

# Article 16 - LICENSES; SUSPENSION AND REVOCATION

(Last amended in 2010)

**14-16-1 through 14-16-13.** (Revoked or reserved)

**14-16-14. Definitions.** As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

(a) "Involuntary cancellation" means permanent, involuntary termination of any license by the director pursuant to procedures stated in K.A.R. 14-16-15. There shall be no refund for that portion of the license fees paid during any period in which the license was not in use. The licensee, upon showing good cause for renewal or reinstatement of license, may apply for a new license pursuant to the statutory and regulatory requirements for licensing.

(b) "Revocation" means permanent, involuntary termination of any license by the director pursuant to the procedures stated in K.A.R. 14-16-15. There shall be no refund for that portion of the license fees paid during any period in which the license was not in use. The licensee and the licensed premises shall be ineligible for a new license.

(c) "Suspension" means temporary, involuntary termination of any license by the director pursuant to the procedures stated in K.A.R. 14-16-15. There shall be no refund for that portion of the license fees paid during any period in which the license was not in use. The suspension may be set aside by the director when the licensee has shown good cause and is in compliance with statutory and regulatory requirements.

(d) "Voluntary cancellation" means permanent, voluntary termination of a license upon the request of the licensee. The director shall refund that portion of the license fees paid for any period in which the license was not in use. The licensee may make a new application for a license pursuant to the statutory and regulatory requirements for licensing.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-314, 41-326, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77, 41-2629 as amended by L. 1987, Ch. 182, Sec. 80; effective May 1, 1988.)

**14-16-15. Director may revoke, suspend or involuntarily cancel licenses for violations of act or regulations; citation to licensees; hearing.** If after citation and hearing the director finds that any licensee is violating or has violated any relevant provision of the liquor control act, the club and drinking establishment act, the provisions of K.S.A. 41-2701 et seq. or regulations adopted pursuant to the authority granted in any of those statutes, the licensee's license may be suspended, revoked or involuntarily canceled. In addition to suspension, revocation or cancellation of a license, the licensee may be fined by the director.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-328 as amended by L. 1987, Ch. 182, Sec. 32, K.S.A. 41-326, 41-702 as amended by L. 1987, Ch. 182, Sec. 47, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77, 41-2633a as amended by L. 1987, Ch. 182, Sec. 84; effective May 1, 1988.)

**14-16-16. Proceedings for involuntary cancellation, suspension or revocation of licenses; notice to licensee of time and place of hearing; right of licensee to appear at hearing.** (a) All proceedings and hearings for the involuntary cancellation, suspension or revocation of licenses shall be before the director or the director's designee upon a citation issued by the director. The citation shall be in writing and shall state the charges or complaints the licensee is called upon to answer.

(b) The citation shall be served upon the licensee as provided by K.A.R. 14-16-21.

(c) The citations shall state the date, time and place where the proceeding and hearing will be held. The date of the hearing shall not be less than 10 days from the date of the mailing or service of the citation.

(d) The licensee may appear in person and by counsel at the hearing and produce witnesses and evidence that the licensee deems necessary or advisable.

(Authorized by K.S.A. 41-201, 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-326, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

**14-16-17. Hearing procedures; prehearing motions.** (a) Upon receipt of a citation and notice of hearing pursuant to K.A.R. 14-16-16, any licensee or licensee's counsel may file with the director any prehearing motion authorized to be filed with the Kansas courts in actions pursuant to Chapter 61 of the Kansas Statutes Annotated.

(b) Motions shall be made within the following times:

(1) A motion by the licensee shall be filed within 10 days of receipt of the citation.

(2) Response to any motion of the licensee shall be filed by the agency within 10 days of receipt of a motion.

(3) The motion shall be acted on at least five days prior to the hearing on the citation.

(c) The director may grant such additional time as justice requires.

(d) Requests for continuances and other non-substantive motions may be submitted orally, unless required to be filed in writing by the director. All other motions shall be in writing to the director.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

**14-16-18. Prehearing conference; availability; notice.** A prehearing conference may be conducted by the director or the director's designee for the purpose of expediting the administrative proceeding. Such a prehearing conference may be conducted by telephone or other electronic means with each party having the opportunity to participate therein. Notice of the time, place and electronic means of conducting any prehearing conference shall be given by the director to all concerned parties. If a prehearing conference is not held, the director or the director's designee may issue a prehearing order based on the pleadings to regulate the conduct of the proceedings.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

**14-16-19. Hearing procedures.** The following procedures shall be used at all hearings before the director or the director's designee:

(a) The burden of proving all elements of any alleged offenses shall be upon the agency.

(b) The order for the hearing shall be:

(1) Reading of the citation into the record;

(2) announcement of appearances;

(3) response of licensee to allegations;

- (4) presentation of evidence by the agency;
- (5) presentation of evidence by the licensee;
- (6) rebuttal evidence of the agency;
- (7) surrebuttal evidence by the licensee; and
- (8) closing arguments for both sides.

(c) The hearing officer may vary from the technical requirements of the rules of evidence when, in the hearing officer's opinion, such variation would be of assistance in determining the facts. Evidence need not be excluded solely because it is hearsay.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

**14-16-20.** (Authorized by K.S.A. 1991 Supp. 41-210; implementing K.S.A. 1991 Supp. 41-320; effective May 1, 1988; revoked Aug. 10, 1992.)

**14-16-21. Service of orders, decisions, directives and notices of director regarding licensees and applicants for licenses; refusal to accept service.** (a) All citations, orders, decisions, directives and notices of the director or secretary of revenue issued to or affecting a licensee or an applicant for a license shall be served upon the licensee or applicant by mailing, by certified mail properly addressed, to the licensee or applicant, a copy of the document signed by the director or the director's designee. If the service is to be made on a licensee, the document shall be mailed to the licensee at the address of the licensed premises. If the service is to be made on an applicant for a license, the document shall be mailed to the applicant at the address shown on the applicant for the license. No licensee shall refuse to accept or to sign for certified mail from the alcoholic beverage control division.

(b) In lieu of the mailing required by subsection (a), any citation or notice may be served upon the licensee or applicant:

- (1) by the director;
- (2) by any agent or employee of the director; or
- (3) by the sheriff of the county in which the licensed premises are located in the manner provided by the code of civil procedure for the service of summons in civil actions, except for the provisions allowing service by first class mail.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-320 as amended by L. 1987, Ch. 182, Sec. 28, 41-321 as amended by L. 1987, Ch. 182, Sec. 29, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

**14-16-22. Operation of business while license is involuntarily canceled, suspended or revoked, forbidden; when order of involuntary cancellation, suspension or revocation is effective.** Any person whose license has been involuntarily canceled, suspended or revoked shall not operate under such license during the period of involuntary cancellation, suspension or revocation, except as provided by these regulations.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-326, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988.)

**14-16-23.** (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-328 as amended by L. 1987, Ch. 182, Sec. 32, 41-2633a as amended by L. 1987, Ch. 182, Sec. 84; effective May 1, 1988; revoked Dec. 28, 2007.)

**14-16-24.** (Authorized by K.S.A. 41-203 as amended by L. 1987, Ch. 182, Sec. 5, 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-321 as amended by L. 1987, Ch. 182, Sec. 29, 41-322 as amended by L. 1987, Ch. 182, Sec. 30, 41-2626 as amended by L. 1987, Ch. 182, Sec. 77; effective May 1, 1988; revoked Dec. 28, 2007.)

**14-16-25. Imposition of penalties for violations.** (a) The director may revoke or suspend the license of any licensee for any violation of the liquor control act, the club and drinking establishment act, or any implementing regulation.

(b) In addition to or in lieu of any other civil or criminal penalty for any violation of the liquor control act, the club and drinking establishment act, or any implementing regulation, the director may order a civil fine not exceeding \$1,000 per violation.

(c) The director may order a penalty based upon the schedule specified in subsection (d). Penalties may vary from the schedule based on the presence of aggravating or mitigating circumstances.

(d) The department's "liquor fine and penalty schedule" dated July 1, 2009, is hereby adopted by reference.

(Authorized by K.S.A. 41-210 and K.S.A. 41-2634; implementing K.S.A. 41-211, K.S.A. 2008 Supp. 41-328, K.S.A. 2008 Supp. 41-2611, and K.S.A. 41-2633a; effective Sept. 17, 2010.)