoked for cause under the provisions of  
17 the liquor control act, the beer and cereal malt beverage keg registration  
18 act or who has had any license issued under the cereal malt beverage laws  
19 of any state revoked for cause except that a license may be issued to a  
20 person whose license was revoked for the conviction of a misdemeanor at  
21 any time after the lapse of 10 years following the date of the revocation;
- 22 (4) who has been convicted of being the keeper or is keeping any  
23 property, whether real or personal, where sexual relations are being sold or  
24 offered for sale by a person who is 18 years of age or older or has forfeited  
25 bond to appear in court to answer charges of being a keeper of any  
26 property, whether real or personal, where sexual relations are being sold or  
27 offered for sale by a person who is 18 years of age or older;
- 28 (5) who has been convicted of being a proprietor of a gambling  
29 house, pandering or any other crime opposed to decency and morality or  
30 has forfeited bond to appear in court to answer charges for any of those  
31 crimes;
- 32 (6) who is not at least 21 years of age;
- 33 (7) who, other than as a member of the governing body of a city or  
34 county, appoints or supervises any law enforcement officer, who is a law  
35 enforcement official or who is an employee of the director;

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

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

6 (10) who is the holder of a valid and existing license issued under  
7 article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments  
8 thereto, unless the person agrees to and does surrender the license to the  
9 officer issuing the same upon the issuance to the person of a license under  
10 this act, except such person may be issued a farm winery license pursuant  
11 to K.S.A. 41-316, and amendments thereto, or a producer license pursuant  
12 to K.S.A. 41-355, and amendments thereto, and a retailer licensed pursuant  
13 to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a  
14 retailer's license under the Kansas liquor control act;

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

17 (12) whose spouse would be ineligible to receive a license under this  
18 act for any reason other than citizenship requirements or age, except that  
19 this paragraph shall not apply in determining eligibility for a renewal  
20 license or to a person whose spouse is a law enforcement officer;

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

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

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

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

32 (1) 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 a  
35 farm winery license, microbrewery license, or both, if the spouse does not  
36 hold a retailer's license issued under this act;

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

40 (3) a copartnership, unless all of the copartners are qualified to obtain  
41 a license;

42 (4) a corporation; or

43 (5) a trust, if any grantor, beneficiary or trustee would be ineligible to

1 receive a license under this act for any reason, except that the provisions of  
2 subsection (a)(6) shall not apply in determining whether a beneficiary  
3 would be eligible for a license.

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

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

9 (2) a copartnership, unless all of the copartners would be individually  
10 eligible to receive a manufacturer's license under this act;

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

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

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

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

1 distributor's license revoked if the corporation meets all of the other  
2 requirements necessary to have a distributor's license;

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

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

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

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

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

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

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

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

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

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

37 (g) If the applicant is not a Kansas resident, no license shall be issued  
38 until the applicant has appointed a citizen of the United States who is a  
39 resident of Kansas as the applicant's agent and filed with the director a  
40 duly authenticated copy of a duly executed power of attorney, authorizing  
41 the agent to accept service of process from the director and the courts of  
42 this state and to exercise full authority, control and responsibility for the  
43 conduct of all business and transactions within the state relative to

1 alcoholic liquor and the business licensed. The agent must be satisfactory  
 2 to and approved by the director, except that the director shall not approve  
 3 as an agent any person who:

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

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

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

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 (h) *The director may issue a license to a person who has been*  
 23 *convicted of a felony under the laws of this state, any other state or the*  
 24 *United States if:*

25 (1) *The date of such conviction is more than 10 years prior to the*  
 26 *date the application for a license is submitted; and*

27 (2) *the director determines that the applicant has demonstrated that*  
 28 *such person has been sufficiently rehabilitated to merit the public trust.*

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

31 (1) Any person described in K.S.A. 41-311(a)(1), (2), (4), (5), (6),  
 32 (7), (8), (9), (12), (13) or (15), and amendments thereto, except that:

33 (A) *The provisions of K.S.A. 41-311(a)(2), and amendments thereto,*  
 34 *shall not apply if the director determines that a license may be issued*  
 35 *pursuant to the provisions of K.S.A. 41-311(h), and amendments thereto;*  
 36 *and*

37 (B) *the provisions of K.S.A. 41-311(a)(7), and amendments thereto,*  
 38 *shall not apply to nor prohibit the issuance of a license for a class A club to*  
 39 *an officer of a post home of a congressionally chartered service or fraternal*  
 40 *organization, or a benevolent association or society thereof.*

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

43 (3) A person who has a beneficial interest in the manufacture,

1 preparation or wholesaling or the retail sale of alcoholic liquor or cereal  
2 malt beverage or a beneficial interest in any other club, drinking  
3 establishment or caterer licensed hereunder, except that:

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

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

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

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

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

23 (F) Any person who has a beneficial interest in a manufacturer  
24 licensed pursuant to the Kansas liquor control act may be issued one  
25 drinking establishment license.

26 (4) A copartnership, unless all of the copartners are qualified to  
27 obtain a license.

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

32 (6) A corporation, if any officer, manager or director thereof, or any  
33 stockholder owning in the aggregate more than 5% of the common or  
34 preferred stock of such corporation, has been an officer, manager or  
35 director, or a stockholder owning in the aggregate more than 5% of the  
36 common or preferred stock, of a corporation that:

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

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

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

1 determining whether a beneficiary would be eligible for a license.

2 (b) No club or drinking establishment license shall be issued under  
3 the provisions of the club and drinking establishment act to a person who  
4 does not own the premises for which a license is sought, or does not, at the  
5 time the application is submitted, have a written lease thereon, except that  
6 an applicant seeking a license for a premises that is owned by a city or  
7 county, or is a stadium, arena, convention center, theater, museum,  
8 amphitheater or other similar premises may submit an executed agreement  
9 to provide alcoholic beverage services at the premises listed in the  
10 application in lieu of a lease.

11 Sec. 3. K.S.A. 41-2623 and K.S.A. 2023 Supp. 41-311 are hereby  
12 repealed.

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