

1 AN ACT relating to alcoholic beverage control administrators and investigators.

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

3 → Section 1. KRS 241.090 is amended to read as follows:

4 **(1)** State administrators and all investigators shall have the full police powers of peace
5 officers, **except as provided in subsection (2) of this subsection**, and their
6 jurisdiction shall be coextensive with the state. They may inspect any premises
7 where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked
8 in, without first obtaining a search warrant. They may confiscate any contraband
9 property. The jurisdiction and police powers of state administrators and all
10 investigators during an emergency declared under KRS Chapter 39A shall be
11 subject to the limitations of KRS 39A.090.

12 **(2) A state administrator shall not have the power to make arrests unless he or she is**
13 **certified in accordance with KRS 15.380 to 15.404.**

14 → Section 2. KRS 241.110 is amended to read as follows:

15 (1) **(a)** The fiscal court of any county in which traffic in alcoholic beverages is not
16 forbidden under KRS Chapter 242 may by resolution declare that regulation
17 of the traffic in that county is necessary.

18 **(b)** The county judge/executive shall immediately constitute a county alcoholic
19 beverage control administrator for the county. However, the county
20 judge/executive may decline to accept this office, or after accepting the office,
21 the county judge/executive may resign from the office, and in either event,
22 notwithstanding the provisions of KRS 241.120, **241.140, and** ~~to and~~
23 ~~including KRS~~ 241.150, the county judge/executive may promptly appoint a
24 person:

25 **1.** At least thirty (30) years of age; ~~and~~

26 **2.** Who at the time of the appointment has been a citizen of the state and a
27 resident of that county for at least two (2) years next preceding the date

1 of appointment; ~~and~~ and

2 3. Who is able to qualify to serve at the pleasure of the county
3 judge/executive as county alcoholic beverage control administrator for
4 that county.

5 Before entering upon the duties of county alcoholic beverage control
6 administrator appointed by the county judge/executive, the appointee shall
7 take the oath prescribed by Section 228 of the Constitution. Upon the
8 qualification and appointment of this person as county alcoholic beverage
9 control administrator for the county, the person shall immediately notify the
10 department.

11 (2) The compensation of the county alcoholic beverage control administrator,
12 appointed by the county judge/executive, shall be fixed by the fiscal court in
13 accordance with KRS 64.530. The county judge/executive may also appoint any
14 investigators and clerks deemed necessary for the proper conduct of the county
15 alcoholic beverage control administrator's office, their salaries likewise shall be
16 fixed by the fiscal court pursuant to KRS 64.530, and they will serve at the pleasure
17 of the county judge/executive.

18 (3) No person shall be a county alcoholic beverage control administrator, an
19 investigator, or an employee of the county under the supervision of the county
20 alcoholic beverage control administrator, who would be disqualified to be a
21 member of the board under KRS 241.100.

22 (4) (a) The county alcoholic beverage control administrator, appointed by the county
23 judge/executive, and the administrator's investigators, shall have full police
24 powers of peace officers, and their jurisdiction shall be over the
25 unincorporated areas of the county and within the corporate limits of any city
26 in the county not having its own administrator. They may inspect any
27 premises where alcoholic beverages are manufactured, sold, stored, or

1 otherwise trafficked in, without first obtaining a search warrant.

2 (b) The ~~{county judge/executive, serving as the }~~county alcoholic beverage
3 control administrator, **and any investigator appointed by the administrator,**
4 shall not have the power to make arrests unless he or she is certified **in**
5 **accordance with**~~{under}~~ KRS 15.380 to 15.404.

6 (5) Before entering upon official duties, each county administrator shall take the oath
7 prescribed in Section 228 of the Constitution.

8 → Section 3. KRS 241.170 is amended to read as follows:

9 (1) **(a)** The city administrator in each city of the first class or the administrator in a
10 consolidated local government, and any investigators and clerks deemed
11 necessary for the proper conduct of this office, shall be appointed by the
12 mayor.

13 **(b)** The city administrator in each city of the first class or the administrator in a
14 county containing a consolidated local government, and the administrator's
15 investigators, shall have full police powers of peace officers, **except as**
16 **provided in subsection (5) of this section,** and their jurisdiction shall be
17 coextensive with boundaries of the city of the first class or the boundaries of
18 the county in a county containing a consolidated local government.

19 **(c)** They may inspect any premises where alcoholic beverages are manufactured,
20 sold, stored, or otherwise trafficked in, without first obtaining a search
21 warrant.

22 (2) **(a)** The city administrator in each city, other than a consolidated local
23 government, and any investigators and clerks deemed necessary for the proper
24 conduct of this office shall be appointed by the city manager if there is one. If
25 there is no city manager, the city administrator and any investigators or clerks
26 shall be appointed by the mayor.

27 **(b) Except as provided under subsection (5) of this section,** the jurisdiction of a

1 city administrator appointed pursuant to this subsection shall be coextensive
 2 with the boundaries of the city, and the city administrator and the
 3 administrator's investigators shall have the same powers authorized under
 4 subsection (1) of this section.

5 (3) No person shall be an administrator, an investigator, or an employee of the city or a
 6 consolidated local government under the supervision of the administrator, who
 7 would be disqualified to be a member of the board under KRS 241.100.

8 (4) Before entering upon official duties, each city administrator shall take the oath
 9 prescribed in Section 228 of the Constitution. An appointed city alcoholic beverage
 10 control administrator shall immediately notify the department of qualification and
 11 appointment.

12 **(5) (a) Except as provided in paragraph (b) of this subsection, an administrator or**
 13 **investigator appointed under this section shall not have the power to make**
 14 **arrests unless he or she is certified in accordance with KRS 15.380 to**
 15 **15.404.**

16 **(b) This subsection shall not apply to any individual serving as an**
 17 **administrator in a consolidated local government on the effective date of**
 18 **this Act.**

19 → Section 4. KRS 241.230 is amended to read as follows:

20 (1) **(a)** The urban-county administrator in each urban-county government and any
 21 investigators and clerks deemed necessary for the proper conduct of the
 22 office, shall be appointed by the mayor.

23 **(b)** The urban-county administrator, and the urban-county administrator's
 24 investigators, shall have full police powers of peace officers, **except as**
 25 **provided in subsection (4) of this section,** and their jurisdiction shall be
 26 coextensive with the urban-county governments. They may inspect any
 27 premises where alcoholic beverages are manufactured, sold, stored, or

1 otherwise trafficked in, without first obtaining a search warrant.

2 (2) No person shall be an urban-county administrator, an investigator, or an employee
3 of the urban-county government under the supervision of the urban-county
4 administrator, who would be disqualified to be a member of the board under KRS
5 241.100.

6 (3) Before entering upon official duties, each urban-county administrator shall take the
7 oath prescribed in Section 228 of the Constitution. An appointed urban-county
8 alcoholic beverage control administrator shall immediately notify the department of
9 qualification and appointment.

10 **(4) An urban-county administrator or investigator appointed under this section shall**
11 **not have the power to make arrests unless he or she is certified in accordance**
12 **with KRS 15.380 to 15.404.**

13 → Section 5. KRS 243.075 is amended to read as follows:

14 (1) (a) A city with a population of less than twenty thousand (20,000) based upon the
15 most recent federal decennial census, a county that does not contain a city
16 with a population equal to or greater than twenty thousand (20,000) based
17 upon the most recent federal decennial census, or a county that contains a city
18 authorized to impose a fee under subsection (9) of this section, that is wet
19 through a local option election held under KRS Chapter 242 is authorized to
20 impose a regulatory license fee not to exceed five percent (5%) upon the gross
21 receipts of the sale of alcoholic beverages of each establishment located in the
22 city or county licensed to sell alcoholic beverages.

23 (b) The regulatory license fee may be levied at the beginning of each budget
24 period at a percentage rate that is reasonably estimated to fully reimburse the
25 local government for the estimated costs of any additional policing,
26 regulatory, or administrative expenses related to the sale of alcoholic
27 beverages in the city and county.

- 1 (c) The regulatory license fee shall be in addition to any other taxes, fees, or
 2 licenses permitted by law, except:
- 3 1. A credit against a regulatory license fee shall be allowed in an amount
 4 equal to any licenses or fees imposed by the city or county pursuant to
 5 KRS 243.060 or 243.070; and
- 6 2. In a county in which the city and county both levy a regulatory license
 7 fee, the county license fee shall only be applicable outside the
 8 jurisdictional boundaries of those cities which levy a license fee.
- 9 (2) (a) A city or county that is moist through a local option election held under KRS
 10 Chapter 242~~[242.1244]~~ may by ordinance impose a regulatory license fee
 11 upon the gross receipts of the sale of alcoholic beverages of each
 12 establishment located in the city or county and licensed to sell alcoholic
 13 beverages by the drink for consumption on the premises.
- 14 (b) The regulatory license fee may be levied annually at a rate that is reasonably
 15 estimated to fully reimburse the city or county for the estimated costs for any
 16 additional policing, regulatory, or administrative related expenses.
- 17 (c) The regulatory license fee shall be in addition to any other taxes, fees, or
 18 licenses permitted by law, but a credit against the fee shall be allowed in an
 19 amount equal to any licenses or fees imposed by the city or county pursuant to
 20 KRS 243.060 or 243.070.
- 21 (d) In a county in which the city and county both levy a regulatory license fee, the
 22 county license fee shall only be applicable outside the jurisdictional
 23 boundaries of those cities which levy a license fee.
- 24 (3) (a) 1. For any election held after July 15, 2014, any new fee authorized under
 25 subsection (1) or (2) of this section shall be enacted by the city or
 26 county no later than two (2) years from the date of the local option
 27 election held under KRS Chapter 242.

1 **2. Notwithstanding subparagraph 1. of this paragraph, a territory shall**
 2 **enact the regulatory license fee no later than July 1, 2027, if the**
 3 **territory:**

4 **a. Became moist prior to the effective date of this Act; and**

5 **b. Was not eligible to levy a regulatory license fee until the effective**
 6 **date of this Act.**

7 (b) Notwithstanding paragraph (a) of this subsection, any city or county that held
 8 a local option election between July 15, 2014, and July 15, 2018, may enact a
 9 regulatory licensing fee in accordance with subsection (1) of this section
 10 within two (2) years of June 29, 2021.

11 (4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section
 12 shall be established at a rate that will generate revenue that does not exceed the total
 13 of the reasonable expenses actually incurred by the city or county in the
 14 immediately previous fiscal year for the additional cost, as demonstrated by
 15 reasonable evidence, of:

16 (a) Policing;

17 (b) Regulation; and

18 (c) Administration;

19 as a result of the sale of alcoholic beverages within the city or county.

20 (5) (a) The Alcoholic Beverage Control Board shall promulgate administrative
 21 regulations which set forth the process by which a city or county, in the first
 22 year following the discontinuance of prohibition, may estimate any additional
 23 policing, regulation, and administrative expenses by a city or county directly
 24 and solely related to the discontinuance of prohibition. This subsection shall
 25 apply to any discontinuance of prohibition occurring after the promulgation of
 26 administrative regulations required by this subsection.

27 (b) After the first year, the regulatory license fee for each subsequent year shall

1 conform to the requirements of subsection (4) of this section.

2 (6) The revenue received from the imposition of the regulatory license fee authorized
3 under subsections (1) and (2) of this section shall be:

4 (a) Deposited into a segregated fund of the city or county;

5 (b) Spent only in accordance with the requirements of subsections (1) and (2) of
6 this section; and

7 (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810,
8 and 91A.040.

9 (7) Any city or county found by a court to have violated the provisions of this section
10 shall:

11 (a) Provide a refund as determined by the court to any licensee that has been
12 harmed in an amount equal to its prorated portion of the excess revenues
13 collected by the city or county that are directly attributable to a violation
14 occurring after July 15, 2014;

15 (b) Be responsible for the payment of the reasonable attorney fees directly
16 incurred by a party to a litigation in an amount ordered by the court upon its
17 finding of an intentional and willful violation of this section by a city or
18 county occurring after July 15, 2014; and

19 (c) Upon the finding by a court of a second intentional and willful violation of the
20 provisions of this section, lose the ability to impose the regulatory fee
21 provided by this section for a period of five (5) years and, upon the finding by
22 a court of a third intentional and willful violation, forfeit the right to impose
23 the regulatory license fee authorized by this section.

24 (8) Any party bringing suit against a city or county for an alleged violation of this
25 section occurring after July 15, 2014, shall be responsible for the payment of the
26 reasonable attorney fees of the city or county in an amount determined by the court
27 upon a finding by the court that the city or county did not violate this section.

1 (9) (a) Any city that does not meet the population requirements of subsection (1) of
2 this section, and any county that has a city exceeding the population
3 requirements of subsection (1) of this section, that imposed a regulatory
4 license fee pursuant to this section as of January 1, 2019, shall be deemed to
5 meet the requirements for doing so set out in this section and may continue to
6 impose the regulatory license fee previously established pursuant to this
7 section.

8 (b) Any city or county that is authorized to impose the regulatory license fee
9 under subsection (1) of this section, or under paragraph (a) of this subsection,
10 that imposed the regulatory license fee at a rate higher than five percent (5%)
11 prior to June 27, 2019, may continue to impose the regulatory license fee at a
12 rate that exceeds five percent (5%). The rate shall continue to be calculated
13 annually pursuant to the requirements of this section and shall not exceed the
14 rate that was imposed by the city or county on January 1, 2019.

15 (10) A direct shipper licensee shall be subject to and remit the regulatory license fee
16 imposed by this section as though it were an establishment located in a city or
17 county licensed to sell alcoholic beverages. This fee shall be considered a tax as
18 defined in KRS 243.029.

19 (11) Any city or county imposing a regulatory license fee under this section shall
20 file with the department a report showing the applicable fee amount and remittance
21 address for each affected license type in its jurisdiction on or before August 1, 2020. Any
22 adoption of this fee after July 15, 2020, or modification of the applicable fee amount or
23 remittance address for each affected licensee shall be reported to the department within
24 thirty (30) days of adoption by the city or county imposing the fee. Within twenty (20)
25 days after receipt of the information, the department shall compile and publish the
26 information so that it is readily available to the public.

27 → Section 6. KRS 244.290 is amended to read as follows:

- 1 (1) (a) A licensee authorized to sell distilled spirits or wine at retail shall be
2 permitted to sell and deliver distilled spirits and wine during the hours the
3 polls are open on any primary, or regular, local option, or special election day
4 unless it is located where the legislative body of a city, urban-county
5 government, consolidated local government, charter county government,
6 unified local government, or the fiscal court of a county adopts an ordinance
7 after June 25, 2013, that prohibits the sale of distilled spirits and wine or
8 limits the hours and times in which distilled spirits and wine may be sold
9 within its jurisdictional boundaries on any primary, or regular, local option, or
10 special election day during the hours the polls are open.
- 11 (b) This subsection shall only apply in a wet or moist territory.
- 12 (c) Notwithstanding any other provision of the Kentucky Revised Statutes to the
13 contrary, the fiscal court of a county shall not by ordinance or any other
14 means:
- 15 1. Supersede, reverse, or modify any decision made pursuant to this
16 subsection by the legislative body of a city within that county; or
- 17 2. Impose an action upon a city within that county when that city has taken
18 no formal action pursuant to this subsection.
- 19 (2) In any county containing a city of the first class, or a city with a population equal to
20 or greater than twenty thousand (20,000) based upon the most recent federal
21 decennial census in which the sale of distilled spirits and wine by the drink is
22 permitted under KRS Chapter 242, an election on the question of permitting the sale
23 of distilled spirits and wine by the drink on Sunday may be held as provided in KRS
24 Chapter 242.
- 25 (3) Except as permitted by KRS 243.050 and subsection (4) of this section, a licensee
26 authorized to sell distilled spirits or wine at retail shall not sell or deliver distilled
27 spirits and wine between midnight and 6 a.m. or at any time during the twenty-four

1 (24) hours of a Sunday.

2 (4) (a) A licensee authorized to sell distilled spirits and wine at retail may sell and
 3 deliver distilled spirits and wine on Sunday and during the hours and times as
 4 permitted by local ordinance of the legislative body of a city, urban-county
 5 government, consolidated local government, charter county government,
 6 unified local government, or the county with local jurisdiction. These
 7 ordinances shall not prohibit the sale, gift, or delivery of distilled spirits or
 8 wine between 6 a.m. and 12 midnight any day, except Sunday.

9 (b) A licensee authorized to sell distilled spirits and wine by the drink at retail
 10 may sell distilled spirits and wine by the drink on Sunday and during the
 11 times and hours as permitted by a local ordinance of the legislative body of
 12 an urban-county government, consolidated local government, charter
 13 county government, unified local government, city, or county with local
 14 jurisdiction. The ordinance shall not prohibit the sale or gift of distilled
 15 spirits and wine by the drink between 6 a.m. and midnight during any day,
 16 except Sunday.

17 (5) In any territory containing a licensed small farm winery that is permitted to sell
 18 alcoholic beverages under KRS Chapter 242, the sale of alcoholic beverages at the
 19 small farm winery on Sunday may be permitted if:

20 (a) The legislative body of the local government having jurisdiction approves by
 21 local ordinance the sale of alcoholic beverages on Sunday in strict accordance
 22 with the sales permitted by KRS 243.155 on the licensed premises of a small
 23 farm winery during the hours and times as permitted in the local ordinance; or

24 (b) A limited sale precinct election on the issue of Sunday sales is approved after
 25 meeting the requirements of KRS 242.1241.

26 (6) In any county containing a city of the first class or in any city located in that county
 27 in which the sale of distilled spirits and wine is permitted under KRS Chapter 242,

1 the distilled spirits administrator may issue a license to holders of a quota retail
 2 drink license or a special private club license that permits the sale of distilled spirits
 3 and wine by the drink on Sunday from 1 p.m. until the prevailing time for that
 4 locality.

5 → Section 7. KRS 244.480 is amended to read as follows:

6 (1) Except as permitted by subsection (4) of this section, no brewer or distributor shall
 7 deliver any malt beverages on Sunday or between the hours of midnight and 6 a.m.
 8 on any other day.

9 (2) Except as permitted by subsection (4) of this section, a licensee authorized to sell
 10 malt beverages at retail shall not sell, give away, or deliver any malt beverages
 11 between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a
 12 Sunday.

13 (3) (a) A licensee authorized to sell malt beverages at retail may sell malt beverages
 14 during the hours the polls are open on a primary, or regular, local option, or
 15 special election day unless the licensee is located where the legislative body
 16 of an urban-county government, consolidated local government, charter
 17 county government, unified local government, city, or county, in which traffic
 18 in malt beverages is permitted by KRS Chapter 242 has adopted an ordinance
 19 after June 25, 2013, that prohibits the sale of alcoholic beverages or limits the
 20 hours and times in which alcoholic beverages may be sold within its
 21 jurisdictional boundaries on any primary, or regular, local option, or special
 22 election day.

23 (b) This subsection shall only apply in a wet or moist territory.

24 (c) Notwithstanding any other provisions of the Kentucky Revised Statutes to the
 25 contrary, the fiscal court of a county shall not by ordinance or any other
 26 means:

27 1. Supersede, reverse, or modify any decision made pursuant to this

1 subsection by the legislative body of a city within that county; or
2 2. Impose an action upon a city within that county when that city has taken
3 no formal action pursuant to this subsection.

4 (4) (a) A licensee may sell or deliver malt beverages on Sunday and during the times
5 and hours as permitted by a local ordinance of the legislative body of an
6 urban-county government, consolidated local government, charter county
7 government, unified local government, city, or county with local jurisdiction.
8 The ordinance shall not prohibit the sale, gift, or delivery of any malt
9 beverages between 6 a.m. and midnight during any day, except Sunday.

10 (b) A licensee authorized to sell malt beverages by the drink at retail may sell
11 malt beverages by the drink on Sunday and during the times and hours as
12 permitted by a local ordinance of the legislative body of an urban-county
13 government, consolidated local government, charter county government,
14 unified local government, city, or county with local jurisdiction. The
15 ordinance shall not prohibit the sale or gift of any malt beverages by the
16 drink between 6 a.m. and midnight during any day, except Sunday.