

AN ACT relating to the sale of alcoholic beverages.

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

➔Section 1. KRS 241.010 is amended to read as follows:

As used in KRS Chapters 241 to 244, unless the context requires otherwise:

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced;
- (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
 - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 - (b) Patented, patent, and proprietary medicines;
 - (c) Toilet, medicinal, and antiseptic preparations and solutions;
 - (d) Flavoring extracts and syrups;
 - (e) Denatured alcohol or denatured rum;
 - (f) Vinegar and preserved sweet cider;
 - (g) Wine for sacramental purposes; and
 - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use;
- (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;

- (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;
- (4) "Automobile race track" means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;
- (5) **"Barrel-aged and batched cocktails" means an alcoholic beverage that is:**
- (a) Composed of:**
- 1. Distilled spirits that have been dispensed from their original sealed container; and**
- 2. Other ingredients or alcoholic beverages;**
- (b) Placed into a barrel or container on the premises of a retail licensee; and**
- (c) Dispensed from the barrel or container as a retail sale by the drink;**
- (6)** "Bed and breakfast" means a one (1) family dwelling unit that:
- (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are occupied for sleeping purposes by persons not members of the single-family unit;
- (b) Holds a permit under KRS Chapter 219; and
- (c) Has an innkeeper who resides on the premises or property adjacent to the premises during periods of occupancy;
- ~~(7)~~~~(6)~~ "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030;
- ~~(8)~~~~(7)~~ "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- ~~(9)~~~~(8)~~ "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an

agent;

(10)~~(9)~~ "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;

(11)~~(10)~~ "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;

(12)~~(11)~~ "Caterer" means a person operating a food service business that prepares food in a licensed and inspected commissary, transports the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to an agreed location, and serves the food and alcoholic beverages pursuant to an agreement with another person;

(13)~~(12)~~ "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;

(14)~~(13)~~ "Cider" means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;

(15)~~(14)~~ "City administrator" means city alcoholic beverage control administrator;

(16)~~(15)~~ "Commercial airport" means an airport through which more than five hundred

thousand (500,000) passengers arrive or depart annually;

~~(17)~~~~(16)~~ (a) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10) pairs of fully operative pedals for propulsion by means of human muscular power and which:

1. Has four (4) wheels;
2. Is operated in a manner similar to that of a bicycle;
3. Is equipped with a minimum of thirteen (13) seats for passengers;
4. Has a unibody design;
5. Is equipped with a minimum of four (4) hydraulically operated brakes;
6. Is used for commercial tour purposes;
7. Is operated by the vehicle owner or an employee of the owner; and
8. Has an electrical assist system that shall only be used when traveling to or from its storage location while not carrying passengers.

(b) A "commercial quadricycle" is not a motor vehicle as defined in KRS 186.010 or 189.010;

~~(18)~~~~(17)~~ "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;

~~(19)~~~~(18)~~ "Consumer" means a person or persons who purchases alcoholic beverages and who:

- (a) Does not hold a license or permit issued by the department;
- (b) Purchases the alcoholic beverages for personal consumption only and not for resale;
- (c) Is of lawful drinking age; and
- ~~(d) Receives the alcoholic beverages at a location other than a licensed premises;~~
~~and~~
- ~~(e)~~ Receives the alcoholic beverages in territory where the alcoholic beverages may be lawfully sold or received;

(20)~~[(19)]~~ "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;

(21)~~[(20)]~~ "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;

(22)~~[(21)]~~ "County administrator" means county alcoholic beverage control administrator;

(23)~~[(22)]~~ "Department" means the Department of Alcoholic Beverage Control;

(24)~~[(23)]~~ "Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;

(25)~~[(24)]~~ "Discount in the usual course of business" means price reductions, rebates, refunds, and discounts given by wholesalers to distilled spirits and wine retailers pursuant to an agreement made at the time of the sale of the merchandise involved and are considered a part of the sales transaction, constituting reductions in price pursuant to the terms of the sale, irrespective of whether the quantity discount was:

- (a) Prorated and allowed on each delivery;
- (b) Given in a lump sum after the entire quantity of merchandise purchased had been delivered; or
- (c) Based on dollar volume or on the quantity of merchandise purchased;

(26)~~[(25)]~~ "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;

(27)~~[(26)]~~ "Distiller" means any person who is engaged in the business of manufacturing

distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;

~~(28)~~~~(27)~~ "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;

~~(29)~~~~(28)~~ "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail;

~~(30)~~~~(29)~~ "Dry" means a territory in which a majority of the electorate voted to prohibit all forms of retail alcohol sales through a local option election held under KRS Chapter 242;

~~(31)~~~~(30)~~ "Election" means:

- (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
- (b) Any other election not pertaining to alcohol;

~~(32)~~~~(31)~~ "Horse racetrack" means a facility licensed to conduct a horse race meeting under KRS Chapter 230;

~~(33)~~~~(32)~~ "Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;

~~(34)~~~~(33)~~ "Investigator" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting licensees, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;

~~(35)~~~~(34)~~ "License" means any license issued pursuant to KRS Chapters 241 to 244;

(36)~~[(35)]~~ "Licensee" means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;

(37)~~[(36)]~~ "Limited restaurant" means:

- (a) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244; or
- (b) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons of dining, and which is located in a wet or moist territory under KRS 242.1244;

(38)~~[(37)]~~ "Local administrator" means a city alcoholic beverage administrator, county alcoholic beverage administrator, or urban-county alcoholic beverage control administrator;

(39)~~[(38)]~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider;

(40)~~[(39)]~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

(41)~~[(40)]~~ "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;

(42)~~[(41)]~~ "Minor" means any person who is not twenty-one (21) years of age or older;

(43)~~[(42)]~~ "Moist" means a territory in which a majority of the electorate voted to permit

limited alcohol sales by any one (1) or a combination of special limited local option elections authorized by KRS Chapter 242;

~~(44)~~~~(43)~~ "Population" means the population figures established by the federal decennial census for a census year or the current yearly population estimates prepared by the Kentucky State Data Center, Urban Studies Center of the University of Louisville, Louisville, Kentucky, for all other years;

~~(45)~~~~(44)~~ "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;

~~(46)~~~~(45)~~ "Primary source of supply" or "supplier" means the distiller, winery, brewer, producer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the United States of the foreign distiller, producer, bottler, or owner;

~~(47)~~~~(46)~~ "Private club" means a nonprofit social, fraternal, military, or political organization, club, or nonprofit or for-profit entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;

~~(48)~~~~(47)~~ **"Private selection event" means a private event with a licensed distiller during which participating consumers, retail licensees, or a distillery's own**

representatives select a single barrel or a blend of barrels of the distiller's products to be specially packaged for purchase by the participants or for sale by the distillery at retail;

(49) "Private selection package" means a bottle of distilled spirits sourced from the barrel or barrels selected by participating consumers, retail licensees, or a distillery's own representatives during a private selection event;

(50) "Public nuisance" means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;

(51)~~(48)~~ "Qualified historic site" means:

- (a) A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places;
- (b) A site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served;
- (c) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; or
- (d) A not-for-profit or nonprofit facility listed on the National Register of Historic Places;

(52)~~(49)~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits, malt, or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;

(53)~~(50)~~ "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;

(54)~~(51)~~ "Restaurant" means a facility where the usual and customary business is the preparation and serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and alcoholic beverage receipts from the sale of food at the premises;

(55)~~(52)~~ "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery or shipment to the consumer or not;

(56)~~(53)~~ "Retail sale" means any sale of alcoholic beverages to a consumer, including those transactions taking place in person, electronically, online, by mail, or by telephone;

(57)~~(54)~~ "Retailer" means any licensee who sells and delivers any alcoholic beverage to consumers, except for manufacturers with limited retail sale privileges and direct shipper licensees;

(58)~~(55)~~ "Riverboat" means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry one hundred (100) or more passengers for hire on navigable waters in or adjacent to this state;

(59)~~(56)~~ "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;

(60)~~(57)~~ "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar;

(61)~~(58)~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep

with intent to sell, and the delivery of any alcoholic beverage;

~~(62)~~~~(59)~~ "Small farm winery" means a winery whose wine production is not less than two hundred fifty (250) gallons and not greater than five hundred thousand (500,000) gallons in a calendar year;

~~(63)~~~~(60)~~ "Souvenir package" means a special package of distilled spirits available from a licensed retailer that is:

- (a) Available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled; or
- (b) Available for retail sale at a licensed Kentucky distillery but produced or bottled at another of that distiller's licensed distilleries in Kentucky;

~~(64)~~~~(61)~~ "State administrator" or "administrator" means the distilled spirits administrator or the malt beverages administrator, or both, as the context requires;

~~(65)~~~~(62)~~ "State park" means a state park that has a:

- (a) Nine (9) or eighteen (18) hole golf course; or
- (b) Full-service lodge and dining room;

~~(66)~~~~(63)~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar;

~~(67)~~~~(64)~~ "Territory" means a county, city, district, or precinct;

~~(68)~~~~(65)~~ "Urban-county administrator" means an urban-county alcoholic beverage control administrator;

~~(69)~~~~(66)~~ "Valid identification document" means an unexpired, government-issued form of identification that contains the photograph and date of birth of the individual to whom it is issued;

~~(70)~~~~(67)~~ "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances

used to manufacture, bottle, or sell these beverages;

~~(71)~~~~(68)~~ "Vintage distilled spirit" means a package or packages of distilled spirits that:

- (a) Are in their original manufacturer's unopened container;
- (b) Are not owned by a distillery; and
- (c) Are not otherwise available for purchase from a licensed wholesaler within the Commonwealth;

~~(72)~~~~(69)~~ "Warehouse" means any place in which alcoholic beverages are housed or stored;

~~(73)~~~~(70)~~ "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;

~~(74)~~~~(71)~~ "Wet" means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050 or 242.125 on the following question: "Are you in favor of the sale of alcoholic beverages in (name of territory)?";

~~(75)~~~~(72)~~ "Wholesale sale" means a sale to any person for the purpose of resale;

~~(76)~~~~(73)~~ "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;

~~(77)~~~~(74)~~ "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It does not include weak cider; and

~~(78)~~~~(75)~~ "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials

are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) A limited nonquota package license may be issued as a supplementary license to a licensee that holds an NO1 retail drink license, an NO2 retail drink license, or a limited restaurant license in a jurisdiction that has authorized the sale of distilled spirits and wine by the package.

(2) The limited nonquota package license shall authorize the licensee to:

(a) Purchase, receive, and possess vintage distilled spirits and private selection packages in their original containers; and

(b) Sell vintage distilled spirits and private selection packages at retail in unbroken packages only, and only for consumption off the licensed premises.

(3) The licensee shall purchase vintage distilled spirits in accordance with Section 7 of this Act and shall purchase private selection packages in accordance with subsection (4) of Section 5 of this Act.

➔Section 3. KRS 243.027 is amended to read as follows:

(1) KRS 243.027 to 243.029 shall supersede any conflicting statute in KRS Chapters 241 to 244.

(2) A direct shipper license shall authorize the holder to ship alcoholic beverages to consumers. The department shall issue a direct shipper license to a successful applicant that:

(a) Pays an annual license fee of one hundred dollars (\$100);

(b) Is a manufacturer located in this state or any other state or an alcoholic beverage supplier licensed under KRS 243.212 or 243.215; and

(c) Holds a current license, permit, or other authorization to manufacture or

supply alcoholic beverages in the state where the applicant is located. If an applicant is located outside of Kentucky, proof of its current license, permit, or other authorization as issued by its home state shall be sufficient proof of its eligibility to hold a direct shipper license in Kentucky.

- (3) (a) A manufacturer applicant shall only be authorized to ship alcoholic beverages that are sold under a brand name owned or exclusively licensed to the manufacturer, provided the alcoholic beverages were:
 1. Produced by the manufacturer;
 2. Produced for the manufacturer under a written contract with another manufacturer; or
 3. Bottled for or by the manufacturer.
- (b) An applicant licensed under KRS 243.212 or 243.215 shall only be authorized to ship alcoholic beverages for which it is the primary source of supply.
- (4) The department shall establish the form for a direct shipper license application through the promulgation of an administrative regulation. These requirements shall include only the following:
 - (a) The address of the manufacturer or supplier; and
 - (b) If the applicant is located outside this state, a copy of the applicant's current license, permit, or other authorization to manufacture, store, or supply alcoholic beverages in the state where the applicant is located.
- (5) For purposes of this section, the holder of a direct shipper license may utilize the services of a third party to fulfill shipments, subject to the following:
 - (a) The third party shall not be required to hold any alcoholic beverage license, but no licensed entity shall serve as a third party to fulfill shipments other than the holder of a storage license or transporter's license;
 - (b) The third party may operate from the premises of the direct shipper licensee or from another business location; and

- (c) The direct shipper licensee shall be liable for any violation of KRS 242.250, 242.260, 242.270, or 244.080 that may occur by the third party.
- (6) A direct shipper licensee shall:
- (a) Agree that the Secretary of State shall serve as its registered agent for service of process. The licensee shall agree that legal service on the agent constitutes legal service on the direct shipper licensee;
 - (b) Maintain the records required under KRS 243.027 to 243.029 and provide the department and the Department of Revenue access to or copies of these records;
 - (c) Allow the department or the Department of Revenue to perform an audit of the direct shipper licensee's records or an inspection of the direct shipper licensee's licensed premises upon request. If an audit or inspection reveals a violation, the department or the Department of Revenue may recover reasonable expenses from the licensee for the cost of the audit or inspection;
 - (d) Register with the Department of Revenue, and file all reports and pay all taxes required under KRS 243.027 to 243.029; and
 - (e) Submit to the jurisdiction of the Commonwealth of Kentucky for any violation of KRS 242.250, 242.260, 242.270, or 244.080 or for nonpayment of any taxes owed.
- (7) (a) Each direct shipper licensee shall submit to the department and the Department of Revenue a quarterly report for that direct shipper license showing:
1. The total amount of alcoholic beverages shipped into the state per consumer;
 2. The name and address of each consumer;
 3. The purchase price of the alcoholic beverages shipped and the amount of taxes charged to the consumer for the alcoholic beverages shipped; and

4. The name and address of each common carrier.
- (b) The Department of Revenue shall create a form through the promulgation of an administrative regulation for reporting under paragraph (a) of this subsection.
- (c) The department shall provide a list of all active direct shipper licensees to licensed common carriers on a quarterly basis to reduce the number of unlicensed shipments in the Commonwealth.
- (8) A direct shipper licensee shall submit a current copy of its alcoholic beverage license from its home state along with the one hundred dollar (\$100) license fee every year upon renewal of its direct shipper license.
- (9) Notwithstanding any provision of this section to the contrary, a manufacturer located and licensed in Kentucky may ship by a common carrier holding a Kentucky transporter's license samples of alcoholic beverages produced by the manufacturer in quantities not to exceed one (1) liter of any particular product in one (1) calendar year of distilled spirits or wine, or ninety-six (96) ounces of any particular product in one (1) calendar year of malt beverages, to the following:
- (a) Marketing or media representatives twenty-one (21) years of age or older;
- (b) Distilled spirits, wine, or malt beverage competitions or contests;
- (c) Wholesalers or distributors located outside of Kentucky;
- (d) Federal, state, or other regulatory testing labs;~~and~~
- (e) Third-party product formulation and development partners; **and**
- (f) Persons or entities engaged in a private selection event pursuant to Section 5 of this Act.**

Such samples shall be marked by affixing across the product label, a not readily removed disclaimer with the words "Sample-Not for Sale" and the name of the manufacturer.

➔Section 4. KRS 243.030 is amended to read as follows:

The following licenses that authorize traffic in distilled spirits and wine may be issued by the distilled spirits administrator. Licenses that authorize traffic in all alcoholic beverages may be issued by both the distilled spirits administrator and malt beverages administrator.

The licenses and their accompanying fees are as follows:

- (1) Distiller's license:
 - (a) Class A, per annum\$3,090.00
 - (b) Class B (craft distillery), per annum\$1,000.00
- (2) Rectifier's license:
 - (a) Class A, per annum\$2,580.00
 - (b) Class B (craft rectifier), per annum\$825.00
- (3) Winery license, per annum\$1,030.00
- (4) Small farm winery license, per annum\$110.00
 - (a) Small farm winery off-premises retail license, per annum\$30.00
- (5) Wholesaler's license, per annum\$2,060.00
- (6) Quota retail package license, per annum.....\$570.00
- (7) Quota retail drink license, per annum\$620.00
- (8) Transporter's license, per annum\$210.00
- (9) Special nonbeverage alcohol license, per annum\$60.00
- (10) Special agent's or solicitor's license, per annum\$30.00
- (11) Bottling house or bottling house storage license,
per annum\$1,030.00
- (12) Special temporary license, per event\$100.00
- (13) Special Sunday retail drink license, per annum \$520.00
- (14) Caterer's license, per annum \$830.00
- (15) Special temporary alcoholic beverage
auction license, per event\$100.00
- (16) Extended hours supplemental license, per annum\$2,060.00

- (17) Hotel in-room license, per annum\$210.00
- (18) Air transporter license, per annum\$520.00
- (19) Sampling license, per annum\$110.00
- (20) Replacement or duplicate license\$25.00
- (21) Entertainment destination center license:
 - (a) When the licensee is a city, county, urban-county government, consolidated local government, charter county government, or unified local government, per annum\$2,577.00
 - (b) All other licensees, per annum\$7,730.00
- (22) Limited restaurant license, per annum \$780.00
- (23) Limited golf course license, per annum\$720.00
- (24) Small farm winery wholesaler's license, per annum\$110.00
- (25) Qualified historic site license, per annum\$1,030.00
- (26) Nonquota type 1 license, per annum\$4,120.00
- (27) Nonquota type 2 license, per annum\$830.00
- (28) Nonquota type 3 license, per annum\$310.00
- (29) Distilled spirits and wine storage license, per annum\$620.00
- (30) Out-of-state distilled spirits and wine supplier's license, per annum\$1, 550.00
- (31) Limited out-of-state distilled spirits and wine supplier's license, per annum\$260.00
- (32) Authorized public consumption license, per annum.....\$250.00
- (33) Direct shipper license, per annum.....\$100.00
- (34) **Limited nonquota package license, per annum.....\$300.00**
- (35) Off-premises retail sales outlet, per annum.....\$100.00**
- (36)** A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045.

~~(37)~~~~(35)~~ Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In establishing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

~~(38)~~~~(36)~~ The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary retail drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (4), (8), (9), (10), (12), (15), (19), and (20) of this section. The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

➔Section 5. KRS 243.0305 is amended to read as follows:

- (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under KRS 242.1243 and that has a gift shop or other retail outlet on its premises may conduct the activities permitted under this section as a part of its distiller's license.
- (2) (a) For purposes of all retail drink and package sales that occur pursuant to subsection (3), ~~(4), (8), or~~ (9), (10), or (12) of this section, the distillery shall:
 1. Be permitted to transfer its products from the distillery proper to the location where those *retail* sales occur without having to transfer physical possession of those distilled spirits to a licensed wholesaler; and
 2. ~~[Effective January 1, 2022, without otherwise reporting those distilled spirits to a licensed wholesaler,]~~Report *those retail sales* and pay all taxes required to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its

powers under KRS 131.130(3).

- (b) 1. ~~[Effective January 1, 2022, a distiller selling distilled spirits in accordance with this subsection shall]~~Pay all wholesale sales taxes due under KRS 243.884. For the purposes of this subsection, "wholesale sales" means a sale of distilled spirits made by a distiller under subsection (3)(b), ~~(4), (8), and~~ (9), **(10), and (12)** of this section, if required by KRS 243.884, **excluding sales made by a distiller under subsections (4)(a)3. and (4)(b) of this section that utilize a licensed wholesaler.**
2. ~~[Effective January 1, 2022, a distiller shall]~~Pay the excise tax on distilled spirits in accordance with KRS 243.720 and 243.730.
- (c) All other distilled spirits that are produced by the distillery shall be sold and physically transferred in compliance with all other relevant provisions of KRS Chapters 241 to 244.
- (3) A distiller may sell **its own private selection packages and** souvenir packages at retail:
- (a) To consumers in accordance with KRS 243.027 to 243.029 if it holds a direct shipper license; and
- (b) To distillery visitors of legal drinking age, in quantities not to exceed an aggregate of ~~four and one half (4 1/2) liters per purchaser per day for sales prior to January 1, 2021, and in quantities not to exceed an aggregate of~~ nine (9) liters per purchaser per day ~~[on and after January 1, 2021]~~.
- (4) **A distiller may conduct private selection events and sell private selection packages at retail, as follows:**
- (a) Distillers may sell private selection packages to consumers who participated in a private selection event by:**
- 1. Shipping the private selection packages in accordance with KRS**

243.027 to 243.029 if the distiller holds a direct shipper license, but these sales and shipments shall be exempt from the quantity limitations established in KRS 243.028(1);

2. Selling the private selection packages to the participating consumers directly from the distillery premises, but these sales shall be exempt from the quantity limitations established in subsection (3)(b) of this section; or

3. Selling the private selection packages through a wholesaler and to a licensed retailer of the consumer's choice. The distillery and wholesaler's cooperation in facilitating the sale of the private selection packages to the retailer of the consumer's choice shall not be deemed a violation of Section 10 of this Act; and

(b) Distillers may sell private selection packages to retail licensees that participated in a private selection event through a licensed wholesaler or at the distillery in accordance with KRS 243.240(2)(c), but these sales shall be exempt from the quantity limitations established in subsection (3)(b) of this section.

(5) Hours of sale for souvenir packages **sold at retail and private selection packages** sold~~[to distillery visitors]~~ at retail shall be in conformity with KRS 244.290(3).

(6)~~(5)~~ Except as provided in this section, souvenir package **and private selection package** sales to distillery visitors shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.

(7)~~(6)~~ Souvenir packages sold to distillery visitors under subsection (3)(b) of this section, **which are not made available to a licensed wholesaler,** shall be registered **by the licensed distiller** with the department~~[pursuant to KRS 244.440 and made available to a Kentucky licensed wholesaler]~~.

~~(8)~~~~(7)~~ Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding a sampling license may allow visitors to sample distilled spirits under the following conditions:

- (a) Sampling shall be permitted only on the licensed premises during regular business hours;
- (b) A distillery shall not charge for the samples; and
- (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces of samples per visitor per day, **except in connection with a private selection event.**

~~(9)~~~~(8)~~ Notwithstanding the provisions of KRS 243.110, in accordance with this section, a distillery located in wet territory or in any territory that has authorized the limited sale of alcoholic beverages under an election held pursuant to KRS 242.1243 may:

- (a) Hold an NQ2 retail drink license for the sale of alcoholic beverages on the distillery premises; and
- (b) Employ persons to engage in the sale or service of alcohol under an NQ2 license, if each employee completes the department's Server Training in Alcohol Regulations program within thirty (30) days of beginning employment.

~~(10)~~~~(9)~~ A distiller may sell to consumers at fairs, festivals, and other similar types of events located in wet territory. **A distiller may:**

- (a) Sell** alcoholic beverages by the drink, containing spirits distilled or bottled on the premises of the distillery;
- (b) Sell by the package in quantities not to exceed nine (9) liters per person, per day; and**
- (c) Serve complimentary samples not to exceed one and three-fourths (1-3/4) ounces per person, per day.**

~~(11)~~~~(10)~~ A distiller may offer for sale in its gift shop products that were produced in collaboration with a brewer or microbrewer, except that:

- (a) These packages shall not be exclusive to the distiller's gift shop; and
- (b) The distiller shall purchase the jointly branded souvenir package only from a licensed malt beverage distributor or a microbrewery pursuant to KRS 243.157(1)(f).

(12) At one (1) or more separately licensed off-premises retail site premises, a distiller may engage in the activities authorized in subsections (3), (4), (8), and (11) of this section if the off-premises retail site premises are located in wet territory or in a precinct that has authorized alcoholic beverage sales by the distillery under KRS 242.1243.

~~(13)~~~~(11)~~ Except as expressly stated in this section, this section does not exempt the holder of a distiller's license from:

- (a) The provisions of KRS Chapters 241 to 244;
- (b) The administrative regulations of the board; and
- (c) Regulation by the board at all the distiller's licensed premises.

~~(14)~~~~(12)~~ Nothing in this section shall be construed to vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages.

➔Section 6. KRS 243.110 is amended to read as follows:

- (1) Except as provided in subsection (3) of this section, each kind of license listed in KRS 243.030 shall be incompatible with every other kind listed in that section and no person or entity holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.
- (2) (a) Each kind of license listed in KRS 243.040(1), (3), or (4) shall be incompatible with every other kind listed in KRS 243.040(1), (3), or (4), and no person holding a license of any of those kinds shall apply for or hold a

- license of any other kind listed in KRS 243.040(1), (3), or (4).
- (b) A brewery holding a license listed in KRS 243.040(5) or (8) shall not apply for or hold a license listed in KRS 243.040(3) or (4).
- (3) (a) The holder of a quota retail package license may also hold a quota retail drink license, an NQ1 retail drink license, an NQ2 retail drink license, an NQ3 retail drink license, or a special nonbeverage alcohol license.
- (b) The holder of a transporter's license may also hold a distilled spirits and wine storage license.
- (c) The holder of a distiller's license may also hold a rectifier's license, a special nonbeverage alcohol license, a winery license, or a small farm winery license.
- (d) A commercial airline system or charter flight system retail license, a commercial airline system or charter flight system transporter's license, and a retail drink license if held by a commercial airline or charter flight system may be held by the same licensee.
- (e) A Sunday retail drink license and supplemental license may be held by the holder of a primary license.
- (f) The holder of a distiller's, winery, small farm winery, brewer, microbrewery, distilled spirits and wine supplier's, or malt beverage supplier's license may also hold a direct shipper license.
- (g) *The holder of an NO1 retail drink license, an NO2 retail drink license, or a limited restaurant license may also hold a limited nonquota package license.***
- (4) Any person may hold two (2) or more licenses of the same kind.
- (5) A person or entity shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license through or under the name of a different person or entity. The state administrator shall examine the ownership, membership, and management of applicants, and shall deny the application for a

license if the applicant is substantially interested in a person or entity that holds an incompatible license.

➔Section 7. KRS 243.232 is amended to read as follows:

- (1) A person holding a license to sell distilled spirits by the drink or by the package at retail may sell vintage distilled spirits purchased from a nonlicensed person upon written notice to the department in accordance with administrative regulations promulgated by the department.
- (2) Vintage distilled spirits may be resold only:
 - (a) By the drink by a person holding a license to sell distilled spirits by the drink;~~;~~
~~and~~
 - (b) By the package by a person holding a license to sell distilled spirits by the package; and
 - (c) **By the package by a person holding a limited nonquota package license.**

➔Section 8. KRS 243.260 is amended to read as follows:

- (1) A special temporary license may be issued in wet territory to any regularly organized fair, exposition, racing association, **farmers market**, or other party, when in the opinion of the board a necessity for the license exists. Unless inconsistent with this section, a special temporary licensee shall have the same privileges and restrictions of a quota retail drink licensee and an NQ4 retail malt beverage drink licensee at the designated premises, not to exceed thirty (30) days.
- (2) A nonprofit organization holding an NQ4 retail malt beverage drink license may be issued a special temporary license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The temporary license may be issued in conjunction with any public or private event, including but not limited to weddings, receptions, reunions, or similar occasions.
- (3) The holder of a special temporary license may sell, serve, and deliver alcoholic

beverages by the drink, for consumption only at the designated premises and the date and times for the qualifying event.

- (4) A special temporary license shall not be issued for an event held in dry or moist territory.

➔Section 9. KRS 243.884 is amended to read as follows:

- (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits, all distributors of beer, all direct shipper licensees shipping alcohol to a consumer at a Kentucky address, all distillers making sales pursuant to KRS 243.0305(3)~~[(b)]~~, ~~(4)~~, ~~[(8)]~~, and (9), **(10), and (12), excluding sales made by a distiller under subsections (4)(a)3. and (4)(b) of Section 5 of this Act that utilize a licensed wholesaler,** and all microbreweries selling malt beverages under KRS 243.157.
- (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent (11%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth, except as provided in subsection (3) of this section. For the purposes of this section, the gross receipts of a microbrewery making "wholesale sales" shall be calculated by determining the dollar value amount that the microbrewer would have collected had it conveyed to a distributor the same volume sold to a consumer as allowed under KRS 243.157 (3)(b) and (c).
- (c) On and after July 1, 2015, the following rates shall apply:
1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at wholesale; and
 2. For wine and beer:
 - a. Ten and three-quarters of one percent (10.75%) for wholesale sales or sales at wholesale made on or after July 1, 2015, and before

- June 1, 2016;
- b. Ten and one-half of one percent (10.5%) for wholesale sales or sales at wholesale made on or after June 1, 2016, and before June 1, 2017;
 - c. Ten and one-quarter of one percent (10.25%) for wholesale sales or sales at wholesale made on or after June 1, 2017, and before June 1, 2018; and
 - d. Ten percent (10%) for wholesale sales or sales at wholesale made on or after June 1, 2018.
- (d) On and after March 12, 2021, the following rates shall apply for direct shipper sales:
- 1. For distilled spirits shipments, eleven percent (11%) for wholesale sales or sales at wholesale; and
 - 2. For wine and beer shipments, ten percent (10%) for wholesale sales or sales at wholesale.
- (e) For direct shipper sales, if a wholesale price is not readily available, the direct shipper licensee shall calculate the wholesale price to be seventy percent (70%) of the retail price of the alcoholic beverages.
- (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, microbreweries, distillers, and direct shipper licensees shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine, or malt beverages is transferred from the wholesaler or distributor to retailers, or by microbreweries, distillers, or direct shipper licensees to consumers in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (3) Gross receipts from sales at wholesale or wholesale sales shall not include the

following sales:

- (a) Sales made between wholesalers or between distributors;
- (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a small farm winery in a calendar year made by:
 - 1. The small farm winery; or
 - 2. A wholesaler of that wine produced by the small farm winery; and
- (c) Sales made between a direct shipper licensee and a consumer located outside of Kentucky.

➔Section 10. KRS 244.240 is amended to read as follows:

- (1) No distiller, rectifier, winery, or wholesaler and no employee, servant, or agent of a distiller, rectifier, winery, or wholesaler shall:
 - (a) Except as provided in KRS 243.0305 and 243.155, be interested directly or indirectly in any way in any premises where distilled spirits or wine is sold at retail or in any business devoted wholly or partially to the sale of distilled spirits or wine at retail;
 - (b) Make or cause to be made any loan to any person engaged in the manufacture or sale of distilled spirits or wine at wholesale or retail;
 - (c) Make any gift or render any kind of service whatsoever, directly or indirectly, to any licensee that may tend to influence the licensee to purchase the product of the distiller, rectifier, winery, or wholesaler; or
 - (d) Enter into a contract with any retail licensee under which the licensee agrees to confine the licensee's sales to distilled spirits or wine manufactured or sold by one (1) or more distillers, rectifiers, wineries, or wholesalers. This type of contract shall be void.
- (2) Nothing in this section shall prohibit the giving of discounts in the usual course of business if the same discounts are offered to all licensees holding the same license type buying similar quantities.

- (3) A retailer shall not require or demand that a distiller, rectifier, winery, or wholesaler violate this section.

(4) This section shall not prohibit a distiller from:

(a) Supplying a retailer with barrels for the purpose of holding barrel-aged and batched cocktails; and

(b) Selling private selection packages as authorized in subsection (4)(a)3. of Section 5 of this Act.

➔Section 11. KRS 244.260 is amended to read as follows:

- (1) No wholesaler shall purchase, import, keep upon the licensed premises, or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than fifty (50) milliliters each of distilled spirits or one hundred (100) milliliters of wine, and not exceeding one and seventy-five hundredths (1.75) liters of distilled spirits or two hundred twenty (220) liters of wine, as received from the distiller, rectifier, winery, or wholesaler. The containers shall be in sizes authorized by federal law and at all times shall have affixed to them all labels required by federal law or the administrative regulations of the board.
- (2) Except **for purposes of preparing barrel-aged and batched cocktails as defined in Section 1 of this Act and** as permitted by KRS 243.055 and 243.082(4) and subsection (3) of this section, licensees holding retail distilled spirits and wine drink licenses shall not keep upon their licensed premises any distilled spirits or wine in any container except in the original package as received from the wholesaler and authorized by federal law. Containers of distilled spirits shall not exceed one and seventy-five hundredths (1.75) liters or be less than fifty (50) milliliters of distilled spirits. Containers of wine shall not exceed two hundred twenty (220) liters or be less than one hundred (100) milliliters. All containers shall at all times have affixed to them any labels required by federal law or administrative regulations of the board.

- (3) Licensees holding retail distilled spirits and wine package licenses shall not keep upon their licensed premises any distilled spirits or wine in any container except in the original package as received from the wholesaler and authorized by federal law. Containers of distilled spirits shall not exceed one and seventy-five hundredths (1.75) liters or be less than fifty (50) milliliters of distilled spirits. Containers of wine shall not exceed two hundred twenty (220) liters or be less than one hundred (100) milliliters. Except as permitted by subsection (2) of this section, all containers shall at all times remain sealed and shall have affixed to them any labels required by federal law or administrative regulations of the board.

➔Section 12. KRS 243.034 is amended to read as follows:

- (1) A limited restaurant license may be issued to an establishment meeting the definition criteria established in KRS 241.010~~(37)~~~~(36)~~ as long as the establishment is within:
- (a) Any wet territory; or
 - (b) Any moist precinct that has authorized the sale of alcoholic beverages under KRS 242.1244.
- (2) A limited restaurant license shall authorize the licensee to purchase, receive, possess, and sell alcoholic beverages at retail by the drink for consumption on the licensed premises or off-premises consumption pursuant to KRS 243.081. The licensee shall purchase alcoholic beverages only from licensed wholesalers or distributors. The license shall not authorize the licensee to sell alcoholic beverages by the package.
- (3) The holder of a limited restaurant license shall maintain at least seventy percent (70%) of its gross receipts from the sale of food and maintain the minimum applicable seating requirement required for the type of limited restaurant license.
- (4) A limited restaurant as defined by KRS 241.010~~(37)~~~~(a)~~~~(36)~~~~(a)~~ shall:
- (a) Only sell alcoholic beverages incidental to the sale of a meal; and

- (b) Not have an open bar and shall not sell alcoholic beverages to any person who has not purchased or does not purchase a meal.

➔Section 13. KRS 243.0341 is amended to read as follows:

- (1) Notwithstanding any other provision of law, any city or county that conducted an election under KRS 242.1244(2) prior to January 1, 2016, for by the drink sales of alcoholic beverages in restaurants and dining facilities seating one hundred (100) persons or more or any city with limited sale precincts created pursuant to KRS 242.1292 may elect to act under this section.
- (2) Upon a determination by the legislative body of a city or county that:
 - (a) An economic hardship exists within the city or county; and
 - (b) Expanded sales of alcoholic beverages by the drink could aid in economic growth;

the city or county may, after conducting a public hearing that is noticed to the public in accordance with the KRS Chapter 424, adopt an ordinance authorizing by the drink sales of alcoholic beverages in restaurants and dining facilities containing seating for at least fifty (50) persons and meeting the requirements of subsection (3) of this section.
- (3) The ordinance enacted by a city or county pursuant to subsection (2) of this section shall authorize the sale of alcoholic beverages under the following limitations:
 - (a) Sales shall only be conducted in restaurants and other dining facilities meeting the requirements of KRS 241.010(37)(a)~~[(36)(a)]~~; and
 - (b) The provisions of KRS 243.034 shall apply to any restaurant or dining facility operating under a license issued pursuant to this section.
- (4) A city or county acting under this section may allow limited restaurant sales as defined in KRS 241.010(37)~~[(36)]~~.
- (5) The enactment of an ordinance under this section shall not:
 - (a) Modify the city's or county's ability to issue a limited restaurant license to

restaurants or other dining facilities meeting the requirements of KRS 241.010~~(37)(b)~~~~[(36)(b)]~~; or

- (b) Affect, alter, or otherwise impair any license previously issued to a restaurant or dining facility meeting the requirements of KRS 241.010~~(37)(b)~~~~[(36)(b)]~~.