AN ACT concerning alcoholic beverages; relating to the beer and cereal malt beverage keg registration act; including hard cider in the provisions thereof; amending K.S.A. 2016 Supp. 41-311, 41-2703, 41-2708, 41-2901, 41-2902, 41-2903, 41-2904, 41-2905 and 41-2906 and repealing the existing sections.

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

Section 1. K.S.A. 2016 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cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;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. 2016 Supp. 41-311b, and amendments thereto; or

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

(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, 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 a beneficial interest in a manufacturer or 
distributor licensed under this act, except as provided in K.S.A. 41-305, 
and amendments thereto; 
(3) 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; 
(4) copartnership, unless all of the copartners are qualified to obtain a 
license; 
(5) 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 
(6) 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) and K.S.A. 2016 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. 2016 Supp. 41-2703 is hereby amended to read as
follows: 41-2703. (a) After examination of an application for a retailer's
license, the board of county commissioners or the director shall, if they
approve the same, issue a license to the applicant. The governing body of
the city shall, if the applicant is qualified as provided by law, issue a
license to such applicant.

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

(1) A person who is not a resident of the county in which the place of
business covered by the license is located, has not been a resident of such
county for at least six months or has not been a resident in good faith of
the state of Kansas.

(2) A person who has not been a resident of this state for at least one
year immediately preceding application for a retailer's license.

(3) A person who is not of good character and reputation in the
community in which the person resides.

(4) A person who is not a citizen of the United States.
(5) A person who, within two years immediately preceding the date of application approval, has been convicted of, released from incarceration for or released from probation or parole for a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

(6) A partnership, unless all the members of the partnership are otherwise qualified to obtain a license.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than the citizenship and residency requirements.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all the qualifications of a licensee.

(9) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, residence requirements or age, except that this subsection (b)(9) shall not apply in determining eligibility for a renewal license.

(10) A person 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.

(c) After examination of an application for a retailer's license, the board of county commissioners or the governing body of a city may deny a license to a person, partnership or corporation if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager, director or a stockholder owning in the aggregate more than 25% of the stock, of a corporation which has:

(1) Had a retailer's license revoked under K.S.A. 41-2708, and amendments thereto; or

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

(d) Retailers' licenses shall be issued either on an annual basis or for the calendar year. If such licenses are issued on an annual basis, the board of county commissioners or the governing body of the city shall notify the distributors supplying the county or city on or before April 1 of the year if a retailer's license is not renewed.

(e) In addition to, and consistent with the requirements of K.S.A. 41-2701 et seq., and amendments thereto, the board of county commissioners of any county or the governing body of any city may provide by resolution or ordinance for the issuance of a special event retailers' permit which...
shall allow the permit holder to offer for sale, sell and serve cereal malt beverage for consumption on unpermitted premises, which may be open to the public, subject to the following:

(1) A special event retailers' permit shall specify the premises for which the permit is issued;

(2) a special event retailers' permit shall be issued for the duration of the special event, the dates and hours of which shall be specified in the permit;

(3) no more than four special event retailers' permits may be issued to any one applicant in a calendar year; and

(4) a special event retailers' permit shall not be transferable or assignable.

(f) A special event retailers' permit holder shall not be subject to the provisions of the beer and cereal malt beverage keg registration act, K.S.A. 41-2901 et seq., and amendments thereto.

Sec. 3. K.S.A. 2016 Supp. 41-2708 is hereby amended to read as follows: 41-2708. (a) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, may revoke or suspend the license for any one of the following reasons:

(1) The licensee has violated any of the provisions of K.S.A. 41-2701 et seq., and amendments thereto, or any rules or regulations made by the board or the city, as the case may be;

(2) drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;

(3) the sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage;

(4) permitting any person to mix drinks with materials purchased in or upon the place of business or brought in for that purpose;

(5) the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102, and amendments thereto; or

(6) the licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act.

(b) The provisions of subsections (a)(4) and (5) shall not apply if the place of business or premises also are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(c) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) the licensee has become ineligible to obtain a license under this act;
(3) the nonpayment of any license fees;
(4) permitting any gambling in or upon the licensee's place of business;
(5) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages;
(6) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; or
(7) there has been a violation of K.S.A. 21-4106 or 21-4107, prior to their repeal, or K.S.A. 2016 Supp. 21-6204, and amendments thereto, in or upon the licensee's place of business.

(d) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal.

Sec. 4. K.S.A. 2016 Supp. 41-2901 is hereby amended to read as follows: 41-2901. This section and K.S.A. 2016 Supp. 41-2902 through 41-2906, and amendments thereto, shall be known and may be cited as the beer and cereal malt beverage keg registration act.

Sec. 5. K.S.A. 2016 Supp. 41-2902 is hereby amended to read as follows: 41-2902. Any ordinance or resolution adopted by a city or county which supplements or is in conflict with or contrary to the provisions of the beer and cereal malt beverage keg registration act shall be null and void.

Sec. 6. K.S.A. 2016 Supp. 41-2903 is hereby amended to read as follows: 41-2903. Nothing in the beer and cereal malt beverage keg registration act shall be construed as creating a private cause of action against a retailer or a retailer's agent or employee.

Sec. 7. K.S.A. 2016 Supp. 41-2904 is hereby amended to read as follows: 41-2904. In any civil or administrative action brought against a retailer or a retailer's agent or employee for a violation of the beer and cereal malt beverage keg registration act, in which the defendant is the prevailing party, the court or presiding officer may award to the defendant reasonable attorney's fees and all other reasonable costs if the court or presiding officer finds the action was not brought in good faith or was brought without a reasonable basis in fact or law.

Sec. 8. K.S.A. 2016 Supp. 41-2905 is hereby amended to read as follows: 41-2905. (a) Prior to the sale at retail of any beer or hard cider in a container having a liquid capacity of four or more gallons, the retailer or
the retailer's employee or agent shall affix to the beer or hard cider container a keg identification number or otherwise uniquely identify the container in accordance with this act and rules and regulations adopted by the secretary. At the time of sale at retail of any such container of beer or hard cider, the retailer or the retailer's employee or agent shall record the keg number; the date of the sale; the purchaser's name and address; and the number on the purchaser's driver's license, Kansas nondriver's identification card or other official or apparently official document that reasonably appears to contain both the purchaser's picture and the purchaser's signature, which shall be exhibited at the time of sale. Such record shall be kept by the retailer at the premises where the sale was made. Such record shall be kept by the retailer until the container is returned or until the expiration of six months following the date of the sale.

(b) For the purpose of investigating a violation of laws prohibiting the furnishing to or possession or consumption of beer or hard cider by persons under the age of 21 and if such violation involves a container required to be registered under the beer and cereal malt beverage keg registration act and if there is reason to believe that a retailer sold such container, such retailer's records relating to the sale of such container which are required to be kept by this section shall be available for inspection by any law enforcement officer during normal business hours of the retailer. Records required to be kept by this section shall not be available for inspection or use or subject to subpoena in any civil or administrative action or criminal prosecution other than a civil or administrative action or criminal prosecution relating to a specific violation of this section or K.S.A. 21-3610, prior to its repeal, or subsection (a) of K.S.A. 2016 Supp. 21-5607(a), and amendments thereto, or K.S.A. 41-727, and amendments thereto. Except as specifically provided by this subsection, records required to be kept by this section shall not be sold, distributed or otherwise released to any person other than an agent of the retailer or to a law enforcement agency.

(c) Upon a determination that a retailer or a retailer's employee or agent has violated this section or any rules and regulations adopted pursuant to this section, the director may suspend or revoke the retailer's license in the manner provided by K.S.A. 41-320, and amendments thereto, and may impose a fine as provided by K.S.A. 41-328, and amendments thereto.

(d) It is a class B nonperson misdemeanor for a person who is not a retailer acting in the ordinary course of business to: (1) Remove from a beer or hard cider container all or part of a keg identification number required pursuant to this section; (2) make unreadable all or any part of a keg identification number required by this section to be affixed to a beer
or hard cider container; or (3) possess a beer or hard cider container required to be registered under this act that does not have the keg identification number required by this section.

(e) The secretary of revenue shall adopt any rules and regulations necessary to implement the provisions of this section. Such rules and regulations shall include, but shall not be limited to, provisions relating to records and establishing standards for marking and handling containers which are required to be registered by this act.

(f) The secretary of revenue shall provide any keg identification tags or labels required by this section. Such tags or labels shall be designed so that when affixed to a keg, such tags or labels do not mar or otherwise damage the keg. There shall be no charge for such tags or labels.

(g) If a person sold beer or hard cider in compliance with the provisions of this section and any rules and regulations adopted pursuant thereto, it shall be a defense to any criminal prosecution or proceeding or civil or administrative action under this section.

(h) The provisions of this section shall not apply to sales of kegs by distributors or retailers to clubs, drinking establishments, hotel drinking establishments and caterers licensed under the club and drinking establishment act.

(i) Words or phrases used in this section shall have the meaning ascribed thereto by K.S.A. 41-102, and amendments thereto, except that for the purposes of this act, "retailer" shall also include any licensed farm winery or microbrewery.

Sec. 9. K.S.A. 2016 Supp. 41-2906 is hereby amended to read as follows: 41-2906. (a) Prior to the sale by a retailer or a retailer's employee or agent of any cereal malt beverage in a container having a liquid capacity of four or more gallons, the retailer or the retailer's employee or agent shall affix to the cereal malt beverage container a keg identification number or otherwise uniquely identify the container in accordance with rules and regulations adopted by the secretary. At the time of sale of any such container of cereal malt beverage, the retailer, or the retailer's employee or agent, shall record the keg number; the date of the sale; the purchaser's name and address; and the number on the purchaser's driver's license, Kansas nondriver's identification card or other official or apparently official document that reasonably appears to contain both the purchaser's picture and the purchaser's signature, which shall be exhibited at the time of sale. Such record shall be kept by the retailer at the premises where the sale was made. Such record shall be kept by the retailer until the container is returned or until the expiration of six months following the date of the sale.

(b) For the purpose of investigating a violation of laws prohibiting the furnishing to or possession or consumption of cereal malt beverage by
persons under the legal age for consumption of cereal malt beverage and if
such violation involves a container required to be registered under the beer
and cereal malt beverage keg registration act and if there is reason to
believe that such retailer sold such container, such retailer's records
relating to the sale of such container which are required to be kept by this
section shall be available for inspection by any law enforcement officer
during normal business hours. Records required to be kept by this section
shall not be available for inspection or use or subject to subpoena in any
civil or administrative action or criminal prosecution other than a civil or
administrative action or criminal prosecution relating to a specific
violation of this section or K.S.A. 21-3610, prior to its repeal, or
subsection (a) of K.S.A. 2016 Supp. 21-5607(a), and amendments thereto,
or K.S.A. 41-727, and amendments thereto. Except as specifically
provided by this subsection, records required to be kept by this section
shall not be sold, distributed or otherwise released to any person other than
an agent of the retailer or to a law enforcement agency.

(c) Upon a determination that a retailer or a retailer's employee or
agent has violated this section or any rules and regulations adopted
pursuant to this section, the board of county commissioners or the
governing body of the city may suspend or revoke the retailer's license in
the manner provided by K.S.A. 41-2708, and amendments thereto, and
may impose a fine pursuant to K.S.A. 41-2711, and amendments thereto.

(d) It is a class B nonperson misdemeanor for a person who is not a
retailer acting in the ordinary course of business to: (1) Remove from a
cereal malt beverage container all or part of a keg identification number
required pursuant to this section; (2) make unreadable all or any part of a
keg identification number required by this section to be affixed to a cereal
malt beverage container; or (3) possess a cereal malt beverage container
required to be registered under this act that does not have the keg
identification number required by this section.

(e) The secretary of revenue shall adopt any rules and regulations
necessary to implement the provisions of this section. Such rules and
regulations shall include, but shall not be limited to, provisions relating to
records and establishing standards for marking and handling containers
which are required to be registered by this act.

(f) The secretary of revenue shall provide any keg identification tags
or labels required by this act. There shall be no charge for such tags or
labels. Such tags or labels shall be designed so that when affixed to a keg,
such tags or labels do not mar or otherwise damage the keg.

(g) If a person sold cereal malt beverage in compliance with the
provisions of this section and any rules and regulations adopted pursuant
thereto, it shall be a defense to any criminal prosecution or proceeding or
civil or administrative action under this section.
Words and phrases used in this section shall have the meaning ascribed thereto by K.S.A. 41-2701, and amendments thereto.

Sec. 10. K.S.A. 2016 Supp. 41-311, 41-2703, 41-2708, 41-2901, 41-2902, 41-2903, 41-2904, 41-2905 and 41-2906 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.