SENATE BILL No. 379
By Committee on Federal and State Affairs

AN ACT concerning alcoholic beverages; relating to farm wineries; amending K.S.A. 2015 Supp. 41-311 and repealing the existing section.

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

Section 1. K.S.A. 2015 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:

1. Who is not a citizen of the United States;
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cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;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 any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;
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 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;

(14) who does not provide any data or information required by K.S.A. 2015 Supp. 41-311b, and amendments thereto; or

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

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

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

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

(6) a corporation; or

(7) 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.

(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 any
reason other than citizenship and residence requirements;
(2) a copartnership, unless all of the copartners shall have been
residents of this state for at least five years immediately preceding the date
of application and unless all the members of the copartnership would be
eligible to receive a manufacturer's license under this act;
(3) 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;
(4) an individual who is not a resident of this state;
(5) an individual who has not been a resident of this state for at least
five years immediately preceding the date of application; or
(6) a person who has a beneficial interest in a distributor, retailer,
farm winery or microbrewery licensed under this act, except as provided in
K.S.A. 41-305, and amendments thereto.
(d) No distributor's license shall be issued to:
(1) A corporation, if any officer, director or stockholder of the
corporation would be ineligible to receive a distributor's license for any
reason. It shall be unlawful for any stockholder of a corporation licensed
as a distributor to transfer any stock in the corporation to any person who
would be ineligible to receive a distributor's license for any reason, and
any such transfer shall be null and void, except that: (A) If any stockholder
owning stock in the corporation dies and an heir or devisee to whom stock
of the corporation descends by descent and distribution or by will is
ineligible to receive a distributor's license, the legal representatives of the
deceased stockholder's estate and the ineligible heir or devisee shall have
14 months from the date of the death of the stockholder within which to
sell the stock to a person eligible to receive a distributor's license, any such
sale by a legal representative to be made in accordance with the provisions
of the probate code; or (B) if the stock in any such corporation is the
subject of any trust and any trustee or beneficiary of the trust who is 21
years of age or older is ineligible to receive a distributor's license, the
trustee, within 14 months after the effective date of the trust, shall sell the
stock to a person eligible to receive a distributor's license and hold and
disburse the proceeds in accordance with the terms of the trust. If any legal
representatives, heirs, devisees or trustees fail, refuse or neglect to sell any
stock as required by this subsection, the stock shall revert to and become
the property of the corporation, and the corporation shall pay to the legal
representatives, heirs, devisees or trustees the book value of the stock.
During the period of 14 months prescribed by this subsection, the
corporation shall not be denied a distributor's license or have its
distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

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

(3) 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; or

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

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

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

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

(2) person who has not been a resident of this state for at least one year immediately preceding the date of application, except that no term of residency shall apply to a farm winery;

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

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

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

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

(7) 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.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2015 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent,
consecutive renewal of a license if the applicant has appointed a citizen of
the United States who is a resident of Kansas as the applicant's agent and
filed with the director a duly authenticated copy of a duly executed power
of attorney, authorizing the agent to accept service of process from the
director and the courts of this state and to exercise full authority, control
and responsibility for the conduct of all business and transactions within
the state relative to alcoholic liquor and the business licensed. The agent
must be satisfactory to and approved by the director, except that the
director shall not approve as an agent any person who:

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

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

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

(4) 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; or

(5) is less than 21 years of age.

Sec. 2. K.S.A. 2015 Supp. 41-311 is hereby repealed.
Sec. 3. This act shall take effect and be in force from and after its
publication in the statute book.