

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 1:10 p.m. on March 19, 2010, in Room 346-S of the Capitol.

All members were present except:

Representative Rocky Fund- excused

Representative Mike Peterson- excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes

Jason Long, Office of the Revisor of Statutes

Julian Efird, Kansas Legislative Research Department

Dennis Hodgins, Kansas Legislative Research Department

Nikki Feuerborn, Committee Assistant

Conferees appearing before the Committee:

Brief on **SB 504** (Attachment 1)

Jordan Austin, National Rifle Association

Don Jordan, Secretary, SRS

Balloon Amendment for **HB 2512** (Attachment 2)

Tuck Duncan, Attorney (Attachment 3)

Louis Rasmussen, Councilman, City of Leawood (Attachment 4)

Sandy Jacquot, League of Kansas Municipalities (Attachment 5)

Philip Bradley, Kansas Licensed Beverage Association (Attachment 6)

Rebecca Rice, Kansas Beer Wholesalers Association (written only) (Attachment 7)

Amy Campbell, Kansas Association of Beverage Retailers (Attachment 8)

Others attending:

See attached list.

Briefing, Discussion, and Action on SB 504 - Personal and family protection act; amendments

Representative Carlson reviewed the proposed amendments to the concealed carry law section by section (Attachment 1). Jordan Austin, Ed Klump, the Attorney General, and Representative Carlson were all involved in the negotiations for the development of the legislation. Previously Representative Carlson had moved to strip the language of **SB 306** and insert the proposed amended language of **SB 504**.

Jordan Austin, National Rifle Association, assured the Committee that all federal laws and regulations have been met in the proposed amendments of **SB 504**. Supporting documentation was supplied by Jason Long, Office of the Revisor of Statutes.

Representative Carlson moved to report SB 306 favorable for passage as amended. Motion was seconded by Representative Olson. Motion carried.

Briefing, Discussion, and Action on HB 2512 - Children in need of care; court authority

Mike Heim, Office of Revisor of Statutes, reviewed the proposed amendments which would give greater discretionary authority to the courts in placing children in need of care (Attachment 2). Secretary Don Jordan requested additional time to study the proposed amendments and their impact on the current system. If a child has its first placement by the courts, the child becomes a ward of the state. Many courts have declined the authority to place the children with relatives and believe that should be the responsibility of SRS. The courts do have the authority to tell SRS to move the child to a different placement.

The provision to authorize courts to make the placement has been requested by a judge in Johnson County. Currently the case workers make the selection for placement not the Secretary of SRS. This proposed legislation would allow judges to place the children with the grandparents. Secretary Jordan expressed his dissatisfaction with the provision as historically many judges have sent children to drug rehabilitation centers or psychiatric residential treatment facilities rather than placing them in foster care. PRTF's are very expensive and sometimes viewed as a punishment rather than placing the child in a nurturing environment. According to Secretary Jordan, the usual recommendation by the case worker is followed. By removing the

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words "in the custody of the" on Pages 2, 4, 5, 6, and 8 in the balloon amendment and inserting "with" would allow the grandparents to receive reimbursement at the rate of foster parents if the child was placed there by a court or someone with legal custody.

Representative Kiegerl moved to strike the contents of SB 247 and insert the contents found in the balloon for HB 2512. Motion was seconded by Representative Brown.

Committee members expressed reluctance and discomfort at passing a bill with the hopes of having it "fixed" on the floor. The importance of improving the Child In Need of Care system was underscored in their discussion.

Representative Kiegerl made a substitute motion to strike "in the custody of the" and insert the word "with" on Pages 2, 4, 5, 6, and 8. Motion was seconded by Representative Brown. Motion carried.

Representative Neufeld moved to remove all the amendments except on training, placement, and those of Sections 11 through 15. All italicized language will be removed. Motion was seconded by Representative Loganbill. Motion carried.

Representative Loganbill moved to strike the language of SB 247 and insert the contents found in the balloon for HB 2512 and report it favorable for passage as amended. Motion was seconded by Representative O'Brien. Motion carried.

SB 514 - Sub for S 514 by Committee on Federal and State Affairs – Alcoholic beverages; eligibility for license for club and drinking establishments; public venues

Representative Brown moved to strike the contents of SB 514 and insert the language of HB 2633. Motion was seconded by Representative Brunk. Motion carried.

Representative Brown moved to report favorable for passage House Sub for SB 514 as amended. Motion was seconded by Representative Brunk. Motion carried on a division of 8 to 6.

Discussion and Action on HB 2685 - Personal and family protection act; amendments

Representative Knox moved to amend HB 2685 with the balloon as presented. Motion was seconded by Representative Brunk. Motion carried.

Representative Knox moved to report HB 2685 favorable for passage as amended. Motion was seconded by Representative Kiegerl. Motion carried on a division vote of 9 to 4.

Hearing on HB 2737 - Alcoholic beverages; licensure, municipal corporations; certain facilities

Mike Heim, Office of Revisor of Statutes, explained that the proposed legislature would exempt municipalities who apply for liquor licenses from the requirement of having background checks for all governing body members as well as their spouses.

Tuck Duncan, Attorney at Law, requested that if the bill is recommended for passage it include the provisions of Sub for SB 514 which would amend the Club and Drinking Establishment Act and allow a premise owned by a city or county to provide alcoholic beverage services at the premises listed in the application in lieu of a lease (Attachment 3). He did question whether it was the intent of the bill that the persons designated by the ABC to be mixing and dispensing persons need not meet the requirements of law for holding these positions.

Louis C. Rasmussen, Councilman from the City of Leawood, testified in support of the amendment which would make it clear that cities may hold a liquor license for sale of liquor by the drink under the Club and Drinking Establishment Act and eliminates the background check and other personal licensing requirements for governing body members of cities who have a liquor license (Attachment 4).

Sandy Jacquot, Director of Law/General Counsel for the League of Kansas Municipalities, testified in favor of the proposed legislation which would solve many procedural impediments if Kansas did not require cities

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or counties which own and operate golf courses and similar facilities to have a liquor license (Attachment 5). As she understood the intent of the bill, it should have addressed only two statutes, not the majority of the liquor statutes.

Philip Bradley, CEO of Kansas Licensed Beverage Association, spoke in support of the current system which requires cities to be licensees of alcohol sales and service by the state through the Alcoholic Beverage Control (Attachment 6). He pointed out that the cities would not be required to follow the same requirements and thus would be unfair competition. If four pages of qualifications for licensure are required for individuals, why should cities be exempt from this procedure or are the list of qualifications unnecessary for all who apply?

Written testimony was received from:

Rebecca Rice, Legal Counsel, Kansas Beer Wholesalers Association (Attachment 7)

Amy Campbell, Kansas Association of Beverage Retailers (Attachment 8)

Chairman Neufeld closed the hearing on HB 2737.

Representative Benlon moved to report the bill favorable for passage by amending the bill with technical amendments. Motion was seconded by Representative O'Brien. Motion failed.

The meeting was adjourned at 3:15 p.m.

FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: March 19

NAME	REPRESENTING
Whitney Damron	Lukas Liquor Super Store
Phil Bradley	KLBA - KVFWA
Sandy Jacquet	LKM
Erden Aushi	NRA
Don Jordan	SRS
Katy Belot	SRS
Jennifer Grant	Children's Alliance
JOHN C. BOTTENBERG	BOTTENBERG ASSOC
R.S. McKeena	SRS
Janya Keys	SRS
LOUIS C. RASMUSSEN	City of Leawood
Kim Curran	City of Leawood
Jill Martin	DOP
Rob Menly	KEARNEY ASSOC.
SEAN MILER	CAPITOL STRATEGIES
Berend Koops	Hein Law Firm
Joe Mosimann	DMCA of KS
Kevin Keatley	Kansas Assoc. of Counties

FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: 3-19-10

NAME	REPRESENTING
Jack Duncan	Attorneys
Spencer Duncan	Capital Connection LLC

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES
JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR
GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

Brief on Senate Bill 504
Personal and Family Protection Act Amendments

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

March 11, 2010

SB 504 makes various amendments to the Personal and Family Protection Act, otherwise known as the concealed carry law. First, the bill replaces the term “weapon” with “handgun” throughout the Act, and redefines that term so that it has the same meaning as used in private detective statutes.

Section 2 of the bill amends K.S.A. 75-7c03, which pertains to the issuance of a license to carry a concealed handgun. In subsection (a) the bill amends the Act so that a license shall be issued if the person complies with the application and training requirements, unless disqualified under K.S.A. 75-7c04. Under current law a person must meet a number of requirements to qualify for a license in addition to the application and training requirements.

Section 2 also adds a new subsection (d) that provides that a person may carry a concealed handgun while their application for a license is pending if they: (1) establish residency in Kansas; (2) possess a valid license to carry a firearm issued by another jurisdiction recognized by the attorney general as having reasonably similar standards as those in Kansas for the issuance of such a license; and (3) carries a copy of the application for a license.

Section 3 of the bill amends K.S.A. 75-7c04, which governs qualifications for obtaining a license under the Act. The bill strikes the current requirements under the Act, and provides that a person cannot obtain a license if they are prohibited from possessing a firearm by either federal or state law. The bill also would prohibit any person under the age of 21 from obtaining a license.

Section 3 also strikes subsections (c), (d) and (e). Subsection (c) relates to requalification for license renewal upon completion of the gun safety course. Subsection (d) and (e) relate to specific circumstances that under current law disqualify a person from obtaining a license. These subsections are stricken in conjunction with the corresponding stricken language in subsection (a).

Section 4 amends K.S.A. 75-7c05, which governs the license application process. First, the bill includes dependents of military personnel as those not required to possess a Kansas driver's license. The bill also reduces the license fee from \$150 to \$100, with the amount payable to the attorney general being reduced by \$50. The bill would still require applicants be subject to criminal history background checks, but strikes any requirement that the applicant submit to fingerprinting.

Section 6 amends K.S.A. 75-7c07, which governs denial and revocation of a license. First, under the bill a person denied a license can seek judicial review in Shawnee County, or in the county of the individual's residence. Second, subsection (c) is amended so that if a restraining order is issued against a licensee that renders that person ineligible to hold a license, the attorney general is required to suspend, rather than revoke, such license.

Section 7 amends K.S.A. 75-7c08, which governs license renewal. First, the bill reduces the renewal fee from \$100 to \$50. Second, the bill provides clarification as to when a renewal application is considered filed. Finally, under the bill a license is considered permanently expired if a renewal application is not filed within six months after the expiration of the license.

Section 8 amends K.S.A. 75-7c10, which governs which places in the state a licensee may not carry a concealed handgun. First, the bill strikes the prohibitions against carrying into the state fairgrounds or any location which would be a violation of the criminal firearm possession statutes (K.S.A. 21-4218). Second, the bill also provides new language for violations

of this section. A first offense would be an infraction subject to a \$50 fine. A second offense would be an infraction subject to a \$100 fine. Any third and subsequent offense would be a class B misdemeanor. Finally, this section also excludes parking lots and garages from being included in any facility where carry a concealed handgun is prohibited.

Section 9 amends K.S.A. 75-7c11, which governs private places of business that may prohibit the carrying of a concealed handgun. The bill provides the same penalty for violations of this section as those set out in section 9. The bill also specifies the dimensions and other particulars of the signs prohibiting the carrying of a concealed handgun. Finally, the bill excludes parking lots and garages from being included in any facility where carry a concealed handgun is prohibited.

Section 10 amends K.S.A. 75-7c12, which pertains to the crime of carrying a concealed handgun while under the influence of alcohol or drugs. The bill provides exceptions from the general prohibition for person's carrying on their own property, or using the gun in self-defense. The bill also amends the provisions relating to obtaining evidence of being under the influence and the admissibility of such evidence at any trial.

Section 11 amends K.S.A. 21-4218, which makes possession of a firearm in certain locations a crime. The bill provides an additional exception to the general prohibition for individuals who possess a license to carry a concealed handgun. The bill also excludes parking lots and garages from being included in any facility where carry a concealed handgun is prohibited.

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18 U.S.C.A. § 922



Effective:[See Notes]

United States Code Annotated Currentness

Title 18. Crimes and Criminal Procedure (Refs & Annos)

▾ Part I. Crimes (Refs & Annos)

▾ Chapter 44. Firearms (Refs & Annos)

→ **§ 922. Unlawful acts**

(a) It shall be unlawful--

(1) for any person--

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

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(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person--

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien--

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term

is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that--

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment--

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to--

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection

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WEST'S KANSAS STATUTES ANNOTATED
 CHAPTER 21. CRIMES AND PUNISHMENTS
 PART II. PROHIBITED CONDUCT
 ARTICLE 42. CRIMES AGAINST THE PUBLIC SAFETY
 WEAPONS CONTROL

→ 21-4204. Criminal possession of a firearm

(a) Criminal possession of a firearm is:

(1) Possession of any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(2) possession of any firearm by a person who has been convicted of a person felony or a violation of K.S.A. 21-36a01 through 21-36a17, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of K.S.A. 21-36a01 through 21-36a17, and amendments thereto, and was found to have been in possession of a firearm at the time of the commission of the offense;

(3) possession of any firearm by a person who, within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(4)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was found not to have been in possession of a firearm at the time of the commission of the offense;

(4) possession of any firearm by a person who, within the preceding 10 years, has been convicted of: (A) A felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427,

21-3442, 21-3502, 21-3506, 21-3518, 21-3716, K.S.A. 21-36a05 or 21-36a06, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was found not to have been in possession of a firearm at the time of the commission of the offense, and has not had the conviction of such crime expunged or been pardoned for such crime; or (B) a nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the offense;

(5) possession of any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12 or at any regularly scheduled school sponsored activity or event;

(6) refusal to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer; or

(7) possession of any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto.

(b) Subsection (a)(5) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) any possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; or

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day.

(c) Subsection (a)(7) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 75-7c26, and amendments thereto.

(d) Violation of subsection (a)(1) or (a)(5) is a class B nonperson select misdemeanor; violation of subsection (a)(2), (a)(3),

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~~1-9~~

(a)(4) or (a)(7) is a severity level 8, nonperson felony; violation of subsection (a)(6) is a class A nonperson misdemeanor.

Current through 2009 Regular Session

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SENATE BILL No. 504

By Committee on Judiciary

2-2

House Committee on Federal and State Affairs
SB 504 Balloon
Prepared by: J. Long

11-1

9 AN ACT concerning the personal and family protection act; amending
10 K.S.A. 2009 Supp. ~~21-4218~~ 75-7c02, 75-7c03, 75-7c04, 75-7c05, 75-
11 7c06, 75-7c07, 75-7c08, 75-7c10, ~~75-7c11 and 75-7c12~~ and repealing
12 the existing sections

21-4201, 21-4204, 21-4218, 75-7c01,

75-7c12 and 75-7c19

; also repealing K.S.A. 2009 Supp. 75-7c11

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2009 Supp. 75-7c02 is hereby amended to read as
16 follows: 75-7c02. As used in the personal and family protection act:

Section 1. K.S.A. 2009 Supp. 75-7c01 is hereby amended to read
as follows: INSERT A
and renumber the remaining sections accordingly

17 (a) "Attorney general" means the attorney general of the state of
18 Kansas.

19 (b) ~~"Weapon" means handgun, pistol or revolver~~ "Handgun" means
20 a "firearm," as defined in K.S.A. 75-7b01, and amendments thereto.

21 (c) "Athletic event" means athletic instruction, practice or competi-
22 tion held at any location and including any number of athletes.

23 (d) "Dependent" means a resident of the household of an active duty
24 member of any branch of the armed forces of the United States who de-
25 pends in whole or in substantial part upon the member for financial sup-
26 port.

27 Sec. 2. K.S.A. 2009 Supp. 75-7c03 is hereby amended to read as
28 follows: 75-7c03. (a) The attorney general shall issue licenses to carry
29 concealed ~~weapons~~ handguns to persons ~~qualified as provided by who~~
30 ~~comply with the application and training requirements of this act and~~
31 ~~who are not disqualified under K.S.A. 75-7c04, and amendments thereto.~~
32 Such licenses shall be valid throughout the state for a period of four years
33 from the date of issuance.

34 (b) The license shall be a separate card, in a form prescribed by the
35 attorney general, that is approximately the size of a Kansas driver's license
36 and shall bear the licensee's signature, name, address, date of birth and
37 driver's license number or nondriver's identification card number except
38 that the attorney general shall assign a unique number for military appli-
39 cants or their dependents described in subsection (a)(1)(B) of K.S.A. 2009
40 Supp. 75-7c05, and amendments thereto. At all times when the licensee
41 is in actual possession of a concealed ~~weapon~~ handgun, the licensee shall
42 carry the license to carry concealed ~~weapons~~ which shall constitute the
43 license to carry a concealed ~~weapon~~ handguns. On demand of a law en-

valid

1-12
2-12

1 enforcement officer, the licensee shall display the license to carry a concealed
2 ~~weapon~~ *handguns* and proper identification. Verification by a law
3 enforcement officer that a person holds a valid license to carry a concealed
4 ~~weapon handgun~~ may be accomplished by a record check using the person's
5 driver's license information or the person's concealed carry license
6 number.

7 The license of any person who violates the provisions of this subsection
8 shall be suspended for not less than 30 days upon the first violation and
9 shall be revoked for not less than five years upon ~~the~~ second or ~~a~~ sub-
10 sequent violation.

a

However, a violation of this subsection shall not constitute a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, if the licensee's license is valid.

11 (c) A valid license, issued by any other state or the District of Colum-
12 bia, to carry ~~concealed weapons~~ *a firearm* shall be recognized as valid in
13 this state, but only while the holder is not a resident of Kansas, if the
14 attorney general determines that standards for issuance of such license
15 or permit by such state or district are ~~equal~~ *reasonably similar* to or
16 greater than the standards imposed by this act. The attorney general shall
17 maintain and publish a list of such ~~states and district~~ *other jurisdictions*
18 which the attorney general determines have standards ~~equal~~ *reasonably*
19 *similar* to or greater than the standards imposed by this act.

20 (d) ~~A person who establishes residency in this state may carry concealed~~
21 ~~weapons~~ *handguns* under the terms of this act until the person's application
22 for a license under this act is approved or denied, provided that the person
23 has been issued and possesses a valid license or permit to carry a firearm
24 from a jurisdiction recognized by the attorney general under subsection
25 (c) and carries with that license or permit ~~a copy of the person's appli-~~
26 ~~cation for a license under this act, or a receipt for the submission thereof.~~
27 For purposes of such application, possession of the valid nonresident li-
28 cense or permit to carry a firearm shall satisfy the requirements of K.S.A.
29 75-7c04 ~~(a)(10), (b)(2), and amendments thereto.~~

handguns

a receipt issued by the attorney general, which states the person's application for licensure under this act has been received.

of subsections (a)(10) and (b)(2)

2009 Supp.

30 Sec. 3. K.S.A. 2009 Supp. 75-7c04 is hereby amended to read as
31 follows: 75-7c04. (a) The attorney general shall *not* issue a license pur-
32 suant to this act if the applicant:

33 ~~(1) Is a resident of the county where application for licensure is made~~
34 ~~and has been a resident of the state for six months or more immediately~~
35 ~~preceding the filing of the application, residency to be determined in~~
36 ~~accordance with K.S.A. 77-201, and amendments thereto;~~

(1) Is not a resident of the county where application for licensure is made and is not a resident of the state;
(2) is
and renumber remaining paragraphs accordingly

37 ~~(1) Is prohibited from shipping, transporting, possessing or receiving~~
38 ~~a firearm or ammunition under 18 U.S.C. 922(g) and (n), and amend-~~
39 ~~ments thereto, and K.S.A. 21-4204, and amendments thereto; ~~and~~~~

or

40 (2) is ~~21 years~~ *or more* of age;

less than

41 ~~(3) does not suffer from a physical infirmity which prevents the safe~~
42 ~~handling of a weapon;~~
43 ~~(4) (A) has been convicted or placed on diversion for an act that~~

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1 constitutes a felony under the laws of this state or any other jurisdiction
2 and: (i) Such felony is expungeable pursuant to K.S.A. 21-4619, and
3 amendments thereto, or similar provision from another jurisdiction; (ii)
4 such felony has been expunged; and (iii) the requirements of subsection
5 (d) are otherwise met;

6 —(B)— has not been convicted or placed on diversion, in this or any other
7 jurisdiction, for an act that constitutes a felony under the laws of this state
8 and such felony is not subject to expungement pursuant to K.S.A. 21-
9 4619, and amendments thereto, or adjudicated, in this or any other ju-
10 risdiction, of committing as a juvenile an act that would be a felony under
11 the laws of this state if committed by an adult;

12 —(5)— has never been convicted, in this or any other jurisdiction, for an
13 act that constitutes a misdemeanor crime of domestic violence, as defined
14 by 18 U.S.C. 921(a)(33)(A) or adjudicated, in this or any other jurisdiction,
15 of committing as a juvenile an act that would be a misdemeanor crime of
16 domestic violence under 18 U.S.C. 921(a)(33)(A) if committed by an
17 adult;

18 —(6)— has not been, during the five years immediately preceding the
19 date the application is submitted: (A) Convicted or placed on diversion,
20 in this or any other jurisdiction, for an act that constitutes a misdemeanor
21 under the provisions of K.S.A. 2009 Supp. 21-36a01 through 21-36a17,
22 and amendments thereto, or adjudicated, in this or any other jurisdiction,
23 of committing as a juvenile an act that would be a misdemeanor under
24 such act if committed by an adult; (B) convicted or placed on diversion,
25 in this or any other jurisdiction, two or more times for an act that con-
26 stitutes a violation of K.S.A. 8-1567, and amendments thereto; (C) con-
27 victed or placed on diversion, in this or any other jurisdiction, for an act
28 that constitutes a domestic violence misdemeanor under any municipal
29 ordinance or article 34 or 35 of chapter 21 of the Kansas Statutes An-
30 notated or adjudicated, in this or any other jurisdiction, of committing as
31 a juvenile an act that would be a domestic violence misdemeanor under
32 article 34 or 35 of chapter 21 of the Kansas Statutes Annotated if com-
33 mitted by an adult; or (D) convicted or placed on diversion, in this or any
34 other jurisdiction, for an act that constitutes a violation of K.S.A. 2009
35 Supp. 75-7c12, and amendments thereto, or a violation of subsection
36 (a)(4) of K.S.A. 21-4201, and amendments thereto, or adjudicated, in this
37 or any other jurisdiction, of committing as a juvenile an act that would
38 be a violation of K.S.A. 2009 Supp. 75-7c12, and amendments thereto;
39 or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments
40 thereto, if committed by an adult;

41 —(7)— has not been charged with a crime which would render the ap-
42 plicant, if convicted, ineligible for a license or, if so charged, final dis-
43 position of the charge has occurred and no other charges are pending

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S

- 1 which would cause the applicant to be ineligible for a license;
- 2 ~~—(8) has not been ordered by a court to receive treatment for mental~~
- 3 ~~illness pursuant to K.S.A. 59-2066, and amendments thereto, or for an~~
- 4 ~~alcohol or substance abuse problem pursuant to K.S.A. 59-20b66, and~~
- 5 ~~amendments thereto, or, if a court has ordered such treatment, has not~~
- 6 ~~been issued a certificate of restoration pursuant to K.S.A. 2009 Supp. 75-~~
- 7 ~~7e26, and amendments thereto, not less than five years before the date~~
- 8 ~~of the application;~~
- 9 ~~—(9) desires a legal means to carry a concealed weapon for lawful self-~~
- 10 ~~defense;~~
- 11 ~~—(10) except as provided by subsection (g) of K.S.A. 2009 Supp. 75-~~
- 12 ~~7e05, and amendments thereto, presents evidence satisfactory to the at-~~
- 13 ~~torney general that the applicant has satisfactorily completed a weapons~~
- 14 ~~safety and training course approved by the attorney general pursuant to~~
- 15 ~~subsection (b);~~
- 16 ~~—(11) has not been adjudged a disabled person under the act for ob-~~
- 17 ~~taining a guardian or conservator, or both, or under a similar law of an~~
- 18 ~~other state or the District of Columbia, unless the applicant was ordered~~
- 19 ~~restored to capacity three or more years before the date on which the~~
- 20 ~~application is submitted;~~
- 21 ~~—(12) has not been dishonorably discharged from military service;~~
- 22 ~~—(13) is a citizen of the United States;~~
- 23 ~~—(14) is not subject to a restraining order issued under the protection~~
- 24 ~~from abuse act, under the protection from stalking act or pursuant to~~
- 25 ~~K.S.A. 60-1607, K.S.A. 2009 Supp. 38-2242, 38-2243 or 38-2255, and~~
- 26 ~~amendments thereto, or any equivalent order entered in another state or~~
- 27 ~~jurisdiction which is entitled to full faith and credit in Kansas;~~
- 28 ~~—(15) is not in contempt of court in a child support proceeding;~~
- 29 ~~—(16) has not attempted to commit suicide in the five years immedi-~~
- 30 ~~ately preceding application; and~~
- 31 ~~—(17) has not been adjudicated as a mental defective or committed to~~
- 32 ~~a mental institution.~~

33 (b) (1) The attorney general shall adopt rules and regulations estab-
 34 lishing procedures and standards as authorized by this act for an eight-
 35 hour ~~weapons~~ safety and training course required by this section. Such
 36 standards shall include: (A) A requirement that trainees receive training
 37 in the safe storage of ~~weapons~~ handguns, actual firing of weapons and
 38 instruction in the laws of this state governing the carrying of a concealed
 39 ~~weapon~~ handguns and the use of deadly force; (B) general guidelines for
 40 courses which are compatible with the industry standard for basic fire-
 41 arms training for civilians; (C) qualifications of instructors; and (D) a
 42 requirement that the course be: (i) A ~~weapons~~ handgun course certified
 43 or sponsored by the attorney general; or (ii) a ~~weapons~~ handgun course

handgun

SB
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1 certified or sponsored by the national rifle association or by a law enforce-
 2 ment agency, college, private or public institution or organization or
 3 ~~weapons handgun~~ training school, if the attorney general determines that
 4 such course meets or exceeds the standards required by rules and regu-
 5 lations adopted by the attorney general and is taught by instructors cer-
 6 tified by the attorney general or by the national rifle association, if the
 7 attorney general determines that the requirements for certification of
 8 instructors by such association meet or exceed the standards required by
 9 rules and regulations adopted by the attorney general. Any person want-
 10 ing to be certified by the attorney general as an instructor shall submit to
 11 the attorney general an application in the form required by the attorney
 12 general and a fee not to exceed \$150.

13 (2) The cost of the ~~weapons handgun~~ safety and training course re-
 14 quired by this section shall be paid by the applicant. The following shall
 15 constitute satisfactory evidence of satisfactory completion of an approved
 16 ~~weapons handgun~~ safety and training course: (A) Evidence of completion
 17 of the course, in the form provided by rules and regulations adopted by
 18 the attorney general; ~~or~~ (B) an affidavit from the instructor, school, club,
 19 organization or group that conducted or taught such course attesting to
 20 the completion of the course by the applicant; ~~or~~ (C) *for the purposes of*
 21 *K.S.A. 75-7c03(d), and amendments thereto, a copy of a valid license to*
 22 *carry a firearm issued by another jurisdiction, as described in that*
 23 *subsection.*

of subsection (d)

2009 Supp.

24 ~~(c) In addition to the requirements of subsection (a), a person holding~~
 25 ~~a license pursuant to this act, prior to renewal of the license provided~~
 26 ~~herein, shall submit evidence satisfactory to the attorney general that the~~
 27 ~~licensee has requalified by completion of an approved course given by an~~
 28 ~~instructor of an approved weapons safety and training course under sub-~~
 29 ~~section (b).~~

30 ~~(d) If an applicant has had a conviction or diversion described in~~
 31 ~~subsection (a)(4)(A) or (a)(6) expunged pursuant to K.S.A. 12-4516 or 21-~~
 32 ~~4610, and amendments thereto, or similar provision from another juris-~~
 33 ~~isdiction, and the applicant has been eligible for expungement for five years~~
 34 ~~or more immediately preceding the date the application for licensure is~~
 35 ~~submitted, the applicant shall not be disqualified from being issued a~~
 36 ~~license if the applicant is otherwise qualified for licensure pursuant to~~
 37 ~~this section and eligible to possess a firearm under state and federal law.~~

38 ~~(e) For purposes of this section: (1) "Adjudicated as a mental defec-~~
 39 ~~tive" means a determination by a court, board, commission or other lawful~~
 40 ~~authority that a person, as a result of marked subnormal intelligence, or~~
 41 ~~mental illness, incompetency, condition or disease: (A) Is a danger to the~~
 42 ~~person's self or to others; or (B) lacks the mental capacity to contract or~~
 43 ~~manage the person's own affairs. "Adjudicated as a mental defective" shall~~

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1 include a finding of insanity by a court in a criminal case, and those
2 persons found incompetent to stand trial or found not guilty by reason of
3 lack of mental responsibility pursuant to articles 50a and 72b of the
4 United States uniform code of military justice:

5 —(2) (A) “Committed to a mental institution” means a formal com-
6 mitment of a person to a mental institution by a court, board, commission
7 or other lawful authority. “Committed to a mental institution” includes a
8 commitment to a mental institution involuntarily, commitment for mental
9 defectiveness or mental illness and commitments for other reasons, such
10 as for drug use:

11 —(B) “Committed to a mental institution” shall not include a person in
12 a mental institution for observation or a voluntary admission to a mental
13 institution:

14 Sec. 4. K.S.A. 2009 Supp. 75-7c05 is hereby amended to read as
15 follows: 75-7c05. (a) The application for a license pursuant to this act shall
16 be completed, under oath, on a form prescribed by the attorney general
17 and shall only include:

18 (1) (A) Subject to the provisions of subsection (a)(1)(B), the name,
19 address, social security number, Kansas driver’s license number or Kansas
20 nondriver’s license identification number, ~~and~~ place and date of birth and
21 occupation ~~of the applicant~~; (B) in the case of an applicant who presents
22 proof that such person is on active duty with any branch of the armed
23 forces of the United States, *or is the dependent of such a person*, and who
24 does not possess a Kansas driver’s license or Kansas nondriver’s license
25 identification, the number of such license or identification shall not be
26 required;

1

, a photocopy of the applicant’s driver’s license or nondriver’s
identification card and a photocopy of the applicant’s certificate
of training course completion

27 (2) a statement that the applicant is in compliance with criteria con-
28 tained within K.S.A. 2009 Supp. 75-7c04, and amendments thereto;

29 ~~(3) a waiver of the confidentiality of such mental health and medical
30 records as necessary to determine the applicant’s qualifications under
31 subsection (a)(8) of K.S.A. 2009 Supp. 75-7c04, and amendments thereto;~~

32 ~~(4) (3) a statement that the applicant has been furnished a copy of
33 this act and is knowledgeable of its provisions;~~

34 ~~(5) (4) a conspicuous warning that the application is executed under
35 oath and that a false answer to any question, or the submission of any
36 false document by the applicant, subjects the applicant to criminal pros-
37 ecution under K.S.A. 21-3805, and amendments thereto; and~~

handgun

38 ~~(6) (5) a statement that the applicant desires a concealed ~~weapon~~
39 license as a means of lawful self-defense.~~

40 (b) The applicant shall submit to the sheriff of the county where the
41 applicant resides, during any normal business hours:

42 (1) A completed application described in subsection (a);

43 (2) except as provided by subsection (g), a nonrefundable license fee

Handwritten scribble or signature in the top right corner.

1 of ~~\$150~~ ~~\$100~~ if the applicant has not previously been issued a statewide
 2 license or if the applicant's license has permanently expired, which fee
 3 shall be in the form of two cashier checks or money orders consist of ~~\$40~~
 4 payable to the sheriff of the county where the applicant resides and ~~\$110~~
 5 ~~\$60~~ payable to the attorney general;

\$125

\$25

\$100

6 (3) a photocopy of a certificate or an affidavit or document as de-
 7 scribed in subsection (b) of K.S.A. 2009 Supp. 75-7c04, and amendments
 8 thereto, or if applicable, of a license to carry a firearm as described in
 9 subsection (d) of K.S.A. 2009 Supp. 75-7c03, and amendments thereto;
 10 and

11 (4) a full frontal view photograph of the applicant taken within the
 12 preceding 30 days.

13 (c) (1) The sheriff, upon receipt of the items listed in subsection (b)
 14 of this section or subsection (a) of K.S.A. 2009 Supp. 75-7c08, and amend-
 15 ments thereto, shall provide for the full set of fingerprints of the applicant
 16 to be taken and forwarded to the attorney general for purposes of a crim-
 17 inal history records check as provided by subsection (d). In addition, the
 18 sheriff shall forward to the attorney general a copy of the application and
 19 the portion of the original ~~or renewal~~ license fee which is payable to the
 20 attorney general. The cost of taking such fingerprints shall be included
 21 in the portion of the fee retained by the sheriff. *Notwithstanding anything*
 22 *in this section to the contrary, an applicant shall not be required to submit*
 23 *fingerprints for a renewal application under K.S.A. 2009 Supp. 75-7c08,*
 24 *and amendments thereto.*

25 (2) The sheriff of the applicant's county of residence or the chief law
 26 enforcement officer of any law enforcement agency, at the sheriff's or
 27 chief law enforcement officer's discretion, may participate in the process
 28 by submitting a voluntary report to the attorney general containing readily
 29 discoverable information, corroborated through public records, which,
 30 when combined with another enumerated factor, establishes that the ap-
 31 plicant poses a significantly greater threat to law enforcement or the pub-
 32 lic at large than the average citizen. Any such voluntary reporting shall
 33 be made within 45 days after the date the sheriff receives the application.
 34 Any sheriff or chief law enforcement officer submitting a voluntary report
 35 shall not incur any civil or criminal liability as the result of the good faith
 36 submission of such report.

37 (3) All funds retained by the sheriff pursuant to the provisions of this
 38 section shall be credited to a special fund of the sheriff's office which
 39 shall be used solely for law enforcement and criminal prosecution pur-
 40 poses and which shall not be used as a source of revenue to meet normal
 41 operating expenses of the sheriff's office *the purpose of administering this*
 42 *act.*

state

43 (d) Each applicant shall be subject to a state ~~local~~ and national crim-

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1 inal history records check which conforms to applicable federal standards,
 2 including an inquiry of the national instant criminal background check
 3 system for the purpose of verifying the identity of the applicant and
 4 whether the applicant has been convicted of any crime or has been the
 5 subject of any restraining order or any mental health related finding that
 6 would disqualify the applicant from holding a license under this act. The
 7 attorney general is authorized to use the information obtained from the
 8 national criminal history record check to determine the applicant's eli-
 9 gibility for such license.

state or

10 (e) Within 90 days after the date of receipt of the items listed in
 11 subsection (b), the attorney general shall:

12 (1) Issue the license and certify the issuance to the department of
 13 revenue; or

14 (2) deny the application based solely on: (A) The report submitted
 15 by the sheriff or other chief law enforcement officer under subsection
 16 (c)(2) for good cause shown therein; or (B) the ground that the applicant
 17 fails to qualify is disqualified under the criteria listed in K.S.A. 2009 Supp.
 18 75-7c04, and amendments thereto. If the attorney general denies the
 19 application, the attorney general shall notify the applicant in writing, stat-
 20 ing the ground for denial and informing the applicant the opportunity for
 21 a hearing pursuant to the Kansas administrative procedure act.

22 (f) Each person issued a license shall pay to the department of rev-
 23 enue fees a fee for the cost of the license and the photograph to be placed
 24 on the license, which shall be in amounts equal to the fees fee required
 25 pursuant to K.S.A. 8-243 and 8-246, and amendments thereto, for a
 26 driver's license photograph and replacement of a driver's license.

27 (g) A person who is a retired law enforcement officer, as defined in
 28 K.S.A. 21-3110, and amendments thereto, shall be: (1) Required to pay
 29 an original license fee of \$100, which fee shall be in the form of two
 30 cashier checks or money orders, \$40 payable to the sheriff of the county
 31 where the applicant resides and \$60 payable to the attorney general, to
 32 be forwarded by the sheriff to the attorney general; (2) exempt from the
 33 required completion of a weapons safety and training course if such per-
 34 son was certified by the Kansas law enforcement training commission not
 35 more than eight years prior to submission of the application; (3) required
 36 to pay the license renewal fee; (4) required to pay to the department of
 37 revenue the fees required by subsection (f); and (5) required to comply
 38 with the criminal history records check requirement of this section.

(1)

(A)

(B)

(C)

(D)

(E)

on peace officer's standards and training, or similar body from another jurisdiction,

(2) Proof of retirement as a law enforcement officer shall be required and provided to the attorney general in the form of a letter from the agency head, or their designee, of the officer's retiring agency that attests to the officer having retired in good standing from that agency as a law enforcement officer for reasons other than mental instability and that the officer has a nonforfeitable right to benefits under a retirement plan of the agency.

39 Sec. 5. K.S.A. 2009 Supp. 75-7c06 is hereby amended to read as
 40 follows: 75-7c06. (a) The attorney general shall be the official custodian
 41 of all records relating to licenses issued pursuant to the personal and
 42 family protection act.

43 (b) Except as provided by subsections (c) and (d), records relating to

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1 persons issued licenses pursuant to this act, persons applying for licenses
2 pursuant to this act or persons who have had a license denied pursuant
3 to this act shall be confidential and shall not be disclosed in a manner
4 which enables identification of any such person. Any disclosure of a rec-
5 ord in violation of this subsection is a class A misdemeanor.

6 (c) Records of a person whose license has been suspended or revoked
7 pursuant to this act shall be subject to public inspection in accordance
8 with the open records act.

9 (d) The attorney general shall maintain an automated listing of license
10 holders and pertinent information, and such information shall be availa-
11 ble, ~~upon request~~, at all times to all law enforcement agencies in this
12 state, other states and the District of Columbia *when requested for a*
13 *legitimate law enforcement purpose.*

14 (e) Within 30 days after the changing of a permanent address, or
15 within 30 days after ~~having the discovery that~~ a license *has been* lost or
16 destroyed, the licensee shall notify the attorney general of such change,
17 loss or destruction. The attorney general, upon notice and opportunity
18 for hearing in accordance with the provisions of the Kansas administrative
19 procedure act, may order a licensee to pay a fine of not more than \$100,
20 or may suspend the licensee's license for not more than 180 days, for
21 failure to notify the attorney general pursuant to the provisions of this
22 subsection.

handgun

23 (f) In the event that a concealed ~~weapon~~ license is lost or destroyed,
24 the license shall be automatically invalid, and the person to whom the
25 license was issued, upon payment of \$15 to the attorney general, may
26 obtain a duplicate, or substitute thereof, upon furnishing a notarized
27 statement to the attorney general that such license has been lost or
28 destroyed.

29 Sec. 6. K.S.A. 2009 Supp. 75-7c07 is hereby amended to read as
30 follows: 75-7c07. (a) In accordance with the provisions of the Kansas
31 administrative procedure act, the attorney general shall deny a license to
32 any applicant for license who is ineligible under K.S.A. 2009 Supp. 75-
33 7c04, and amendments thereto, and, except as provided by subsection
34 (b), shall revoke at any time the license of any person who would be
35 ineligible under K.S.A. 2009 Supp. 75-7c04, and amendments thereto, if
36 submitting an application for a license at such time ~~or who fails to submit~~
37 ~~evidence of completion of a weapons safety and training course as re-~~
38 ~~quired by subsection (c) of K.S.A. 2009 Supp. 75-7c04, and amendments~~
39 ~~thereto.~~ Any Review by the district court in accordance with the act for
40 judicial review and civil enforcement of agency actions shall be, *at the*
41 *option of the party seeking review*, in Shawnee county *or the county in*
42 *which the petitioner resides.* The revocation shall remain in effect pending
43 any appeal and shall not be stayed by the court.

1 (b) The license of a person who ~~would be~~ is arrested for an offense
 2 or is subject to a proceeding that could render the person ineligible pur-
 3 suant to subsection (a)(6) of K.S.A. 2009 Supp. 75-7c04, and amendments
 4 thereto, shall be subject to suspension and shall be reinstated upon final
 5 disposition of the charge or outcome of the proceeding as long as the
 6 person is otherwise eligible for a license the arrest or proceeding does not
 7 result in a disqualifying conviction, commitment, finding or order.

8 (c) The sheriff of the county where a restraining order is issued that
 9 would prohibit issuance of a license under subsection (a) ~~(13)~~(1) of K.S.A.
 10 2009 Supp. 75-7c04, and amendments thereto, shall notify the attorney
 11 general immediately upon receipt of such order. If the person subject to
 12 the restraining order holds a license issued pursuant to this act, the at-
 13 torney general immediately shall ~~revoke~~ suspend such license upon re-
 14 ceipt of notice of the issuance of such order. The attorney general shall
 15 adopt rules and regulations establishing procedures which allow for 24-
 16 hour notification and ~~revocation~~ suspension of a license under the cir-
 17 cumstances described in this subsection. The attorney general shall im-
 18 mediately reinstate the license, if it has not otherwise expired, upon proof
 19 of the cancellation of the order.

20 Sec. 7. K.S.A. 2009 Supp. 75-7c08 is hereby amended to read as
 21 follows: 75-7c08. (a) Not less than 90 days prior to the expiration date of
 22 the license, the attorney general shall mail to the licensee a written notice
 23 of the expiration and a renewal form prescribed by the attorney general.
 24 The licensee shall renew the license on or before the expiration date by
 25 filing with the sheriff of the applicant's county of residence the renewal
 26 form, a notarized affidavit, either in person or by certified mail, stating
 27 that the licensee remains qualified pursuant to the criteria specified in
 28 K.S.A. 2009 Supp. 75-7c04, and amendments thereto, a full frontal view
 29 photograph of the applicant taken within the preceding 30 days and a
 30 nonrefundable license renewal fee of \$100 which fee shall be in the form
 31 of two cashier checks or money orders ~~\$50, one of \$50 \$25 payable to~~
 32 ~~the sheriff of the county where the applicant resides and one of \$50 \$25~~
 33 payable to the attorney general. The license shall be renewed upon re-
 34 ceipt of the completed renewal application and appropriate payment of
 35 fees. A licensee who fails to file a renewal application on or before the
 36 expiration date of the license must pay an additional late fee of \$15. A
 37 renewal application is considered filed on the date the renewal form, af-
 38 fidavit, and required fees are delivered in person to the appropriate sher-
 39 iff's office or on the date a certified mailing to the appropriate sheriff's
 40 office containing these items is postmarked.

41 (b) Upon receipt of a renewal application as specified in subsection
 42 (a), ~~the sheriff shall forward the application to the attorney general, and~~
 43 a background check in accordance with K.S.A. 2009 Supp. 75-7c05(d),

(d)(1) If the provisions of paragraph (2) are met, a license issued pursuant to this act shall not be revoked until 90 days after the person issued such license is no longer a resident of this state, being a nonresident of this state is the only grounds for revocation.

(2) A license issued pursuant to this act shall be considered valid for 90 days after a licensee is no longer a resident of Kansas, provided that: (A) Prior to the change in residency, the licensee notified the attorney general in writing of the pending change; and (B) the licensee's new state of residence, or any other state or jurisdiction that such licensee travels to during the 90-day period, would recognize such license as valid.

(e) A person who has been issued a license pursuant to this act and who gave up residency in this state, but has returned to reside in this state shall be eligible to have their license reinstated as valid provided that: (1) The license has not expired; and (2)(A) the licensee notified the attorney general in writing of both the residency departure and relocation back to this state; or (B) if such licensee failed to comply with the notification requirements of this subsection, the penalty provisions of subsection (e) of K.S. A. 75-7c05, and amendments thereto, have been satisfied.

(2)

attorney general

attorney general shall complete a name-based background check, including a search of the national instant criminal background check system database

attorney general's

subsection (d) of

1-20-11

1-21
2-21

1 and amendments thereto, shall be completed. Fingerprints shall not be
2 required for renewal applications. If the licensee is ~~qualified~~ not dis-
3 qualified as provided by this act, the license shall be renewed upon receipt
4 by the attorney general of the items listed in subsection (a) and the com-
5 pletion of the background check.

6 (c) No license shall be renewed if the renewal application is filed six
7 months or more after the expiration date of the license, and such license
8 shall be deemed to be permanently expired. A person whose license has
9 been permanently expired may reapply for licensure but an application
10 for licensure and fees pursuant to K.S.A. 2009 Supp. 75-7c05, and amend-
11 ments thereto, shall be submitted, and a background investigation in-
12 cluding the submission of fingerprints, shall be conducted pursuant to the
13 provisions of that section.

14 Sec. 8. K.S.A. 2009 Supp. 75-7c10 is hereby amended to read as
15 follows: 75-7c10. (a) Provided that the premises are conspicuously posted
16 in accordance with rules and regulations adopted by the attorney general
17 as premises where carrying a concealed ~~weapon~~ is prohibited, no license
18 issued pursuant to or recognized by this act shall authorize the licensee
19 to carry a concealed ~~weapon~~ into the building of:

handgun

handgun

20 (1) Any place where an activity declared a common nuisance by
21 K.S.A. 22-3901, and amendments thereto, is maintained;

22 (2) any police, sheriff or highway patrol station;

23 (3) any detention facility, prison or jail;

24 (4) any courthouse;

25 ~~(5) any courtroom, except that nothing in this section would preclude~~
26 a judge from carrying a concealed ~~weapon~~ or determining who will may
27 carry a concealed ~~weapon~~ handgun in the judge's courtroom;

handgun

28 ~~(6)~~ (5) any polling place on the day an election is held;

29 ~~(7) any meeting of the governing body of a county, city or other po-~~
30 ~~litical or taxing subdivision of the state, or any committee or subcommit-~~
31 ~~tee thereof;~~

32 ~~(8) on the state fairgrounds;~~

33 ~~(9)~~ (6) any state office building;

34 ~~(10)~~ (7) any facility hosting an athletic event not related to or involv-
35 ing firearms which is sponsored by a private or public elementary or
36 secondary school or any private or public institution of postsecondary
37 education;

38 ~~(11)~~ (8) any facility hosting a professional athletic event not related
39 to or involving firearms;

40 ~~(12)~~ (9) any portion of a drinking establishment as defined by K.S.A.
41 41-2601, and amendments thereto, except that this provision shall not
42 apply to a restaurant as defined by K.S.A. 41-2601, and amendments
43 thereto;

1 ~~(13)~~ (10) any elementary or secondary school, attendance center, ad-
 2 ministrative office, services center or other facility;
 3 ~~(14)~~ (11) any community college, college or university facility;
 4 ~~(15)~~ any place where the carrying of firearms is prohibited by federal
 5 or state law;
 6 ~~(16)~~ (12) any child exchange and visitation center provided for in
 7 K.S.A. 75-720, and amendments thereto;
 8 ~~(17)~~ (13) any community mental health center organized pursuant to
 9 K.S.A. 19-4001 et seq., and amendments thereto; any mental health clinic
 10 organized pursuant to K.S.A. 65-211 et seq., and amendments thereto;
 11 any psychiatric hospital licensed under K.S.A. 75-3307b, and amend-
 12 ments thereto; or a state psychiatric hospital, as follows: Larned state
 13 hospital, Osawatomie state hospital or Rainbow mental health facility;
 14 ~~(18)~~ any city hall;
 15 ~~(19)~~ (14) any public library operated by the state or by a political
 16 subdivision of the state;
 17 ~~(20)~~ (15) any day care home or group day care home, as defined in
 18 Kansas administrative regulation 28-4-113, or any preschool or childcare
 19 center, as defined in Kansas administrative regulation 28-4-420; — or
 20 ~~(21)~~ (16) any church or temple place of worship [or] — .
 21 ~~(22)~~ any place in violation of K.S.A. 21-4218, and amendments
 22 thereto.
 23 (b) (1) Violation of this section is a class A misdemeanor. Carrying
 24 a concealed handgun in violation of any restriction or prohibition allowed
 25 by subsection (a), if the premises are posted in accordance with rules and
 26 regulations adopted by the attorney general pursuant to subsection (c) of
 27 K.S.A. 2009 Supp. 75-7c11, shall upon the first offense be punishable by
 28 a fine of not more than \$50 payable to the county where the infraction
 29 occurred and upon the second offense be punishable by a fine of not more
 30 than \$100 payable to the county where the infraction occurred. Any third
 31 or subsequent offense is a class B misdemeanor.
 32 (2) Notwithstanding the provisions of subsection (a), it is not a vio-
 33 lation of this section for the United States attorney for the district of
 34 Kansas, the attorney general, any district attorney or county attorney, any
 35 assistant United States attorney if authorized by the United States attor-
 36 ney for the district of Kansas, any assistant attorney general if authorized
 37 by the attorney general, or any assistant district attorney or assistant
 38 county attorney if authorized by the district attorney or county attorney
 39 by whom such assistant is employed, to possess a firearm handgun within
 40 any county courthouse or court related facility, subject to any restrictions
 41 or prohibitions imposed in any courtroom by the chief judge of the judicial
 42 district. The provisions of this paragraph shall not apply to any person
 43 who is not in compliance with K.S.A. 2009 Supp. 75-7c19, and amend-

Nothing in this act shall be construed to prevent:
 (1) Any public or private employer from restricting or prohibiting by
 personnel policies persons licensed under this act from carrying a
 concealed handgun while on the premises of the employer's
 business or while engaged in the duties of the person's
 employment by the employer, except that no employer may
 prohibit possession of a handgun in a private means of
 conveyance, even if parked on the employer's premises; or
 (2) any private business or city, county or political subdivision from
 restricting or prohibiting persons licensed or recognized under this
 act from carrying a concealed handgun within a building or
 buildings of such entity, provided that the premises are posted in
 accordance with rules and regulations adopted by the attorney
 general pursuant to subsection (f), as premises where carrying a
 concealed handgun is prohibited.

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(c) (1) It shall be a violation of this section to carry

or (b)

(f). Any person who violates this section shall be guilty of a misdemeanor punishable by a fine of: (A) Not more than \$50 for the first offense; or (B) not more than \$100 for the second offense.

subsections (a) or (b)

of the buildings described in subsection (a) or (b)

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91

1 ments thereto.

2 ~~(e)~~ For the purposes of this section, "building" shall not include any
3 structure, or any area of any structure, designated for the parking of
4 motor vehicles.

(d)

5 ~~(d)~~ Nothing in this act shall be construed to authorize the carrying
6 or possession of a handgun where prohibited by federal law.

(e)

7 ~~Sec. 0. K.S.A. 2000 Supp. 75 7e11 is hereby amended to read as~~
8 ~~follows: 75 7e11. (a) Nothing in this act shall be construed to prevent:~~

9 ~~(1) Any public or private employer from restricting or prohibiting by~~
10 ~~personnel policies persons licensed under this act from carrying a con-~~
11 ~~cealed weapon while on the premises of the employer's business or while~~
12 ~~engaged in the duties of the person's employment by the employer, ex-~~
13 ~~cept that no employer may prohibit possession of a firearm in a private~~
14 ~~means of conveyance, even if parked on the employer's premises; or~~

15 ~~(2) any private business or city, county or political subdivision from~~
16 ~~restricting or prohibiting persons licensed under this act from carrying a~~
17 ~~concealed weapon handgun within a building or buildings of such entity,~~
18 ~~provided that the premises are posted, in accordance with rules and reg-~~
19 ~~ulations adopted by the attorney general pursuant to this section, as prem-~~
20 ~~ises where carrying a concealed weapon is prohibited subsection (e).~~

21 ~~(b) (1) Carrying a concealed weapon handgun in violation of any re-~~
22 ~~striction or prohibition allowed by subsection (a), if the premises are~~
23 ~~posted in accordance with rules and regulations adopted by the attorney~~
24 ~~general, pursuant to subsection (e), upon the first offense shall be punish-~~
25 ~~able by a fine of not more than \$50 payable to the county where the~~
26 ~~infraction occurred and upon the second offense be punishable by a fine~~
27 ~~of not more than \$100 payable to the county where the infraction oc-~~
28 ~~curred. Any third or subsequent offense is a class B misdemeanor.~~

29 ~~(2) Notwithstanding the provisions of subsection (a)(2), it is not a~~
30 ~~violation of this section for the United States attorney for the district of~~
31 ~~Kansas, the attorney general, any district attorney or county attorney, any~~
32 ~~assistant United States attorney if authorized by the United States attor-~~
33 ~~ney for the district of Kansas, any assistant attorney general if authorized~~
34 ~~by the attorney general, or any assistant district attorney or assistant~~
35 ~~county attorney if authorized by the district attorney or county attorney~~
36 ~~by whom such assistant is employed, to possess a firearm handgun within~~
37 ~~any county courthouse or court related facility, subject to any restrictions~~
38 ~~or prohibitions imposed in any courtroom by the chief judge of the judicial~~
39 ~~district. The provisions of this paragraph shall not apply to any person not~~
40 ~~in compliance with K.S.A. 2000 Supp. 75 7e10, and amendments thereto.~~

41 (e) The attorney general shall adopt rules and regulations prescribing
42 the location, content, size and other characteristics of signs to be posted
43 on premises where carrying a concealed weapon handgun is prohibited

(f) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on premises where carrying a concealed handgun is prohibited pursuant to subsections (a) and (b). Such regulations shall prescribe, at a minimum, that:
(1) The signs be posted at all exterior entrances to the prohibited buildings;
(2) they be posted at eye level of adults using the entrance and not more than 12 inches to the right or left of such entrance;
(3) the signs not be obstructed or altered in any way; and
(4) signs which become illegible for any reason be immediately replaced.

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[Handwritten initials]

1 pursuant to subsection (a) of K.S.A. 2000 Supp. 75-7c10 and paragraph
 2 (2) of subsection (a) of K.S.A. 2000 Supp. 75-7c11 and amendments
 3 thereto. Such regulations shall prescribe, at a minimum, that the signs be
 4 eight inches tall by 10 inches wide; that they be posted at all exterior
 5 entrances to the prohibited buildings; that the signs be posted at eye level
 6 of adults using the entrance and not more than 12 inches to the right or
 7 left of such entrance; that the signs not be obstructed or altered in any
 8 way; and that signs which become illegible for any reason be immediately
 9 replaced.

10 (d) For the purposes of this section, "building" shall not include any
 11 structure, or any area of any structure, designated for the parking of
 12 motor vehicles.

13 Sec. 10. K.S.A. 2009 Supp. 75-7c12 is hereby amended to read as
 14 follows: 75-7c12. (a) It is a class A nonperson misdemeanor for a person
 15 licensed pursuant to this act to carry a concealed weapon while under the
 16 influence of alcohol or drugs, or both. Except as otherwise provided in
 17 this section, a person under the influence of alcohol or an illegally used
 18 controlled substance, to such a degree as to render such person incapable
 19 of safely operating a firearm, who knowingly possesses or carries a loaded
 20 firearm on or about the person, or within the person's immediate access
 21 and control while in a vehicle, commits a class A nonperson misdemeanor.

22 (b) This section shall not apply to any of the following:

23 (1) A person who possesses or carries a firearm while in the person's
 24 own dwelling or place of business or on land owned or possessed by the
 25 person; or

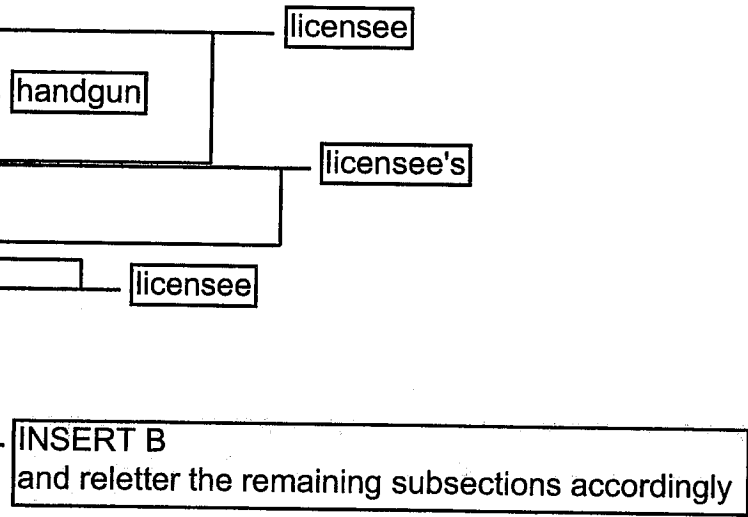
26 (2) the transitory possession or use of a firearm during an act com-
 27 mitted in self-defense or in defense of another person or any other act
 28 committed if legally justified or excused, provided such possession or use
 29 lasts no longer than is immediately necessary.

30 (b) (c) In any criminal prosecution for carrying a concealed weapon
 31 while under the influence of alcohol or drugs, or both, evidence of the
 32 concentration of alcohol or drugs in the defendant's blood, urine, breath
 33 or other bodily substance may be admitted and shall give rise to the
 34 following:

35 (1) If the alcohol concentration is less than .08, that fact may be con-
 36 sidered with other competent evidence to determine if the defendant was
 37 under the influence of alcohol, or both alcohol and drugs as it applies in
 38 subsection (a).

39 (2) If the alcohol concentration is .08 or more, it shall be prima facie
 40 evidence that the defendant was under the influence of alcohol as it ap-
 41 plies in subsection (a).

42 (3) If there was present in the defendant's bodily substance any nar-
 43 cotic, hypnotic, somnifacient, stimulating or other drug which has the



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1 capacity to render the defendant incapacitated, that fact may be consid-
2 ered to determine if the defendant was under the influence of drugs, or
3 both alcohol and drugs *as it applies in subsection (a)*.

4 ~~(e) (d)~~ The provisions of subsection (b) shall not be construed as
5 limiting the introduction of any other competent evidence bearing upon
6 the question of whether or not the defendant was under the influence of
7 alcohol or drugs, or both.

8 ~~(d)~~ Any person licensed pursuant to this act is deemed to have given
9 consent to submit to one or more tests of the person's blood, breath,
10 urine or other bodily substance to determine the presence of alcohol or
11 drugs. The testing deemed consented to under this subsection shall in-
12 clude all quantitative and qualitative tests for alcohol and drugs. A law
13 enforcement officer shall request a person to submit to a test or tests
14 deemed consented to under this subsection if such person is arrested or
15 otherwise taken into custody for any offense involving carrying of a con-
16 cealed weapon while under the influence of alcohol or drugs, or both, in
17 violation of this section and the arresting officer has reasonable grounds
18 to believe that prior to arrest the person was carrying a concealed weapon
19 under the influence of alcohol or drugs, or both. The test or tests shall
20 be administered in the manner provided by for administration of tests for
21 alcohol or drugs pursuant to K.S.A. 8-1001, and amendments thereto,
22 and the person performing or assisting in the performance of any such
23 test and the law enforcement officer requesting any such test shall be
24 immune from civil and criminal liability to the same extent as in the case
25 of tests performed pursuant to that statute.

26 ~~(e)~~ Before a test or tests are administered under this section, the
27 person shall be given oral and written notice that:

28 ~~(1)~~ Kansas law requires the person to submit to and complete one or
29 more tests of breath, blood or urine to determine if the person is under
30 the influence of alcohol or drugs, or both;

31 ~~(2)~~ the opportunity to consent to or refuse a test is not a constitutional
32 right;

33 ~~(3)~~ there is no constitutional right to consult with an attorney regard-
34 ing whether to submit to testing;

35 ~~(4)~~ if the person refuses to submit to and complete any test of breath,
36 blood or urine hereafter requested by a law enforcement officer, the
37 person's license to carry a concealed weapon will be revoked for a mini-
38 mum of three years; and

39 ~~(5)~~ after the completion of the testing, the person has the right to
40 consult with an attorney and may secure additional testing, which, if de-
41 sired, should be done as soon as possible and is customarily available from
42 medical care facilities and physicians.

43 ~~(f)~~ After giving the foregoing information, a law enforcement officer

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1 shall request the person to submit to testing. The selection of the test or
2 tests shall be made by the officer. If the person refuses to submit to and
3 complete a test as requested pursuant to this section, additional testing
4 shall not be given unless the law enforcement officer has probable cause
5 to believe that the person while under the influence of alcohol or drugs,
6 or both, was carrying a concealed weapon used in killing or seriously
7 injuring another person. If the test results show a blood or breath alcohol
8 concentration of .08 or greater, the person's license to carry a concealed
9 weapon shall be subject to suspension or revocation pursuant to this act.
10 —(g) The person's refusal shall be admissible in evidence against the
11 person at any trial on a charge arising out of carrying a concealed weapon
12 while under the influence of alcohol or drugs, or both.
13 —(h) Failure of a person to provide an adequate breath sample or sam-
14 ples as directed shall constitute a refusal unless the person shows that the
15 failure was due to physical inability caused by a medical condition unre-
16 lated to any ingested alcohol or drugs.
17 —(i) (1) If the person refuses to submit to testing when requested pur-
18 suant to this section, the person's weapon and license shall be seized by
19 the law enforcement officer and the person's license shall be forwarded
20 to the attorney general, together with the officer's certification of the
21 following: (A) There existed reasonable grounds to believe the person was
22 carrying a concealed weapon while under the influence of alcohol or
23 drugs, or both, and a statement of such grounds; (B) the person had been
24 placed under arrest or was in custody; (C) a law enforcement officer had
25 presented the person with the oral and written notice required by this
26 section; and (D) the person refused to submit to and complete a test as
27 requested by a law enforcement officer.
28 —(2) If the person fails a test administered pursuant to this section, the
29 person's weapon and license shall be seized by the law enforcement of-
30 ficer and the person's license shall be forwarded to the attorney general,
31 together with the officer's certification of the following: (A) There existed
32 reasonable grounds to believe the person was carrying a concealed
33 weapon while under the influence of alcohol or drugs, or both; (B) the
34 person had been placed under arrest or was in custody; (C) a law enforce-
35 ment officer had presented the person with the oral and written notice
36 required by K.S.A. 8-1001, and amendments thereto; and (D) the result
37 of the test showed that the person had an alcohol concentration of .08 or
38 greater in such person's blood or breath.
39 —(3) With regard to failure of a breath test, in addition to those matters
40 required to be certified under subsection (h)(2), the law enforcement
41 officer shall certify that: (A) The testing equipment used was certified by
42 the Kansas department of health and environment; (B) the testing pro-
43 cedures used were in accordance with the requirements set out by the

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1 Kansas department of health and environment, and (C) the person who
2 operated the testing equipment was certified by the Kansas department
3 of health and environment to operate such equipment.

4 ~~(4) For purposes of this subsection, certification shall be complete
5 upon signing, and no additional acts of oath, affirmation, acknowledgment
6 or proof of execution shall be required. The signed certification or a copy
7 or photostatic reproduction thereof shall be admissible in evidence in all
8 proceedings brought pursuant to this act, and receipt of any such certi-
9 fication, copy or reproduction shall accord the department authority to
10 proceed as set forth herein. Any person who signs a certification submit-
11 ted to the attorney general knowing it contains a false statement is guilty
12 of a class B nonperson misdemeanor.~~

13 ~~(5) Upon receipt of a certification in accordance with this section, the
14 attorney general shall revoke the person's license for three years.~~

15 ~~(j) It shall not be a defense that the person did not understand the
16 written or oral notice required by this section.~~

17 ~~(k) No test results shall be suppressed because of technical irregu-
18 larities in the consent or notice required pursuant to this act.~~

19 ~~(4) (e) Nothing in this section shall be construed to limit the admis-
20 sibility at any trial of alcohol or drug concentration testing results obtained
21 pursuant to a search warrant or voluntary testing, but no person shall be
22 deemed to have implied consent to mandatory testing by obtaining a con-
23 cealed handgun license or by carrying a concealed handgun under the
24 terms of this act.~~

25 ~~(m) (f) Upon the request of any person submitting to testing under
26 this section subsection (e), a report of the results of the testing shall be
27 made available to such person.~~

28 Sec. 11. K.S.A. 2009 Supp. 21-4218 is hereby amended to read as
29 follows: 21-4218. (a) Possession of a firearm on the grounds of or in the
30 state capitol building, within the governor's residence, on the grounds of
31 or in any building on the grounds of the governor's residence, within the
32 state office building at 915 Harrison known as the Docking state office
33 building, within the state office building at 900 Jackson known as the
34 Landon state office building, within the Kansas judicial center at 301 West
35 10th, within any other state-owned or leased building if the secretary of
36 administration has so designated by rules and regulations and conspicu-
37 ously placed signs clearly stating that firearms are prohibited within such
38 building, and within any county courthouse, unless, by county resolution,
39 the board of county commissioners authorize the possession of a firearm
40 within such courthouse, is possession of a firearm by a person other than
41 a commissioned law enforcement officer, a full-time salaried law enforce-
42 ment officer of another state or the federal government who is carrying
43 out official duties while in this state, any person summoned by any such

INSERT C
and renumber the remaining sections accordingly

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1 officer to assist in making arrests or preserving the peace while actually
 2 engaged in assisting such officer or a member of the military of this state
 3 or the United States engaged in the performance of duties who brings a
 4 firearm into, or possesses a firearm within, the state capitol building, any
 5 state legislative office, any office of the governor or office of other state
 6 government elected official, any hearing room in which any committee
 7 of the state legislature or either house thereof is conducting a hearing,
 8 the governor's residence, on the grounds of or in any building on the
 9 grounds of the governor's residence or the Landon state office building,
 10 Docking state office building, Kansas judicial center, county courthouses
 11 unless otherwise allowed, or any other state owned or leased building, so
 12 designated. (a) Except as otherwise specified in this section, no person
 13 shall possess a firearm on the grounds in any of the following places:

- 14 (1) the state capitol building;
- 15 (2) within the governor's residence;
- 16 (3) on the grounds of or in any building on the grounds of the gov-
 17 ernor's residence;
- 18 (4) within the state office building at 915 Harrison known as the
 19 Docking state office building;
- 20 (5) within the state office building at 900 Jackson known as the Lan-
 21 don state office building;
- 22 (6) within the Kansas judicial center building at 301 West Tenth
 23 Street;
- 24 (7) within any other state-owned or leased building if the secretary
 25 of administration has so designated by rules and regulations and con-
 26 spicuously placed signs clearly stating that firearms are prohibited within
 27 such building; and
- 28 (8) within any county courthouse, unless, by county resolution, the
 29 board of county commissioners authorize the possession of a firearm
 30 within such courthouse.

31 (b) The prohibitions in subsection (a) shall not apply to:

- 32 (1) A commissioned law enforcement officer;
- 33 (2) a full-time salaried law enforcement officer of another state or the
 34 federal government who is carrying out official duties while in this state;
- 35 (3) any person summoned by any such officer to assist in making
 36 arrests or preserving the peace while actually engaged in assisting such
 37 officer;
- 38 (4) a member of the military of this state or the United States engaged
 39 in the performance of duties ~~who brings a firearm into, or possesses a~~
 40 ~~firearm within the state capitol building, any state legislative office, any~~
 41 ~~office of the governor or office of other state government elected official,~~
 42 ~~any hearing room in which any committee of the state legislature or either~~
 43 ~~house thereof is conducting a hearing, the governor's residence, on the~~

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1 ~~grounds of or in any building on the grounds of the governor's residence~~
2 ~~or the Landon state office building, Docking state office building, Kansas~~
3 ~~judicial center, county courthouses unless otherwise allowed, or any other~~
4 ~~state owned or leased building, so designated; or~~

5 (5) ~~a person with a license issued pursuant to or recognized under~~
6 ~~K.S.A. 75-7c01 through 75-7c19, and amendments thereto, except in~~
7 ~~buildings posted in accordance with K.S.A. 75-7c10, and amendments~~
8 ~~thereto, and in the areas specified in paragraphs (2) and (3) of subsection~~
9 ~~(a).~~

et seq.

, (7) and (8)

10 (c) For the purposes of paragraphs (1), (4), (5), (6) ~~and (7)~~ of subsec-
11 tion (a), "building" shall not include any structure, or any area of any
12 structure, designated for the parking of motor vehicles.

13 ~~(b)~~ (d) It is not a violation of this section for the governor, the gov-
14 ernor's immediate family, or specifically authorized guests of the governor
15 to possess a firearm within the governor's residence or on the grounds of
16 or in any building on the grounds of the governor's residence.

17 ~~(e)~~ (e) It is not a violation of this section for the United States attorney
18 for the district of Kansas, the attorney general, any district attorney or
19 county attorney, any assistant United States attorney if authorized by the
20 United States attorney for the district of Kansas, any assistant attorney
21 general if authorized by the attorney general, or any assistant district
22 attorney or assistant county attorney if authorized by the district attorney
23 or county attorney by whom such assistant is employed, to possess a fire-
24 arm within any county courthouse and court-related facility, subject to
25 any restrictions or prohibitions imposed in any courtroom by the chief
26 judge of the judicial district. The provisions of this paragraph shall not
27 apply to any person not in compliance with K.S.A. 2009 Supp. 75-7c19,
28 and amendments thereto.

29 ~~(d)~~ (f) Notwithstanding the provisions of this section, any county may
30 elect by passage of a resolution that the provisions of subsection (c) shall
31 not apply to such county's courthouse or court-related facilities if: (1)
32 Such facilities have adequate security measures to ensure that no weapons
33 are permitted to be carried into such facilities. For the purposes of this
34 section, "adequate security measures" means the use of electronic equip-
35 ment and personnel to detect and restrict the carrying of any weapons
36 into the facility, including, but not limited to, metal detectors, metal de-
37 tector wands or any other equipment used for similar purposes;

38 (2) such facilities have adequate measures for storing and securing
39 lawfully carried weapons, including, but not limited to, the use of gun
40 lockers or other similar storage options;

41 (3) such county also has a policy or regulation requiring all law en-
42 forcement officers to secure and store such officer's firearm upon enter-
43 ing the courthouse or court-related facility. Such policy or regulation may

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1 provide that it does not apply to court security or sheriff's office personnel
2 for such county; and

3 (4) such facilities have a sign conspicuously posted at each entryway
4 into such facility stating that the provisions of subsection (c) do not apply
5 to such facility.

6 (e) (g) Violation of subsection (a) is a class A misdemeanor.

7 (f) (h) This section shall be part of and supplemental to the Kansas
8 criminal code.

9 Sec. 12. K.S.A. 2009 Supp. ~~21-4218~~, 75-7c02, 75-7c03, 75-7c04, 75-
10 7c05, 75-7c06, 75-7c07, 75-7c08, 75-7c10, 75-7c11 ~~and 75-7c12~~ are
11 hereby repealed.

21-4201, 21-4204, 21-4218, 75-7c01,

, 75-7c12 and 75-7c19

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

INSERT A

Section 1. K.S.A. 2009 Supp. 75-7c01 is hereby amended to read as follows: 75-7c01. K.S.A. 2009 Supp. 75-7c01 through ~~75-7c18~~ 75-7c19, and amendments thereto, shall be known and may be cited as the personal and family protection act.

INSERT B

(c) An officer shall have probable cause to believe that the licensee used or attempted to use a concealed handgun under the influence of alcohol or drugs, or both, if the handgun was operated by the licensee in such a manner as to have caused death of, or serious injury to, a person. In such event, one or more tests of the licensee's blood, breath, urine or other bodily substance to determine the presence of alcohol, drugs, or both, may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto. As used in this section, "serious injury" shall be defined in accordance with K.S.A. 8-1001, and amendments thereto.

(d) The test or tests shall be administered in the manner provided by for administration of tests for alcohol or drugs pursuant to K.S.A. 8-1001, and amendments thereto. Notwithstanding any provisions of K.S.A. 8-1001, and amendments thereto, to the contrary, any testing to determine impairment shall be through the voluntary consent of the licensee to be tested or through a search warrant under the authority of K.S.A. 22-2502, and amendments thereto, and no licensee shall be deemed to have consented to such testing solely by the use or attempted use of a concealed handgun.

(e) If a licensee is subject to subsection (c) and refuses to submit to and complete any test of breath, blood or urine requested by a law enforcement officer, the licensee's license to carry a concealed handgun shall be revoked for a minimum of one year for a first offense and three years for a second or subsequent offense.

(f) If the licensee submits to and completes the test or tests and the test results show an alcohol concentration of .08 or greater or shows the presence of a drug or drugs which render the licensee incapable of safely handling a handgun, the licensee's license to carry concealed handgun is subject to suspension or revocation pursuant to K.S.A. 2009 Supp. 75-7c07, and amendments thereto.

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Sec. 11. K.S.A. 2009 Supp. 75-7c19 is hereby amended to read as follows: 75-7c19. Any person not subject to the provisions of subsection (a) of K.S.A. 21-4201, and amendments thereto, under the authority of paragraph (7) of subsection (c) of K.S.A. 21-4201, and amendments thereto, shall obtain at their own expense, and maintain a license to carry concealed ~~weapons permit~~ *handguns* as authorized by K.S.A. 2009 Supp. 75-7c01 ~~through 75-7c17 et seq.~~, and amendments thereto. In addition, such person shall complete a ~~firearms~~ *handgun* training course as determined by the director of police training of the law enforcement training center.

Sec. 12. K.S.A. 2009 Supp. 21-4201 is hereby amended to read as follows: 21-4201. (a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;

(2) carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;

(3) carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) carrying any pistol, revolver or other firearm concealed on one's person except when on the person's land or in the person's abode or fixed place of business;

(5) setting a spring gun;

(6) possessing any device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm;

(7) selling, manufacturing, purchasing, possessing or carrying a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger; or

(8) possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight.

(b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) manufacture of, transportation to, or sale of weapons to a person authorized under subsections (b)(1), (2) and (3) to possess such weapons.

(c) Subsection (a)(4) shall not apply to or affect the following:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) licensed hunters or fishermen, while engaged in hunting or fishing;

(3) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(5) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto;

(6) special deputy sheriffs described in K.S.A. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a

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part-time law enforcement officer under K.S.A. 74-5607a, and amendments thereto; or

(7) the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 2009 Supp. 75-7c19, and amendments thereto.

(d) Subsections (a)(1), (6) and (7) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) Subsection (a)(8) shall not apply to a governmental laboratory or solid plastic bullets.

(f) Subsection (a)(6) shall not apply to a law enforcement officer who is:

(1) Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized, regular training;

(2) designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(6); and

(3) in possession of commercially manufactured devices which are: (A) Owned by the law enforcement agency; (B) in such officer's possession only during specific operations; and (C) approved by the bureau of alcohol, tobacco, firearms and explosives of the United States department of justice.

(g) Subsections (a)(6), (7) and (8) shall not apply to any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsections (a)(6), (7) and (8) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory.

(h) Subsection (a)(4) shall not apply to any person carrying a concealed ~~weapon~~ handgun as authorized by K.S.A. 2009 Supp. 75-7c01 through ~~75-7c17~~ et seq., and amendments thereto. It

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shall not be a violation of this section if a person violates the provisions of K.S.A. 2009 Supp. 75-7c03, and amendments thereto, but has an otherwise valid license to carry a concealed handgun which is issued or recognized by this state.

(i) Subsections (a)(6) and (7) shall not apply to or affect any person or entity in compliance with the national firearms act, 26 U.S.C. 5801 et seq.

(j) It shall be a defense that the defendant is within an exemption.

(k) Violation of subsections (a)(1) through (a)(5) is a class A nonperson misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a severity level 9, nonperson felony.

(l) As used in this section, "throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

Sec. 13. K.S.A. 2009 Supp. 21-4204 is hereby amended to read as follows: 21-4204. (a) Criminal possession of a firearm is:

(1) Possession of any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(2) possession of any firearm by a person who has been convicted of a person felony or a violation of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, and was found to have been in possession of a firearm at the time of the commission of the offense;

(3) possession of any firearm by a person who, within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(4)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was found not to have been in possession of a firearm at the time of the commission of the offense;

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(4) possession of any firearm by a person who, within the preceding 10 years, has been convicted of: (A) A felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, K.S.A. 2009 Supp. 21-36a05 or 21-36a06, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was found not to have been in possession of a firearm at the time of the commission of the offense, and has not had the conviction of such crime expunged or been pardoned for such crime; or (B) a nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the offense;

(5) possession of any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12 or at any regularly scheduled school sponsored activity or event;

(6) refusal to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law enforcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer; or

(7) possession of any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto.

(b) Subsection (a)(5) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

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(2) any possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; or

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day; *or*

(5) *possession of a handgun by an individual who is licensed by the attorney general to carry a concealed handgun under K.S.A. 2009 Supp. 75-7c01 et seq., and amendments thereto.*

(c) Subsection (a)(7) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 2009 Supp. 75-7c26, and amendments thereto.

(d) Violation of subsection (a)(1) or (a)(5) is a class B nonperson select misdemeanor; violation of subsection (a)(2), (a)(3), (a)(4) or (a)(7) is a severity level 8, nonperson felony; violation of subsection (a)(6) is a class A nonperson misdemeanor.

HOUSE BILL No. 2512

By Committee on Federal and State Affairs

1-21

9 AN ACT concerning children in need of care; relating to powers of the
10 court; amending K.S.A. 75-3330 and K.S.A. 2009 Supp. 38-2242, 38-
11 2243, 38-2252, 38-2255, 38-2258, 38-2259, 38-2263, 38-2264 and 38-
12 2270 and repealing the existing sections.

65-508 and

38-2236,

; also repealing K.S.A. 38-134, 38-306 and 38-315 and K.S.A.
2009 Supp. 38-1518 and 38-1813

and 65-6313

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2009 Supp. 38-2242 is hereby amended to read as
16 follows: 38-2242. (a) The court, upon verified application, may issue ex
17 parte an order directing that a child be held in protective custody and, if
18 the child has not been taken into custody, an order directing that the
19 child be taken into custody. The application shall state for each child:

- 20 (1) The applicant's belief that the child is a child in need of care;
- 21 (2) that the child is likely to sustain harm if not immediately removed
- 22 from the home;
- 23 (3) that allowing the child to remain in the home is contrary to the
- 24 welfare of the child; and
- 25 (4) the facts relied upon to support the application, including efforts
- 26 known to the applicant to maintain the family unit and prevent the un-
- 27 necessary removal of the child from the child's home, or the specific facts
- 28 supporting that an emergency exists which threatens the safety of the
- 29 child.

30 (b) (1) The order of protective custody may be issued only after the
31 court has determined there is probable cause to believe the allegations
32 in the application are true. The order shall remain in effect until the
33 temporary custody hearing provided for in K.S.A. 2009 Supp. 38-2243,
34 and amendments thereto, unless earlier rescinded by the court.

35 (2) No child shall be held in protective custody for more than 72
36 hours, excluding Saturdays, Sundays and legal holidays, unless within the
37 72-hour period a determination is made as to the necessity for temporary
38 custody in a temporary custody hearing. The time spent in custody pur-
39 suant to K.S.A. 2009 Supp. 38-2232, and amendments thereto, shall be
40 included in calculating the 72-hour period. Nothing in this subsection
41 shall be construed to mean that the child must remain in protective cus-
42 tody for 72 hours. If a child is in the protective custody of the secretary,
43 the secretary shall allow at least one supervised visit between the child

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Date: 3-19-2010
Attachment 2

1 and the parent or parents within such time period as the child is in pro-
2 tective custody. The court may prohibit such supervised visit if the court
3 determines it is not in the best interest of the child.

4 (c) (1) Whenever the court determines the necessity for an order of
5 protective custody, the court may place the child in the protective custody
6 of:

7 (A) A parent or other person having custody of the child and may
8 enter a restraining order pursuant to subsection (e);

9 (B) a person, other than the parent or other person having custody,
10 who shall not be required to be licensed under article 5 of chapter 65 of
11 the Kansas Statutes Annotated, and amendments thereto;

12 (C) a youth residential facility;

13 (D) a shelter facility; or

14 (E) the secretary, if the child is 15 years of age or younger, or 16 or
15 17 years of age if the child has no identifiable parental or family resources
16 or shows signs of physical, mental, emotional or sexual abuse.

17 (2) If the secretary presents the court with a plan to provide services
18 to a child or family which the court finds will assure the safety of the
19 child, the court may only place the child in the protective custody of the
20 secretary until the court finds the services are in place. The court shall
21 have the authority to require any person or entity agreeing to participate
22 in the plan to perform as set out in the plan. When the child is placed in
23 the protective custody of the secretary, the secretary shall ~~have the dis-~~
24 ~~cretionary authority to place the child with a parent or to make other~~
25 ~~suitable placement for present to the court the secretary's recommenda-~~
26 ~~tion for placement of the child. The court shall consider the secretary's~~
27 ~~placement recommendation in ordering temporary placement of the child.~~
28 ~~If the court does not place the child according to the secretary's placement~~
29 ~~recommendation, the reasons for denying such placement shall be set forth~~
30 ~~in the court's order.~~ When the child is presently alleged, but not yet
31 adjudicated, to be a child in need of care solely pursuant to subsection
32 (d)(9) or (d)(10) of K.S.A. 2009 Supp. 38-2202, and amendments thereto,
33 the child may be placed in a juvenile detention facility or other secure
34 facility pursuant to an order of protective custody for a period of not to
35 exceed 24 hours, excluding Saturdays, Sundays and legal holidays.

36 (d) The order of protective custody shall be served pursuant to sub-
37 section (a) of K.S.A. 2009 Supp. 38-2237, and amendments thereto, on
38 the child's parents and any other person having legal custody of the child.
39 The order shall prohibit the removal of the child from the court's juris-
40 diction without the court's permission.

41 (e) If the court issues an order of protective custody, the court may
42 also enter an order restraining any alleged perpetrator of physical, sexual,
43 mental or emotional abuse of the child from residing in the child's home;

have the discretionary authority to place the child with a parent or to make other suitable placement for

may review, for good cause,

orders a change in

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(3) If the child is placed in the custody of the child's grandparent, the secretary may provide a sufficient amount of reimbursement to the grandparent for the costs of the care of such child after considering the grandparent's resources available to meet the needs of the child, except that the amount of reimbursement shall not exceed the maximum reimbursement rate that licensed foster parents receive for the care of a child under similar circumstances.

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1 visiting, contacting, harassing or intimidating the child, other family mem-
2 ber or witness; or attempting to visit, contact, harass or intimidate the
3 child, other family member or witness. Such restraining order shall be
4 served by personal service pursuant to subsection (a) of K.S.A. 2009 Supp.
5 38-2237, and amendments thereto, on any alleged perpetrator to whom
6 the order is directed.

7 (f) (1) The court shall not enter an order removing a child from the
8 custody of a parent pursuant to this section unless the court first finds
9 probable cause that: (A)(i) The child is likely to sustain harm if not im-
10 mediately removed from the home;

11 (ii) allowing the child to remain in home is contrary to the welfare of
12 the child; or

13 (iii) immediate placement of the child is in the best interest of the
14 child; and

15 (B) reasonable efforts have been made to maintain the family unit
16 and prevent the unnecessary removal of the child from the child's home
17 or that an emergency exists which threatens the safety to the child.

18 (2) Such findings shall be included in any order entered by the court.
19 If the child is placed in the custody of the secretary, the court shall provide
20 the secretary with a written copy of any orders entered upon making the
21 order.

22 (g) *The court, in issuing an order under this section, may also set*
23 *forth where the child shall not be placed.*

24 Sec. 2. K.S.A. 2009 Supp. 38-2243 is hereby amended to read as
25 follows: 38-2243. (a) Upon notice and hearing, the court may issue an
26 order directing who shall have temporary custody and may modify the
27 order during the pendency of the proceedings as will best serve the child's
28 welfare.

29 (b) A hearing pursuant to this section shall be held within 72 hours,
30 excluding Saturdays, Sundays and legal holidays, following a child having
31 been taken into protective custody.

32 (c) Whenever it is determined that a temporary custody hearing is
33 required, the court shall immediately set the time and place for the hear-
34 ing. Notice of a temporary custody hearing shall be given to all parties
35 and interested parties.

36 (d) Notice of the temporary custody hearing shall be given at least
37 24 hours prior to the hearing. The court may continue the hearing to
38 afford the 24 hours prior notice or, with the consent of the party or
39 interested party, proceed with the hearing at the designated time. If an
40 order of temporary custody is entered and the parent or other person
41 having custody of the child has not been notified of the hearing, did not
42 appear or waive appearance and requests a rehearing, the court shall
43 rehear the matter without unnecessary delay.

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1 (e) Oral notice may be used for giving notice of a temporary custody
2 hearing where there is insufficient time to give written notice. Oral notice
3 is completed upon filing a certificate of oral notice.

4 (f) The court may enter an order of temporary custody after deter-
5 mining there is probable cause to believe that the: (1) Child is dangerous
6 to self or to others; (2) child is not likely to be available within the juris-
7 diction of the court for future proceedings; or (3) health or welfare of the
8 child may be endangered without further care.

9 (g) (1) Whenever the court determines the necessity for an order of
10 temporary custody the court may place the child in the temporary custody
11 of:

12 (A) A parent or other person having custody of the child and may
13 enter a restraining order pursuant to subsection (h);

14 (B) a person, other than the parent or other person having custody,
15 who shall not be required to be licensed under article 5 of chapter 65 of
16 the Kansas Statutes Annotated, and amendments thereto;

17 (C) a youth residential facility;

18 (D) a shelter facility; or

19 (E) the secretary, if the child is 15 years of age or younger, or 16 or
20 17 years of age if the child has no identifiable parental or family resources
21 or shows signs of physical, mental, emotional or sexual abuse.

22 (2) If the secretary presents the court with a plan to provide services
23 to a child or family which the court finds will assure the safety of the
24 child, the court may only place the child in the temporary custody of the
25 secretary until the court finds the services are in place. The court shall
26 have the authority to require any person or entity agreeing to participate
27 in the plan to perform as set out in the plan. When the child is placed in
28 the temporary custody of the secretary, the secretary shall ~~have the dis-
29 cretionary authority to place the child with a parent or to make other
30 suitable placement for present to the court the secretary's recommenda-
31 tion for placement of the child. The court shall consider the secretary's
32 placement recommendation in ordering temporary placement of the child.~~

33 ~~If the court does not place the child according to the secretary's placement
34 recommendation, the reasons for denying such placement shall be set forth
35 in the court's order. The court may also order where the child may not
36 be placed. When the child is presently alleged, but not yet adjudicated to
37 be a child in need of care solely pursuant to subsection (d)(9) or (d)(10)
38 of K.S.A. 2009 Supp. 38-2202, and amendments thereto, the child may
39 be placed in a juvenile detention facility or other secure facility, but the
40 total amount of time that the child may be held in such facility under this
41 section and K.S.A. 2009 Supp. 38-2242, and amendments thereto, shall
42 not exceed 24 hours, excluding Saturdays, Sundays and legal holidays.
43 The order of temporary custody shall remain in effect until modified or~~

have the discretionary authority to place the child with a parent or to make other suitable placement for

may review, for good cause shown.

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1 rescinded by the court or an adjudication order is entered but not ex-
2 ceeding 60 days, unless good cause is shown and stated on the record.

3 (h) If the court issues an order of temporary custody, the court may
4 also enter an order restraining any alleged perpetrator of physical, sexual,
5 mental or emotional abuse of the child from residing in the child's home;
6 visiting, contacting, harassing or intimidating the child; or attempting to
7 visit, contact, harass or intimidate the child, other family members or
8 witnesses. Such restraining order shall be served by personal service pur-
9 suant to subsection (a) of K.S.A. 2009 Supp. 38-2237, and amendments
10 thereto, on any alleged perpetrator to whom the order is directed.

11 (i) (1) The court shall not enter an order removing a child from the
12 custody of a parent pursuant to this section unless the court first finds
13 probable cause that: (A)(i) the child is likely to sustain harm if not im-
14 mediately removed from the home;

15 (ii) allowing the child to remain in home is contrary to the welfare of
16 the child; or

17 (iii) immediate placement of the child is in the best interest of the
18 child; and

19 (B) reasonable efforts have been made to maintain the family unit
20 and prevent the unnecessary removal of the child from the child's home
21 or that an emergency exists which threatens the safety to the child.

22 (2) Such findings shall be included in any order entered by the court.
23 If the child is placed in the custody of the secretary, upon making the
24 order the court shall provide the secretary with a written copy.

25 (j) If the court enters an order of temporary custody that provides
26 for placement of the child with a person other than the parent, the court
27 shall make a child support determination pursuant to K.S.A. 2009 Supp.
28 38-2277, and amendments thereto.

29 Sec. 3. K.S.A. 2009 Supp. 38-2252 is hereby amended to read as
30 follows: 38-2252. (a) Before placement pursuant to this code of a child
31 with a person other than the child's parent, the secretary, the court or
32 the court services officer, at the direction of the court, may convene a
33 conference of persons determined by the court, the secretary or the court
34 services officer to have a potential interest in determining a placement
35 which is in the best interests of the child. Such persons shall be given any
36 information relevant to the determination of the placement of the child,
37 including the needs of the child and any other information that would be
38 helpful in making a placement in the best interests of the child. After
39 presentation of the information, such persons shall be permitted to dis-
40 cuss and recommend to the secretary or the court services officer the
41 person or persons with whom it would be in the child's best interest to
42 be placed. Unless the secretary or the court services officer determines
43 that there is good cause to place the child with a person other than as

(3) If the child is placed in the custody of the child's grandparent,
the secretary may provide a sufficient amount of reimbursement to the
grandparent for the costs of the care of such child after considering the
grandparent's resources available to meet the needs of the child,
except that the amount of reimbursement shall not exceed the
maximum reimbursement rate that licensed foster parents receive for
the care of a child under similar circumstances.

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1 recommended by the conference of persons, the child shall be placed in
2 accordance with the recommendations upon order of the court. If the
3 court does not place the child as recommended by the conference of per-
4 sons the reasons for denying such placement shall be set forth in the
5 court's orders.

6 (b) A person participating in a conference pursuant to this section
7 shall have immunity from any civil liability that might otherwise be in-
8 curred or imposed as a result of the person's participation.

9 Sec. 4. K.S.A. 2009 Supp. 38-2255 is hereby amended to read as
10 follows: 38-2255. (a) Considerations. Prior to entering an order of dis-
11 position, the court shall give consideration to:

- 12 (1) The child's physical, mental and emotional condition;
- 13 (2) the child's need for assistance;
- 14 (3) the manner in which the parent participated in the abuse, neglect
15 or abandonment of the child;
- 16 (4) any relevant information from the intake and assessment process;
- 17 and
- 18 (5) the evidence received at the dispositional hearing.

19 (b) Placement with a parent. The court may place the child in the
20 custody of either of the child's parents subject to terms and conditions
21 which the court prescribes to assure the proper care and protection of
22 the child, including, but not limited to:

- 23 (1) Supervision of the child and the parent by a court services officer;
- 24 (2) participation by the child and the parent in available programs
25 operated by an appropriate individual or agency; and
- 26 (3) any special treatment or care which the child needs for the child's
27 physical, mental or emotional health and safety.

28 (c) Removal of a child from custody of a parent. The court shall not
29 enter an order removing a child from the custody of a parent pursuant
30 to this section unless the court first finds probable cause that: (1)(A) The
31 child is likely to sustain harm if not immediately removed from the home;

32 (B) allowing the child to remain in home is contrary to the welfare
33 of the child; or

34 (C) immediate placement of the child is in the best interest of the
35 child; and

36 (2) reasonable efforts have been made to maintain the family unit
37 and prevent the unnecessary removal of the child from the child's home
38 or that an emergency exists which threatens the safety to the child.

39 (d) Custody of a child removed from the custody of a parent. If the
40 court has made the findings required by subsection (c), the court shall
41 enter give priority to entering an order awarding custody to a relative of
42 the child or to a person with whom the child has close emotional ties; If
43 the court does not award custody to a relative of the child or to a person

When the child is placed in the custody of the child's grandparent, the secretary shall have the power and authority to provide a sufficient amount of reimbursement to the grandparent for the costs of the care of such child after considering the grandparent's resources available to meet the needs of the child, except that the amount of reimbursement shall not exceed the maximum reimbursement rate that foster care parents receive for the care of the child under similar circumstances.

1 with whom the child has close emotional ties, the court shall set out its
2 reasons for not ordering such placement in the court's order. Upon the
3 court's refusal to place the child with a relative or person with whom the
4 child has close emotional ties, the court may award custody to any other
5 suitable person, to a shelter facility, to a youth residential facility or, if
6 the child is 15 years of age or younger, or 16 or 17 years of age if the
7 child has no identifiable parental or family resources or shows signs of
8 physical, mental, emotional or sexual abuse, to the secretary. Custody
9 awarded under this subsection shall continue until further order of the
10 court.

11 (1) When custody is awarded to the secretary, the secretary shall ~~con-~~
12 ~~sider any placement recommendation by the court and~~ notify the court
13 of the ~~placement or~~ secretary's proposed placement of the child within
14 10 days of the order awarding custody.

15 (A) After providing the parties or interested parties notice and op-
16 portunity to be heard, the court ~~may shall~~ determine whether the sec-
17 retary's placement or proposed placement is contrary to the welfare or in
18 the best interests of the child. In making that determination the court
19 shall consider the health and safety needs of the child and the resources
20 available to meet the needs of children in the custody of the secretary. If
21 the court determines that the ~~placement or~~ proposed placement is con-
22 trary to the welfare or not in the best interests of the child, the court shall
23 notify the secretary, ~~who~~ *of the reasons for denial of such placement. The*
24 *secretary shall then make an alternative proposal of placement to the*
25 *court. The court shall consider the secretary's proposed placement. If the*
26 *court agrees with the proposed placement, the court shall issue an order*
27 *of placement. If the court denies such placement, it shall set forth its*
28 *reasons for doing so in the order of placement for the child.*

29 (B) The secretary may propose and the court may order the child to
30 be placed in the custody of a parent or parents if the secretary has pro-
31 vided and the court has approved an appropriate safety action plan which
32 includes services to be provided. The court may order the parent or par-
33 ents and the child to perform tasks as set out in the safety action plan.

34 (C) *Placement and change of placement of a child under custody of*
35 *the secretary shall be made upon an order of placement by the court.*

36 (2) The custodian designated under this subsection shall notify the
37 court in writing at least 10 days prior to any planned placement with a
38 parent. The written notice shall state the basis for the custodian's belief
39 that placement with a parent is no longer contrary to the welfare or best
40 interest of the child. Upon reviewing the notice, the court may allow the
41 custodian to proceed with the planned placement or may set the date for
42 a hearing to determine if the child shall be allowed to return home. If
43 the court sets a hearing on the matter, the custodian shall not return the

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1 child home without written consent of the court.

2 (3) The court may grant any person reasonable rights to visit the child
3 upon motion of the person and a finding that the visitation rights would
4 be in the best interests of the child.

5 (4) The court may enter an order restraining any alleged perpetrator
6 of physical, mental or emotional abuse or sexual abuse of the child from
7 residing in the child's home; visiting, contacting, harassing or intimidating
8 the child, other family member or witness; or attempting to visit, contact,
9 harass or intimidate the child, other family member or witness. Such
10 restraining order shall be served by personal service pursuant to subsection
11 (a) of K.S.A. 2009 Supp. 38-2237, and amendments thereto, on any
12 alleged perpetrator to whom the order is directed.

13 (5) The court shall provide a copy of any orders entered within 10
14 days of entering the order to the custodian designated under this
15 subsection.

16 (e) *Further determinations regarding a child removed from the home.*
17 If custody has been awarded under subsection (d) to a person other than
18 a parent, a permanency plan shall be provided or prepared pursuant to
19 K.S.A. 2009 Supp. 38-2264, and amendments thereto. If a permanency
20 plan is provided at the dispositional hearing, the court may determine
21 whether reintegration is a viable alternative or, if reintegration is not a
22 viable alternative, whether the child should be placed for adoption or a
23 permanent custodian appointed. In determining whether reintegration is
24 a viable alternative, the court shall consider:

25 (1) Whether a parent has been found by a court to have committed
26 one of the following crimes or to have violated the law of another state
27 prohibiting such crimes or to have aided and abetted, attempted, con-
28 spired or solicited the commission of one of these crimes: Murder in the
29 first degree, K.S.A. 21-3401, and amendments thereto, murder in the
30 second degree, K.S.A. 21-3402, and amendments thereto, capital murder,
31 K.S.A. 21-3439, and amendments thereto, voluntary manslaughter, K.S.A.
32 21-3403, and amendments thereto, or a felony battery that resulted in
33 bodily injury;

34 (2) whether a parent has subjected the child or another child to ag-
35 gravated circumstances;

36 (3) whether a parent has previously been found to be an unfit parent
37 in proceedings under this code or in comparable proceedings under the
38 laws of another state or the federal government;

39 (4) whether the child has been in extended out of home placement;
40 (5) whether the parents have failed to work diligently toward
41 reintegration;

42 (6) whether the secretary has provided the family with services nec-
43 essary for the safe return of the child to the home; and

(6) If the child is placed in the custody of the child's grandparent, the secretary may provide a sufficient amount of reimbursement to the grandparent for the costs of the care of such child after considering the grandparent's resources available to meet the needs of the child, except that the amount of reimbursement shall not exceed the maximum reimbursement rate that licensed foster parents receive for the care of a child under similar circumstances.

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1 (7) whether it is reasonable to expect reintegration to occur within a
2 time frame consistent with the child's developmental needs.

3 (f) *Proceedings if reintegration is not a viable alternative.* If the court
4 determines that reintegration is not a viable alternative, proceedings to
5 terminate parental rights and permit placement of the child for adoption
6 or appointment of a permanent custodian shall be initiated unless the
7 court finds that compelling reasons have been documented in the case
8 plan why adoption or appointment of a permanent custodian would not
9 be in the best interests of the child. If compelling reasons have not been
10 documented, the county or district attorney shall file a motion within 30
11 days to terminate parental rights or a motion to appoint a permanent
12 custodian within 30 days and the court shall hold a hearing on the motion
13 within 90 days of its filing. No hearing is required when the parents
14 voluntarily relinquish parental rights or consent to the appointment of a
15 permanent custodian.

16 (g) *Additional Orders.* In addition to or in lieu of any other order
17 authorized by this section:

18 (1) The court may order the child and the parents of any child who
19 has been adjudicated a child in need of care to attend counseling sessions
20 as the court directs. The expense of the counseling may be assessed as
21 an expense in the case. No mental health provider shall charge a greater
22 fee for court-ordered counseling than the provider would have charged
23 to the person receiving counseling if the person had requested counseling
24 on the person's own initiative.

25 (2) If the court has reason to believe that a child is before the court
26 due, in whole or in part, to the use or misuse of alcohol or a violation of
27 K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto,
28 by the child, a parent of the child, or another person responsible for the
29 care of the child, the court may order the child, parent of the child or
30 other person responsible for the care of the child to submit to and com-
31 plete an alcohol and drug evaluation by a qualified person or agency and
32 comply with any recommendations. If the evaluation is performed by a
33 community-based alcohol and drug safety program certified pursuant to
34 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
35 other person responsible for the care of the child shall pay a fee not to
36 exceed the fee established by that statute. If the court finds that the child
37 and those legally liable for the child's support are indigent, the fee may
38 be waived. In no event shall the fee be assessed against the secretary.

39 (3) If child support has been requested and the parent or parents
40 have a duty to support the child, the court may order one or both parents
41 to pay child support and, when custody is awarded to the secretary, the
42 court shall order one or both parents to pay child support. The court shall
43 determine, for each parent separately, whether the parent is already sub-

1 ject to an order to pay support for the child. If the parent is not presently
2 ordered to pay support for any child who is subject to the jurisdiction of
3 the court and the court has personal jurisdiction over the parent, the court
4 shall order the parent to pay child support in an amount determined
5 under K.S.A. 2009 Supp. 38-2277, and amendments thereto. Except for
6 good cause shown, the court shall issue an immediate income withholding
7 order pursuant to K.S.A. 23-4,105 et seq., and amendments thereto, for
8 each parent ordered to pay support under this subsection, regardless of
9 whether a payor has been identified for the parent. A parent ordered to
10 pay child support under this subsection shall be notified, at the hearing
11 or otherwise, that the child support order may be registered pursuant to
12 K.S.A. 2009 Supp. 38-2279, and amendments thereto. The parent shall
13 also be informed that, after registration, the income withholding order
14 may be served on the parent's employer without further notice to the
15 parent and the child support order may be enforced by any method al-
16 lowed by law. Failure to provide this notice shall not affect the validity of
17 the child support order.

18 Sec. 5. K.S.A. 2009 Supp. 38-2258 is hereby amended to read as
19 follows: 38-2258. (a) Except as provided in K.S.A. 2009 Supp. 38-
20 2255(d)(2) and 38-2259, and amendments thereto, if a child has been in
21 the same foster home or shelter facility for six months or longer, or has
22 been placed by the ~~secretary~~ court in the home of a parent or relative,
23 the secretary shall give written notice of any plan to move the child to a
24 different placement ~~unless including when~~ the move is to the selected
25 preadoptive family for the purpose of facilitating adoption. The notice
26 shall be given to: (1) The court having jurisdiction over the child; (2) each
27 parent whose address is available; (3) the foster parent or custodian from
28 whose home or shelter facility it is proposed to remove the child; (4) the
29 child, if 12 or more years of age; and (5) the child's guardian ad litem.

30 (b) The notice shall state the placement to which the secretary ~~plans~~
31 *proposes* to transfer the child and the reason for the proposed action. The
32 notice shall be mailed by first class mail 30 days in advance of the planned
33 transfer, except that the secretary shall not be required to wait 30 days
34 to transfer the child if all persons enumerated in subsection (a) (2)
35 through (5) consent in writing to the transfer *and the court orders such*
36 *placement.*

37 (c) Within 10 days after receipt of the notice, any person receiving
38 notice as provided above may request, either orally or in writing, that the
39 court conduct a hearing to determine whether or not the change in place-
40 ment is in the best interests of the child concerned. When the request
41 has been received, the court shall schedule a hearing and immediately
42 notify the secretary of the request and the time and date the matter will
43 be heard. The court shall give notice of the hearing to persons enumer-

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1 ated in subsection (a) (2) through (5). The secretary shall not change the
2 placement of the child, ~~except for the purpose of adoption~~, unless the
3 change is ~~approved~~ *ordered* by the court.

4 (d) When, after the notice set out above, a child in the custody of the
5 secretary is removed from the home of a parent after having been placed
6 in the home of a parent for a period of six months or longer, the secretary
7 shall request a finding that: (1)(A) The child is likely to sustain harm if
8 not immediately removed from the home;

9 (B) allowing the child to remain in home is contrary to the welfare
10 of the child; or

11 (C) immediate placement of the child is in the best interest of the
12 child; and

13 (2) reasonable efforts have been made to maintain the family unit
14 and prevent the unnecessary removal of the child from the child's home
15 or that an emergency exists which threatens the safety to the child.

16 (e) The secretary shall present to the court in writing the efforts to
17 maintain the family unit and prevent the unnecessary removal of the child
18 from the child's home. In making the findings, the court may rely on
19 documentation submitted by the secretary or may set the date for a hear-
20 ing on the matter. If the secretary requests such finding, the court, not
21 more than 45 days from the date of the request, shall provide the secretary
22 with a written copy of the findings by the court for the purpose of doc-
23 umenting these orders.

24 Sec. 6. K.S.A. 2009 Supp. 38-2259 is hereby amended to read as
25 follows: 38-2259. (a) When an emergency exists requiring immediate ac-
26 tion to assure the safety and protection of the child or the secretary is
27 notified that the foster parents or shelter facility refuse to allow the child
28 to remain, the secretary may transfer the child to another foster home or
29 shelter facility without prior court approval. The secretary shall notify the
30 court of the action at the earliest practical time. When the child is re-
31 moved from the home of a parent after having been placed in the home
32 for a period of six months or longer, the secretary shall present to the
33 court in writing the specific nature of the emergency and reasons why it
34 is contrary to the welfare of the child to remain in the placement and
35 request a finding by the court whether remaining in the home is contrary
36 to the welfare of the child. ~~If The court enters an order the court upon~~
37 *weighing the evidence presented shall make a finding as to whether an*
38 *emergency exists. Upon a finding by the court that an emergency exists,*
39 *the court shall issue a temporary placement order for the child.* The court
40 shall provide the secretary *and the child's parents* with a copy of the order.
41 In making the finding, the court may rely on documentation submitted
42 by the secretary or may set the date for a hearing on the matter. If the
43 secretary requests such a finding, the court shall provide the secretary

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1 with a written copy of the finding by the court not more than 45 days
2 from the date of the request.

3 (b) The court shall not enter an order approving the removal of a
4 child from the home of a parent pursuant to this section unless the court
5 first finds probable cause that: (1)(A) The child is likely to sustain harm
6 if not immediately removed from the home;

7 (B) allowing the child to remain in home is contrary to the welfare
8 of the child; or

9 (C) immediate placement of the child is in the best interest of the
10 child; and

11 (2) reasonable efforts have been made to maintain the family unit
12 and prevent the unnecessary removal of the child from the child's home
13 or that an emergency exists which threatens the safety to the child.

14 Sec. 7. K.S.A. 2009 Supp. 38-2263 is hereby amended to read as
15 follows: 38-2263. (a) The goal of permanency planning is to assure, in so
16 far as is possible, that children have permanency and stability in their
17 living situations and that the continuity of family relationships and con-
18 nections is preserved. In planning for permanency, the safety and well
19 being of children shall be paramount.

20 (b) Whenever a child is subject to the jurisdiction of the court pur-
21 suant to the code, an initial permanency plan shall be developed for the
22 child and submitted to the court within 30 days of the initial order of the
23 court. If the child is in the custody of the secretary, or the secretary is
24 providing services to the child, the secretary shall prepare the plan. Oth-
25 erwise, the plan shall be prepared by the person who has custody or, if
26 directed by the court, by a court services officer.

27 (c) A permanency plan is a written document prepared, where pos-
28 sible, in consultation with the child's parents and which:

29 (1) Describes the permanency goal which, if achieved, will most likely
30 give the child a permanent and safe living arrangement;

31 (2) describes the child's level of physical health, mental and emotional
32 health, and educational functioning;

33 (3) provides an assessment of the needs of the child and family;

34 (4) describes the services to be provided the child, the child's parents
35 and the child's foster parents, if appropriate;

36 (5) includes a description of the tasks and responsibilities designed
37 to achieve the plan and to whom assigned; and

38 (6) includes measurable objectives and time schedules for achieving
39 the plan.

40 (d) In addition to the requirements of subsection (c), if the child is
41 in an out of home placement, the permanency plan shall include:

42 (1) A plan for reintegration of the child's parent or parents or if re-
43 integration is determined not to be a viable alternative, a statement for

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1 the basis of that conclusion and a plan for another permanent living
2 arrangement;

3 (2) a description of the available placement alternatives;

4 (3) a justification for the placement selected, including a description
5 of the safety and appropriateness of the placement; and

6 (4) a description of the programs and services which will help the
7 child prepare to live independently as an adult.

8 (e) *The permanency plan and placement of the child under the plan*
9 *shall be approved by the court unless the court disapproves of the per-*
10 *manency plan or placement whereupon the court shall set forth in its*
11 *order the court's reasons for denying the permanency plan or placement*
12 *or both.*

13 (f) If there is a lack of agreement among persons necessary for the
14 success of the permanency plan, the person or entity having custody of
15 the child shall notify the court which shall set a hearing on the plan.

16 ~~(f)~~ (g) A permanency plan may be amended at any time upon agree-
17 ment of the plan participants *and order of the court*. If a permanency
18 plan requires amendment which changes the permanency goal, the per-
19 son or entity having custody of the child shall notify the court which shall
20 set a permanency hearing pursuant to K.S.A. 2009 Supp. 38-2264 and 38-
21 2265, and amendments thereto.

22 Sec. 8. K.S.A. 2009 Supp. 38-2264 is hereby amended to read as
23 follows: 38-2264. (a) A permanency hearing is a proceeding conducted
24 by the court or by a citizen review board for the purpose of determining
25 progress toward accomplishment of a permanency plan as established by
26 K.S.A. 2009 Supp. 38-2263, and amendments thereto.

27 (b) The court or a citizen review board shall hear and the court shall
28 determine whether and, if applicable, when the child will be:

29 (1) Reintegrated with the child's parents;

30 (2) placed for adoption;

31 (3) placed with a permanent custodian; or

32 (4) if the secretary has documented compelling reasons why it would
33 not be in the child's best interests for a placement in one of the place-
34 ments pursuant to paragraphs (1), (2) or (3) placed in another planned
35 permanent arrangement.

36 (c) The court shall enter a finding as to whether the person or entity
37 having custody of the child has made reasonable efforts to accomplish the
38 permanency plan in place at the time of the hearing.

39 (d) A permanency hearing shall be held within 12 months of the date
40 the court authorized the child's removal from the home and not less
41 frequently than every 12 months thereafter.

42 (e) If the court determines at any time other than during a perma-
43 nency hearing that reintegration may not be a viable alternative for the

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1 child, a permanency hearing shall be held no later than 30 days following
2 that determination.

3 (f) When the court finds that reintegration continues to be a viable
4 alternative, the court shall determine whether and, if applicable, when
5 the child will be returned to the parent. The court may rescind any of its
6 prior dispositional orders and enter any dispositional order authorized by
7 this code or may order that a new plan for the reintegration be prepared
8 and submitted to the court. If reintegration cannot be accomplished as
9 ~~approved~~ *ordered* by the court, the court shall be informed and shall
10 schedule a hearing pursuant to this section. No such hearing is required
11 when the parents voluntarily relinquish parental rights or consent to ap-
12 pointment of a permanent custodian.

13 (g) If the court finds reintegration is no longer a viable alternative,
14 the court shall consider whether: (1) The child is in a stable placement
15 with a relative; (2) services set out in the case plan necessary for the safe
16 return of the child have been made available to the parent with whom
17 reintegration is planned; or (3) compelling reasons are documented in
18 the case plan to support a finding that neither adoption nor appointment
19 of a permanent custodian are in the child's best interest. If reintegration
20 is not a viable alternative and either adoption or appointment of a per-
21 manent custodian might be in the best interests of the child, the county
22 or district attorney or the county or district attorney's designee shall file
23 a motion to terminate parental rights or a motion to appoint a permanent
24 custodian within 30 days and the court shall set a hearing on such motion
25 within 90 days of the filing of such motion.

26 (h) If the court enters an order terminating parental rights to a child,
27 or an agency has accepted a relinquishment pursuant to K.S.A. 59-2124,
28 and amendments thereto, the requirements for permanency hearings
29 shall continue until an adoption or appointment of a permanent custodian
30 ~~has been accomplished by order of the court~~. If the court determines that
31 reasonable efforts or progress have not been made toward finding an
32 adoptive placement or appointment of a permanent custodian or place-
33 ment with a fit and willing relative, the court may rescind its prior orders
34 and make others regarding custody and adoption that are appropriate
35 under the circumstances. Reports of a proposed adoptive placement need
36 not contain the identity of the proposed adoptive parents.

37 Sec. 9. K.S.A. 2009 Supp. 38-2270 is hereby amended to read as
38 follows: 38-2270. (a) When parental rights have been terminated and it
39 appears that adoption is a viable alternative, the court shall enter one of
40 the following orders:

41 (1) An order granting custody of the child, for adoption proceedings,
42 to the secretary or a corporation organized under the laws of the state of
43 Kansas authorized to care for and surrender children for adoption as

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1 provided in K.S.A. 38-112 et seq., and amendments thereto. The person,
2 secretary or corporation shall, *upon order of the court*, have authority to
3 place the child in a family home, and give consent for the legal adoption
4 of the child which shall be the only consent required to authorize the
5 entry of an order or decree of adoption.

6 (2) An order granting custody of the child to proposed adoptive par-
7 ents and consenting to the adoption of the child by the proposed adoptive
8 parents.

9 (b) In making an order under subsection (a), the court shall give pref-
10 erence, to the extent that the court finds it is in the best interests of the
11 child, first to granting such custody for adoption to a relative of the child
12 and second to granting such custody to a person with whom the child has
13 close emotional ties. *If the court denies custody for adoption to a relative*
14 *of the child, it shall set forth its reasons for such denial in its order.*

15 (c) *Discharge upon adoption.* When an adoption decree has been
16 filed with the court in the child in need of care case, the secretary's
17 custody shall cease, the court's jurisdiction over the child shall cease and
18 the court shall enter an order to that effect.

19 Sec. 10. K.S.A. 75-3330 is hereby amended to read as follows: 75-
20 3330. The board is authorized to place any child committed to or received
21 at a state institution in a private children's home *upon order by the court*
22 *of proper jurisdiction.* The board may enter into contractual agreements
23 with any private children's home to provide adequate care, custody, ed-
24 ucation, training and treatment for any child so placed and to pay the
25 costs of ~~said~~ such care, custody, education, training and treatment if the
26 costs are not paid by the child's parents or guardian or if the child is not
27 eligible to receive assistance under K.S.A. 39-709, or any amendments
28 thereto. Any such contract shall be for a period of not to exceed five (5)
29 years but the same may be renewed upon its expiration.

30 Sec. 11. K.S.A. ~~75-3330 and K.S.A. 2009 Supp. 38-2242, 38-2243,~~
31 ~~38-2252, 38-2255, 38-2258, 38-2259, 38-2263, 38-2264 and, 38-2270,~~ are
32 hereby repealed.

33 Sec. 12. This act shall take effect and be in force from and after its
34 publication in the statute book.

See insert

38-134, 38-306, 38-315, 65-508 and

and 65-6313

38-1518, 38-1813, 38-2236,

Renumber sections

INSERT

Sec. 11. K.S.A. 2009 Supp. 38-2236 is hereby amended to read as follows: 38-2236. (a) *Persons to be served.* The summons and a copy of the petition shall be served on:

- (1) The child alleged to be a child in need of care by serving the guardian *ad litem* appointed for the child;
- (2) the parents or parent having legal custody or who may be ordered to pay child support by the court;
- (3) the person with whom the child is residing; and
- (4) any other person designated by the county or district attorney.

(b) A copy of the petition and notice of hearing shall be mailed by first class mail to the child's grandparents and to all other adult relatives identified by either parent with whom the child does not reside.

Sec. 12. K.S.A. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, supervision and care of the residents by capable, qualified, trained persons of sufficient number, an adequate program of activities and services and such appropriate parental participation as may be feasible under the circumstances. Such regulations shall include training requirements for persons who provide direct services and are not otherwise licensed to provide professional services. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

- (1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or
- (2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

New Sec. 13. (a) Guardians ad litem appointed to represent children in cases pursuant to the revised Kansas code for care of children, K.S.A. 2009 Supp. 38-2201 et seq., the parentage act, K.S.A. 38-1110 et seq. and domestic relations, K.S.A. 60-1601 et seq., and amendments thereto, shall participate in not less than six hours of continuing education in areas of education including, but are not limited to, dynamics of abuse and neglect; roles and responsibilities; cultural awareness; communication and communication with children

skills and information gathering and investigatory techniques; advocacy skills; child development; mental health issues; permanence and the law; community resources; professional responsibility; special education law; substance abuse issues; school law; and the code for the care of children. The hours of continuing education, if approved by the continuing legal education commission, shall apply to the continuing legal education requirements of the supreme court.

(b) Guardians ad litem shall file an annual continuing education report with the chief judge of the judicial district in which their practice is located on or before July 1 each year demonstrating their compliance with this section.

New Sec. 14. Court-appointed special advocates shall attend not less than six hours of continuing education annually in the area of child welfare including, but not limited to, the court system, child development, abuse and neglect, special education and substance abuse.

Sec. 15. K.S.A. 2009 Supp. 65-6313 is hereby amended to read as follows: 65-6313. (a) All licenses issued shall be effective upon the date issued and shall expire at the end of 24 months from the date of issuance.

(b) Except as otherwise provided in K.S.A. 65-6311 and amendments thereto, a license may be renewed by the payment of the renewal fee set forth in K.S.A. 65-6314 and amendments thereto and the execution and submission of a signed statement, on a form to be provided by the board, attesting that the applicant's license has been neither revoked nor currently suspended and that applicant has met the requirements for continuing education established by the board including not less than three continuing education hours of professional ethics. A licensee who works with children in foster care shall complete not less than six continuing education hours each year in the area of child welfare including, but not limited to, the court system, child development, abuse and neglect, special education and substance abuse. The continuing education hours which guardians ad litem must attend shall qualify as continuing education under this section. An applicant for renewal of a license as a master social worker or a specialist clinical social worker, as part of such continuing education, shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders.

(c) The application for renewal shall be made on or before the date of the expiration of the license or on or before the date of the termination of the period of suspension.

(d) If the application for renewal, including payment of the required renewal fee, is not made on or before the date of the expiration of the license, the license is void, and no license shall be reinstated except upon payment of the required renewal fee established under K.S.A. 65-6314 and amendments thereto, plus a penalty equal to the renewal fee, and proof satisfactory to the board of the completion of 40 hours of continuing education within two years prior to application for reinstatement. Upon receipt of such payment and proof, the board shall reinstate the license. A license shall be reinstated under this subsection, upon receipt of such payment and proof, at any time after the expiration of such license.

(e) In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof, the board may issue a duplicate license and shall charge a fee as set forth in K.S.A. 65-6314 and amendments thereto for such duplicate license.

R.E. "Tuck" Duncan
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March 18, 2010

To: House Committee on Federal and State Affairs

From: R.E. "Tuck" Duncan

RE: HB: 2737

This bill would allow a city to be issue a license irrespective of whether or not the individuals acting as officers and managers met the requirements of being licensed.

We suggest the bill may need some clarification:

Is it the intent of the bill that the persons who are, as designated by the ABC, "mixing and dispensing persons" likewise need not meet the requirements of law for holding those positions?

Why not counties too?

If you decide to recommend this bill, please consider amending the bill with the provisions of Senate Sub. 514.

Sub. for SB 514 would amend the Club and Drinking Establishment Act. The substitute bill would prohibit the issuance of a club or drinking establishment license to any person who does not own the premises for which the license is sought or who does not have a written lease at the time the application was submitted except that an applicant seeking a license for a premise owned by a city or county, or a stadium, arena, convention center, theater, museum, amphitheater or other similar premise may submit an executed agreement to provide alcoholic beverage services at the premises listed in the application in lieu of a lease.

There are numerous locations that will benefit from Senate Sub. 514, such as, Overland Park Convention Center, Salina Bicentennial Center, Kansas Expocentre, Kansas Speedway and more.

Thank you for your kind attention to and consideration of these matters

House Fed & State Affairs
Date: 3-19-2010

Attachment 3

**Presentation to
Federal & State Affairs Committee
March 19, 2010**

Personal: My name is Louis C. Rasmussen. I live at 10111 Howe Drive, Leawood, Kansas. I am and have been a City Councilman for roughly 20 years and a member of the Ironhorse Golf Course Advisory Board from its inception in 1992 until the present.

Background: Roughly fifteen years ago the people of Leawood overwhelmingly voted for the City to own, operate and maintain a municipal golf course. Bonds were successfully issued to construct the facility with the attended restrictions associated with tax exempt instruments.

Initial Governance Decisions: The first decision by the city council was to determine the characteristics of the course, i.e. a bare bones public access facility or to emulate a private golf club course with its amenities such as pro-shop and dining facilities including a bar for the sale of alcoholic beverages. The second decision was to determine who was to operate and maintain the course in light of the various laws and financial restrictions. The decision was to have a professional golf course management company operate and maintain the facility, which brings us to why we are here today.

Current state of Kansas Law: Presently there are some aspects of the state law that are unclear as to whether or not a municipality, such as Leawood, can obtain a liquor license for the sale of alcoholic beverages. The proposed amendment makes it clear that cities may hold a liquor license for sale of liquor by the drink under the Club and Drinking Establishment Act and eliminates the background check and other personal licensing requirements for governing body members of cities who have a liquor license.

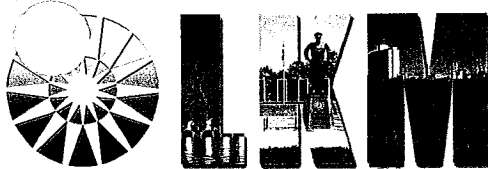
Plans for the Future: Within a short time the bonds will be paid off and the City hopes to have a "stand alone municipal owned, operated and maintained facility including the right to have a bar". The proposed changes in the act would not only benefit the operation of Leawood's municipal golf course, but other municipalities throughout the State of Kansas that have City-owned golf courses.

Thank you for giving me the opportunity to address you today.

House Fed & State Affairs

Date: 3-19-2010

Attachment 4



TO: House Federal and State Affairs Committee

FROM: Sandy Jacquot, Director of Law/General Counsel

DATE: March 18, 2010

RE: Support for HB 2737

Thank you for allowing the League of Kansas Municipalities to appear in support of HB 2737. Currently the alcoholic liquor laws impliedly allow municipalities to apply for and receive a liquor license, but all of the governing body members and their spouses must meet the personal qualifications for the license. This entails going through background checks and otherwise having to provide information for that purpose.

HB 2737 would clarify the law regarding the ability of municipalities to get liquor licenses and eliminate the requirement that every governing body member and his or her spouse personally qualify for liquor licenses as a prerequisite for the city obtaining the license. Few cities actually have attempted to get a liquor license, but in the case of a city owned and operated golf course or other similar facilities, it would provide fewer procedural impediments.

Again, thank you for allowing LKM to testify in support of HB 2737 and we urge the committee to report the bill favorably for passage.

House Fed & State Affairs
Date: 3-19-2010

Attachment 5



*Kansas
Licensed
Beverage
Association*

March 18, 2010

Testimony on HB-2737
House Federal & State Affairs Committee

Mr. Chairman, and Members of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Association. The KLBA represents the interests of the men and women in the hospitality industry, who own, manage and work in Kansas bars, breweries, clubs, caterers, hotels, and restaurants. These are the places you frequent and enjoy with the tens of thousands of employees that are glad to serve you. Thank you for the opportunity to speak today and I will be brief.

We support the current system that allows Cities to be licensees of alcohol sales and service by the State through the ABC.

We are confused by the cities asking to be exempt from the same requirements that we make private businesses comply with. This is not only hypocrisy it creates an unfair competition where our local government with our own tax dollars has an advantage. We ask which of the attached almost 4 pages of requirements are unnecessary? And if they are unnecessary for a city that wishes to take on the responsibilities of alcohol service and sales then aren't they also unnecessary for us who have years been in compliance with the states laws?

We therefore oppose HB 2737 unless amended to include all licensees. Or amended to require that local government must complete or meet the same statutory requirements to access the privileges of alcohol service and sales and prohibit them from bypassing the current process.

We trust that the ABC has the tools currently to properly regulate and assure compliance and safety.

Thank you for your time.

Philip Bradley

*CEO
Philip Bradley*

*P.O. Box 442066
Lawrence, KS
66044*

*785.766.7492
www.klba.org
info@klba.org*



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House Fed & State Affairs
Date: *3-19-2010*

Attachment *6*

Liquor Control Act

41-311. Qualifications for licensure.

(a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(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 a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(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 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 have a written lease thereon for at least 3/4 of the period for which the license is to be issued;

(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; or

(14) who does not provide any data or information required by K.S.A. 2003 Supp. 41-311b, and amendments thereto.

(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 beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act;

(4) a person who has 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.

(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 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 four years immediately preceding the date of application;

(3) person who has beneficial interest in a manufacturer or distributor licensed under this act or a person who currently has a beneficial interest in a farm winery;

(4) person, copartnership or association which has beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto;



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6-3

- (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. 2003 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 a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;
- (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.

History: L. 1949, ch. 242, § 27; L. 1953, ch. 238, § 3; L. 1963, ch. 266, § 1; L. 1970, ch. 186, § 1; L. 1973, ch. 199, § 1; L. 1975, ch. 249, § 1; L. 1982, ch. 210, § 1; L. 1983, ch. 161, § 5; L. 1985, ch. 171, § 9; L. 1985, ch. 170, § 27; L. 1987, ch. 182, § 21; L. 1987, ch. 182, § 22; L. 1992, ch. 201, § 5; L. 1995, ch. 258, § 2; L. 1996, ch. 154, § 4; L. 2001, ch. 55, § 1; L. 2001, ch. 189, § 3; L. 2002, ch. 44, § 7; L. 2007, ch. 178, § 4; L. 2008, ch. 126, § 2; July 1.

Club and Drinking Establishment Act

41-2623. Qualifications for license.

(a) No license shall be issued under the provisions of this act to:

(1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7), (8), (9), (12) or (13) of K.S.A. 41-311, and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

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

(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

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

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



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

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

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

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

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

(7) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

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

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

(8) A corporation organized under the laws of any state other than this state.

(9) 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) of K.S.A. 41-311, and amendments thereto shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to: (1) A person described in subsection (a)(11) of K.S.A. 41-311, and amendments thereto.

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.

History: L. 1965, ch. 316, § 23; L. 1969, ch. 245, § 1; L. 1978, ch. 186, § 7; L. 1985, ch. 170, § 32; L. 1987, ch. 182, § 75; L. 1992, ch. 201, § 6; L. 2001, ch. 189, § 4; L. 2007, ch. ____, § 1; May 24.

41-2605. Licenses; to whom issued. The director shall issue an annual license to each applicant for licensure which qualifies under this act. Such license shall be issued in the name of the corporation, partners, trustees, association officers or individual applying.

History: L. 1965, ch. 316, § 5; L. 1987, ch. 182, § 61; April 30.



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6-5

House Committee on
Federal and State Affairs
Re: HB 2737
March 18, 2010

Mr. Chairman and Members of the Committee:

My name is Rebecca Rice and I appear before you today on behalf of the Kansas Beer Wholesalers Association. We request that HB 2737 be amended to exempt all corporate liquor licensees from the same employee and licensure qualification exceptions that are possibly granted by this bill.

It is illogical for the state to regulate employment at one drinking establishment but not another. It is illogical to assume that employing certain types of people at a citizen-owned drinking establishment is a problem but they are not a problem when employed at a city-owned drinking establishment.

We are unaware of evidence that government owned liquor operations, in general, are less "problematic" than non-government owned. North Carolina is currently embroiled in a scandal involving government owned and operated liquor operations. The scandal is of sufficient substance that some level of privatization is under consideration. It would be unwise and possibly arrogant to assume Kansas governmental units are immune to the corruption opportunities inherent in liquor sales.

Other limited exceptions under consideration this session include the spousal exceptions contained in SB 532. It allows the creation of a modified vertical integration through the domestic statutes' codification of the mutual interest in marital property. But only for certain tiers: retail (on-premise, drinking establishment, catering but not private clubs), farm winery, microbrewery and manufacturing. The bill also grants vertical integration (regardless of spousal licensing status) through concurrent ownership of microbrewery, farm winery, drinking establishment, catering and manufacturing licenses. (page 7, line 34) If adopted, the only tier that is prohibited from vertical integration or tied house relationships is the distributor license.

As the Legislature acquiesces to the increasingly frequent requests from industry members and others to gradually eliminate the health and safety protections provided by the original Liquor Control Act, we urge that you not grant "limited" exceptions that lack a basis in logic and are therefore the least defensible. When the request is "just this one little change for my constituent", please adopt the "one little change" for all licensees both because it is logical and fair and because it will lessen the possibility of federal litigation.

It is not illogical for the legislature to acquiesce to the requests of industry members, municipalities and ABC – all entities that will be affected by the exceptions requested so in theory should be the least likely to request damaging legislation. But it is bad public policy to acquiesce to requests that the exceptions be limited to one tier or one license class even though the request might be based on a belief that a limited exception does less damage to the regulatory system. But, the legislature should not provide an advantage – limited exceptions - to one over another without evidence that it is advantageous for society as a whole and that the advantage can be proven to a federal judge.

There is no "little exception" to the Liquor Control Act. Every exception is substantive.

Thank you, Mr. Chairman.

Rebecca Rice, Legal Counsel
Kansas Beer Wholesalers Association
785.617.0036
rebecca@kansaslobbyist.com

House Fed & State Affairs

Date: 3-19-2010

Attachment 7

Nikki Feuerborn

From: Amy Campbell [campbell525@sbcglobal.net]
Sent: Friday, March 19, 2010 10:59 AM
To: Melvin Neufeld; Mike Kiegerl; Bob Grant; Steve Huebert; Louis Ruiz; Dale Swenson; dale.swenson@gmail.com; Anthony Brown; Rocky Fund; rob.olson@house.ks.gov; Judith Loganbill; judithloganbill@msn.com; Richard Carlson; Mitch Holmes; Lisa Benlon; Don Hill; Elaine Bowers; Steve Brunk; Forrest Knox; Connie O'Brien; Broderick Henderson; mike.peterson@house.ks.gov; Annie Tietze
Cc: Nikki Feuerborn
Subject: HB 2737 Municipal Corporations, liquor licenses HEARING FRIDAY
Attachments: HB 2737 municipal licenses.pdf

Members of the House Federal and State Affairs Committee
Re: HB 2737

The Kansas Association of Beverage Retailers is opposed to HB 2737 as written.

We do not oppose a municipal corporation license – however, we do oppose legislation that would order the Division of Alcoholic Beverage Control to issue such a license exempt from the individual requirements that apply to every other individual or corporate owner of a private business.

In addition, it appears that the drafting is unclear. Is it the intent of this bill to exempt the license from K.S.A. 41-311 AND K.S.A. 41-2623? Or is the intent to exempt the license from K.S.A. 41-311 “through” K.S.A. 41-2623 (most of the liquor control act).

Even if it is only exempted from K.S.A. 41-311 and K.S.A. 41-2623 – these are the license requirements that must be met by every individual

It seems to us that the personal requirements to hold a license are fair. We do not support allowing non-citizens or felons, etc, to be involved in operating liquor establishments. Please see the statutes below to see the requirements that would not apply to this new category of license.

Thank you for your consideration.

Amy A. Campbell
Kansas Association of Beverage Retailers
P.O. Box 3842
Topeka, KS 66604
785-969-1617
Campbell525@sbcglobal.net

41-311

Chapter 41.--INTOXICATING LIQUORS AND BEVERAGES Article 3.--LICENSING AND RELATED PROVISIONS; CITY OPTION

41-311. Persons and entities ineligible for licensure. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

- (1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;
- (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 a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(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 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 have a written lease thereon for at least 3/4 of the period for which the license is to be issued;

(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; or

(14) who does not provide any data or information required by K.S.A. 2009 Supp. 41-311b, and amendments thereto.

(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;

(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.

(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 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 four years immediately preceding the date of application;

(3) person who has a beneficial interest in a manufacturer or distributor licensed under this act or a person who currently has a beneficial interest in a farm winery;

(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;

(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. 2009 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

factory 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 a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;
- (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.

History: L. 1949, ch. 242, § 27; L. 1953, ch. 238, § 3; L. 1963, ch. 266, § 1; L. 1970, ch. 186, § 1; L. 1973, ch. 199, § 1; L. 1975, ch. 249, § 1; L. 1982, ch. 210, § 1; L. 1983, ch. 161, § 5; L. 1985, ch. 171, § 9; L. 1985, ch. 170, § 27; L. 1987, ch. 182, § 21; L. 1987, ch. 182, § 22; L. 1992, ch. 201, § 5; L. 1995, ch. 258, § 2; L. 1996, ch. 154, § 4; L. 2001, ch. 55, § 1; L. 2001, ch. 189, § 3; L. 2002, ch. 44, § 7; L. 2007, ch. 178, § 4; L. 2008, ch. 126, § 2; July 1.

41-2623

Chapter 41.--INTOXICATING LIQUORS AND BEVERAGES

Article 26.--LICENSURE AND REGULATION OF SALE OF LIQUOR BY THE DRINK

41-2623. Persons and entities ineligible for licensure. (a) No license shall be issued under the provisions of this act to:

(1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7), (8), (9), (12) or (13) of K.S.A. 41-311, and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

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

(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

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

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

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

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

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

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

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

(7) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act, or
(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(8) A corporation organized under the laws of any state other than this state.

(9) 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) of K.S.A. 41-311, and amendments thereto shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to:

(1) A person described in subsection (a)(11) of K.S.A. 41-311, and amendments thereto.

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.

History: L. 1965, ch. 316, § 23; L. 1969, ch. 245, § 1; L. 1978, ch. 186, § 7; L. 1985, ch. 170, § 32; L. 1987, ch. 182, § 75; L. 1992, ch. 201, § 6; L. 2001, ch. 189, § 4; L. 2007, ch. 178, § 1; May 24.