

50-6a08. Non-participating manufacturers; resident agent, appointment, substitution, resignation, death; consent to jurisdiction. (a) Any non-participating manufacturer that has not registered with the secretary of state to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this act may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the non-participating manufacturer. The non-participating manufacturer shall provide to the attorney general the name, address, phone number, proof of the appointment and availability of such resident agent, and such information shall be provided to the satisfaction of the attorney general.

(b) (1) A non-participating manufacturer may substitute its resident agent for another by notifying, in writing sent via certified or registered mail, the attorney general of such termination of the authority of the current agent and providing proof to the satisfaction of the attorney general of the appointment of a new agent. Such substitution shall not become effective until 30 days after receipt of such notification by the attorney general.

(2) A resident agent of a non-participating manufacturer that wishes to resign shall notify the attorney general, in writing via certified or registered mail, and provide to the attorney general the name and address of the successor agent. There shall be attached to the notification a statement of each affected non-participating manufacturer ratifying such change of resident agent. Upon receipt of such notification by the attorney general, the successor resident agent shall become the resident agent of such non-participating manufacturers that have ratified and approved the substitution.

(3) (A) A resident agent of a non-participating manufacturer may resign without appointing a successor by notifying, in writing sent via certified or registered mail, the attorney general. Such resignation shall not become effective until 60 days after receipt of such notification by the attorney general. There shall be attached to the notification an affidavit by the resident agent, if an individual, or by the authorized officer, if a corporation or other business entity, attesting that at least 30 days prior to the expiration of the 60-day period, notice was sent via certified or registered mail to the designated contact of the non-participating manufacturer for which such resident agent was acting that such agent was resigning its position.

(B) After receipt of the notice of resignation of its resident agent, the non-participating manufacturer for which such resident agent was acting shall obtain and designate a new resident agent to take the place of the resigning resident agent. If such non-participating manufacturer fails to obtain and designate a new resident agent and provide notice thereof, in writing via certified or registered mail, to the attorney general prior to the expiration of the 60-day period provided in subparagraph (A), such non-participating manufacturer shall be removed from the directory.

(4) If a resident agent of a non-participating manufacturer dies, the non-participating manufacturer shall have 30 days after the death of such resident agent to appoint and notify, in writing via certified or registered mail, the attorney general of the non-participating manufacturer's new resident agent. Service upon the non-participating manufacturer after the death of such agent but prior to the appointment of a new agent shall be had upon the secretary of state. Failure by the non-participating manufacturer to appoint a new resident agent, and provide proof of such appointment to the satisfaction of the attorney general prior to the expiration of the 30-day period shall result in removal from the directory.

(5) After the resignation of the resident agent becomes effective as provided in subparagraph (3)(A), or after the death of such resident agent as provided in paragraph (4), and if no new resident agent is obtained and notification is provided in the time and manner required in this section, then service of process against the non-participating manufacturer for which the previous resident agent had been acting shall thereafter be made upon the secretary of state in the manner prescribed by K.S.A. 60-304, and amendments thereto.

(c) A non-participating manufacturer shall provide irrevocable written consent that actions brought under this act may be commenced against it in the district court of the third judicial district, Shawnee county, Kansas, by service of process on the appointed service of process agent designated pursuant to this section.

(d) A resident agent may change the resident agent's address when appointed to accept service of process on behalf of a non-participating manufacturer for which such agent is a resident agent, to another address in this state by mailing a letter, via certified or registered mail, to the attorney general. The letter shall be on company letterhead and executed by the resident agent. The letter shall contain the following:

- (1) The names of all non-participating manufacturers represented by the resident agent;
- (2) the address at which the resident agent has maintained the resident agent's office for each manufacturer;
- (3) a certification of the new address to which the resident agent's address will be changed to on a given day; and
- (4) a certification at which the resident agent will thereafter maintain the resident agent's address for each of the non-participating manufacturers recited in the letter.

Upon the filing of the letter with the attorney general and thereafter, or until further change of address, as authorized by law, the office address of the resident agent recited in the letter shall be located at the new address of the resident agent as provided in the letter.

History: L. 2009, ch. 110, § 2; July 1.