

1 AN ACT relating to retail package alcohol sales.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔ Section 1. KRS 243.084 is amended to read as follows:

4 (1) A "Nonquota type 2" or "NQ2" retail drink license may be issued to an applicant  
5 operating as, or in:

6 (a) A hotel that:

7 1. Contains at least fifty (50) sleeping units; and

8 2. Receives from its total food and alcoholic beverage sales at least fifty  
9 percent (50%) of its gross receipts from the sale of food;

10 (b) A restaurant;

11 (c) An airport;

12 (d) A riverboat;

13 (e) A distiller; or

14 (f) A business located within, or adjacent to, an entertainment destination center  
15 licensed premises.

16 (2) A holder of an NQ2 retail drink license may purchase, receive, possess, and sell  
17 alcoholic beverages at retail by the drink for consumption on the licensed premises.

18 The licensee shall purchase alcoholic beverages only from licensed wholesalers or  
19 distributors. A distiller may purchase its own products for retail drink sales under  
20 KRS 243.0305. The holder of an NQ2 retail drink license shall store alcoholic  
21 beverages in the manner prescribed in KRS 244.260.

22 (3) (a) To qualify for an NQ2 license, a riverboat shall have a regular or alternative  
23 place of mooring in a wet county or city of this state.

24 (b) If a riverboat moors or makes landfall in a location other than its regular or  
25 alternate regular place of mooring, all alcoholic beverages shall be kept  
26 locked.

27 (c) A riverboat licensed under this subsection shall not take on or discharge

1 passengers when mooring or making landfall in dry option territory.

2 **(4) A hotel or restaurant holding an NQ2 license may sell alcohol by the package to**  
3 **its patrons under its NQ2 license under the following conditions:**

4 **(a) Package sales are for limited bottles such as barrel picks, souvenir**  
5 **packages, or vintage distilled spirits; and**

6 **(b) Package sales do not exceed two thousand (2,000) bottles per year.**

7 ➔Section 2. KRS 243.086 (Effective July 15, 2020) is amended to read as  
8 follows:

9 (1) A "Nonquota type 3" or "NQ3" retail drink license may be issued to an applicant  
10 operating as, or in:

11 (a) A private club;

12 (b) A dining car; or

13 (c) A bed and breakfast.

14 (2) The holder of an NQ3 retail drink license may purchase, receive, possess, and sell  
15 alcoholic beverages at retail by the drink for consumption on the licensed premises.  
16 The licensee shall purchase alcoholic beverages only from licensed wholesalers or  
17 distributors. The holder of an NQ3 retail drink license shall store alcoholic  
18 beverages in the manner prescribed in KRS 244.260.

19 (3) **(a)** A qualifying private club holding an NQ3 retail drink license shall exclude the  
20 general public from the licensed premises.

21 **(b) A qualifying private club may sell packages of alcohol to its members**  
22 **pursuant to the following conditions:**

23 **1. Package sales are for limited bottles such as barrel picks, souvenir**  
24 **packages, or vintage distilled spirits; and**

25 **2. Package sales do not exceed two thousand (2,000) bottles per year.**

26 (4) A qualifying bed and breakfast holding an NQ3 retail drink license shall only sell  
27 alcoholic beverages by the drink to paid overnight guests of the licensee.

1       ➔Section 3. KRS 243.157 (Effective July 15, 2020) is amended to read as  
2 follows:

3 (1) A microbrewery license shall authorize the licensee to perform the following  
4 functions:

5 (a) Engage in the business of a brewer under the terms and conditions of KRS  
6 243.150, provided that production of malt beverages at the microbrewery shall  
7 not exceed fifty thousand (50,000) barrels in one (1) year;

8 (b) Serve on the premises complimentary samples of malt beverages produced by  
9 the microbrewery in amounts not to exceed sixteen (16) ounces per patron,  
10 provided the microbrewery is located in wet territory or a precinct that has  
11 authorized the sale of alcoholic beverages at microbreweries under KRS  
12 242.1239;

13 (c) Sell malt beverages produced on the premises of the microbrewery to licensed  
14 distributors;

15 (d) Sell malt beverages produced on the premises of the microbrewery for on- and  
16 off-premises purposes in accordance with subsection (3)(b) and (c) of this  
17 section, pursuant to the following:

18 1. Without restriction on the amount of malt beverages sold by the drink  
19 for on-premises consumption provided the microbrewery is located in  
20 wet territory or a precinct that has authorized the sale of alcoholic  
21 beverages at microbreweries under KRS 242.1239; and

22 2. With a restriction on the amount of malt beverages sold for off-premises  
23 consumption, in an aggregate amount not to exceed thirty-one (31)  
24 gallons per person per day that shall not include more than three (3)  
25 cases in case format; and

26 (e) Sell:

27 1. Unlimited amounts of malt beverages by the drink; and

1           2. Not more than one (1) case of packaged malt beverages;  
2           produced on the premises of the microbrewery to consumers at fairs, festivals,  
3           and other similar types of events located in wet territory, in accordance with  
4           subsection (3)(b)2. and (c)2. of this section; and

5           (f) Offer for sale in its gift shop products that were produced in collaboration  
6           with a distillery or craft distillery except that:

7           (a) These packages shall not be exclusive to the microbrewery's gift shop;

8                           and

9           (b) The microbrewery shall purchase the jointly-branded souvenir  
10           package only from a licensed distilled spirits wholesaler.

11       (2) A microbrewery license shall not be deemed to be incompatible with any other  
12       license except for a distributor's license under the provisions of KRS 243.180.

13       (3) In accordance with the provisions of this section, a microbrewery license holder  
14       may:

15       (a) Hold retail drink and package licenses both on and off the premises of the  
16       microbrewery. The holder of a microbrewery license is exempt from the  
17       provisions of KRS 244.570 and 244.590 as applied to any retail licenses held  
18       by the microbrewery license holder, and from any other sections which would  
19       restrict the co-ownership of the microbrewery license and any retail licenses  
20       described in this section;

21       (b) Sell malt beverages produced on the premises of the microbrewery for on-  
22       premises purposes without having to transfer physical possession of those  
23       malt beverages to a licensed distributor provided:

24           1. The microbrewery possesses a retail drink license for those premises;  
25           and

26           2. The microbrewery reports and pays all taxes required by subsection  
27           (5)(a) and (b) of this section to the Department of Revenue at the time

1 and in the manner required by the Department of Revenue in accordance  
2 with its powers under KRS 131.130(3); and

3 (c) Sell malt beverages produced on the premises of the microbrewery for off-  
4 premises purposes without having to transfer physical possession of those  
5 malt beverages to a licensed distributor provided that:

6 1. The microbrewery possesses a retail package license for those premises;  
7 and

8 2. The microbrewery reports and pays all taxes required by subsection  
9 (5)(a) and (b) of this section to the Department of Revenue at the time  
10 and in the manner required by the Department of Revenue in accordance  
11 with its powers under KRS 131.130(3).

12 (4) The provisions of subsection (3)(b) and (c) of this section shall apply only to malt  
13 beverages that are produced by the microbrewery at its licensed premises and:

14 (a) Offered for sale by the microbrewery at that same premises under the  
15 microbrewery's retail drink or package license; or

16 (b) Offered for sale by the microbrewery at a fair, festival, or other similar type of  
17 event as authorized under subsection (1)(e) of this section.

18 All other malt beverages produced by the microbrewery which are offered for retail  
19 sale shall be sold and physically transferred to a licensed distributor in compliance  
20 with all other relevant provisions of KRS Chapters 241 to 244, and a licensed  
21 microbrewery shall not otherwise affect sales of malt beverages directly to retail  
22 customers except as provided in subsection (3)(b) and (c) of this section under KRS  
23 243.027 to 243.029 if the microbrewery holds a direct shipper license.

24 (5) (a) A microbrewery selling malt beverages in accordance with subsection (3)(b)  
25 and (c) of this section shall pay all wholesale sales taxes due under KRS  
26 243.884. For the purposes of this subsection, "wholesale sales" means a sale  
27 of malt beverages made by a microbrewery under subsection (3)(b) and (c) of

1           this section, as applicable.

2           (b) A microbrewery shall pay the excise tax on malt beverages in accordance with  
3           KRS 243.720(3) and 243.730 and shall be entitled to the credit set forth in  
4           KRS 243.720(3)(b).

5           (6) A microbrewery shall not be located in dry territory.

6           (7) An employee of a microbrewery may sample the products produced by that  
7           microbrewery for purposes of education, quality control, and product development.

8           (8) This section does not exempt the holder of a microbrewery license from the  
9           provisions of KRS Chapters 241 to 244, nor from any rules of the board as  
10          established by administrative regulations, nor from regulation by the board, except  
11          as expressly stated in this section. The provisions of this section shall not be  
12          deemed inconsistent with the provisions of KRS 244.602.

13          (9) Nothing in this section shall be construed to vitiate the policy of this  
14          Commonwealth, as set forth in KRS 244.167 and 244.602, supporting an orderly  
15          three (3) tier system for the production and sale of malt beverages.