



K A N S A S

JOAN WAGNON, ACTING SECRETARY

DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

January 31, 2003

POLICY MEMORANDUM 2003 - 1

Subject: Salesperson Permits

1. Purpose: The purpose of this memorandum is to provide clarification of the statutes and regulations as they pertain to the issuance of salesperson permits. Specific statutory references are K.S.A. 41-333 through K.S.A. 341.

2. Applicability: This policy memorandum is applicable to all suppliers, distributors or retail liquor stores who employ salespersons for the sale of, or the taking or soliciting of orders for the sale of alcoholic liquor or cereal malt beverages in Kansas.

3. Discussion: There are frequent questions to the Alcoholic Beverage Control Division on who is required to have salesperson permits, the qualifications, and when the person(s) can commence work, to address a few. This policy memorandum not only addresses those questions but also lays out the ABC process for issuance and renewal of the permits.

a. Requirements. K.S.A 41-333 states “any natural person may act as a salesperson for the sale of, or the taking or soliciting of orders for the sale of alcoholic liquor or cereal malt beverages in the state of Kansas only after such person has first applied for and received a permit therefor from the director, except that no such permit shall be required of a licensed retailer or an employee of such retailer operating solely on the licensed retail premises.” The key elements of this statute are “for those persons involved with the sale of, or taking or soliciting orders.” *This is interpreted to mean persons who take orders from licensees, either by telephone or in person, must obtain a salesperson permit.* The following information addresses specific issues for salesperson permit requirements in particular areas of the alcoholic beverage industry.

(1) Suppliers. Any person(s) working for suppliers as sales representatives, who work with Kansas liquor licensees and actually solicit or take orders for alcoholic beverages from licensees, are required to obtain a salesperson permit.

(2) Distributors. Any person(s) working for Kansas distributors who acts as a salesperson, in that they solicit or take orders for alcoholic beverages from Kansas liquor licensees, are required to obtain a salesperson permit. This would include drivers who actually solicit sales from licensees. However, drivers who only deliver product are not required to have a salesperson

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permit. Furthermore, distributor employees who solicit orders only on the distributor's licensed premises are not required to have a salesperson permit.

(3) Retail Liquor Stores. The statute provides that "no such permit shall be required of a licensed retailer or an employee of such retailer operating solely on the licensed retail premises." If retail liquor stores are operating as wholesalers under federal law, their employees who promote, solicit or take orders for alcoholic beverages away from the licensed liquor stores premises must obtain a salesperson permit.

b. Qualifications and Fees.

(1) Qualifications. In order to qualify for a salesperson permit, an applicant must:

(a) be 21 years of age or older,

(b) not have been convicted of being a keeper of a house of prostitution and not have forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution,

(c) not have been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to the decency and morality and not have forfeited bond to appear in court to answer charges for those crimes. A morals charge is defined in the regulations as: a charge made in an indictment, information or a complaint alleging crimes which involve:

- (1) prostitution;
- (2) procuring any person;
- (3) solicitation of a child under 18 years of age for any immoral act involving sex;
- (4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;
- (5) rape;
- (6) incest;
- (7) gambling;
- (8) adultery; or
- (9) bigamy.

(d) only act as a salesperson for one person, firm or corporation per permit,

(e) not have a beneficial interest in any licensed retailer of alcoholic liquor or cereal malt beverage or in any licensed club, drinking establishment or caterer,

(2) In addition, the Director has discretion to deny a salesperson permit to any person who:

(a) has a felony conviction, or

(b) has been convicted of a violation of the Kansas Liquor Control Act or Cereal Malt Beverage Act.

(3) Fees. A fee of \$10 per permit per year is due upon initial application and annual renewal.

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c. Initial application.

(1) An initial application for a salesperson permit may be submitted at any time. Completed applications will consist of a completed ABC Form 142 (Application for Sales Representative Permit) and a check for the fee. Most persons for whom applications have been submitted to ABC may commence work as a salesperson prior to receipt of their official salesperson permit (see exception in paragraph 3 c (3) below) provided the applicant has and maintains in their possession a document from the licensee for whom the applicant wants to be a salesperson, which states the following:

(Name) has applied for a Kansas Alcoholic Beverage Salesperson Permit on (date). Pending final approval and receipt of their actual permit, (name) is authorized by (licensee name) to conduct business as a salesperson.

The document must be signed by the licensee or an authorized agent of the licensee.

(2) In completing ABC Form 142, all blanks must be completed and all questions must be answered. Failure to properly complete the form or answer all questions truthfully will result in denial of the application.

(3) Applicants with felony convictions or convictions of violations of the Liquor Control or Cereal Malt Beverage Act are normally disapproved. However, applicants or licensees may submit documentation and letters of reference seeking exceptions. Such requests will be considered under the discretion provided to the Director. Any ABC Form 142 submitted with a "yes" answer to the question(s) in blocks 1, 2, or 3 should be fully explained and documentation supporting the exception be provided otherwise, the application will be denied. **Any applicant seeking an exception may not commence performance of salesperson duties until such time as an exception is granted**

(4) ABC will provide written notices of denial to the licensee as soon as possible. However, information on specific reasons for certain denials can only be released to the applicant.

(5) All applications for salesperson permits should be mailed to:

Kansas Alcoholic Beverage Control Division
Attn: Salesperson Permits
915 SW Harrison
Topeka, KS 66612-3512

Questions may also be directed to (785) 368-6612
Materials may be faxed to (785) 296-7185

d. Renewal applications.

(1) Renewal applications are accepted semiannually by ABC. All renewals due during the months of January through June should be submitted by December 15th. All renewals for the period of July through December should be submitted by June 15th.

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(2) When renewing the salesperson permits, an application form is *not* required. Licensees should compile a list of all current salesperson permit holders they wish to renew and submit the list to ABC with a check for the appropriate renewal amount. The following information is required for each person on the list:

- Name of current salesperson
- Date of Birth
- Social Security #
- Date of current permit's expiration

(3) Upon receipt of the list and fee for each renewal applicant, ABC will issue a renewal strip to be attached to the back of the existing salesperson permit. The strip will identify the next renewal date. Licensees must ensure this renewal strip is applied to the existing permits in order for them to be considered current.

e. Duplicate or replacement permits. If a salesperson loses or somehow destroys his or her permit, a copy of the salesperson application may be faxed to ABC and a duplicate will be issued. ABC recommends licensees maintain copies of salesperson permits on file to assist in streamlining the replacement of lost or destroyed permits.

4. Additional Comments:

a. Failure to comply with the applicable statutes, regulations and/or this policy memorandum, may result in administrative action for violation of the liquor laws.

b. Agents will verify compliance with the provisions of the applicable statutes, regulations and this policy memorandum.

5. Clarification of Policy: All requests for clarification of this policy should be directed *in writing* to this office via mail, fax, or email.

6. Effective date of this Policy: This policy is effective from the date of signature until further notice.

Original signed and on file.

R.G. Longino

cc: Assistant Attorney General
Chief of Enforcement
Licensing Supervisor
Compliance Supervisor
Administration Supervisor
Enforcement Agents