

CHAPTER 435**(SB 247)**

AN ACT relating to 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 this chapter **and in KRS Chapters 242 and 243**, 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 or solid, 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~~[if they are unfit for use for beverage purposes]~~:
 - (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;
 - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and
 - (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.
- (3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.
- (4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.
- (5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.
- (6) "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.
- (7) "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.

- (8) "Cabinet" means the Revenue Cabinet unless the context requires otherwise.
- (9) "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.
- (10) "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.
- (11) "City administrator" means city alcoholic beverage control administrator.
- (12) "Commissioner" means the commissioner of alcoholic beverage control.
- (13) "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.
- (14) "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.
- (15) "County administrator" means county alcoholic beverage control administrator.
- (16) "Department" means the Department of Alcoholic Beverage Control.
- (17) "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.
- (18) "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.
- (19) "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.
- (20) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.
- (21) "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.
- (22) "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

- (23) "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.
- (24) "Field representative" 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 taxpayers, 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.
- (25) "License" means any license issued pursuant to KRS 243.020 to 243.670.
- (26) "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.
- (27) "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 having an alcoholic content greater than that permitted under subsection (2)(i) of this section.
- (28) "Manufacture" means distill, rectify, brew, bottle, and operate a winery.
- (29) "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.
- (30) "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.
- (31) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.
- (32) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits 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.
- (33) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.
- (34) "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers and that has a bona fide kitchen facility.
- (35) "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 to the consumer or not.

- (36) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.
- (37) "Retail sale" means any sale where delivery is made in Kentucky to any consumers.
- (38) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.
- (39) "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.
- (40) "Secretary" means the secretary of the Kentucky Revenue Cabinet.
- (41) "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.
- (42) "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.
- (43) "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.
- (44) "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit, or both, as the context requires.
- (45) "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.
- (46) "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.
- (47) "Warehouse" means any place in which alcoholic beverages are housed or stored.
- (48) "Wholesale sale" means a sale to any person for the purpose of resale.
- (49) "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.
- (50) "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 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 includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.
- (51) "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. It

includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.

Section 2. KRS 241.200 is amended to read as follows:

Appeals from the orders of each city administrator may be taken to the board by filing with the board within thirty (30) days a certified copy of the orders of the city administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the city administrator shall be governed by KRS **Chapter 13B**~~[243.550 to 243.590]~~.

Section 3. KRS 241.260 is amended to read as follows:

Appeals from the orders of each urban-county administrator may be taken to the board by filing with the board within thirty (30) days a certified copy of the orders of the urban-county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the urban-county administrator shall be governed by KRS **Chapter 13B**~~[243.550 to 243.590]~~.

SECTION 4. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010.

Section 5. KRS 242.1297 is amended to read as follows:

Notwithstanding any law to the contrary, a precinct located in a city of the third class where the entire city is wet territory, may have an election to take the sense of the voters of the precinct on the application of KRS 242.220 to 242.430 in the precinct. The election shall be held in the precinct in the manner prescribed in KRS **242.020**~~[242.010]~~ to 242.040 and KRS 242.060 to 242.120. The election shall not be deemed to be an election in the "same territory" within the meaning of KRS 242.030(5); however, no election shall be held in the same precinct more often than once every five (5) years. The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?" Section 6. KRS 242.240 is amended to read as follows:

A person shall not sell or give any of the articles listed in KRS **241.010(2)(a) to (e) and 241.010(h)**~~[242.010(2)(a) to (h)]~~ as not within the definition of alcoholic beverages, knowing that, or under such circumstances that, the seller or giver might reasonably deduce that the purchaser or person to whom the article is given intends to use it for beverage purposes.

SECTION 7. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010.

Section 8. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

- (1) Distiller's license, per annum \$2,500.00
- (2) Rectifier's license, per annum \$2,500.00
- (3) Blender's license, per annum \$2,500.00
- (4) Vintner's license, per annum \$1,000.00
- (5) Small winery license, per annum \$100.00
 - (a) Small winery off-premises retail license, per annum \$25.00
- (6) Wholesaler's license, per annum \$2,000.00
- (7) Retail package license, per annum:
 - (a) In counties containing cities of the first class \$800.00
 - (b) In counties containing cities of the second class
\$700.00
 - (c) In counties containing cities of the third class
..... \$600.00
 - (d) In counties containing cities of the
fourth class \$500.00
 - (e) In all other counties \$400.00
- (8) Retail drink license, motel drink license, restaurant drink license, or supplemental bar license,
per annum:
 - (a) In counties containing cities of the first class \$1,000.00
 - (b) In counties containing cities of the second class
\$700.00
 - (c) In counties containing cities of the third class
..... \$600.00
 - (d) In counties containing cities of the
fourth class \$500.00
 - (e) *The fee for each of the first five (5) supplemental bar licenses shall be the same as the
fee for the 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.*
- (9) Transporter's license, per annum \$100.00
- (10) Dining car license, per annum \$100.00
- (11) Special nonbeverage alcohol vendor's license, per annum \$50.00
- (12) Special industrial alcohol license, per annum \$50.00
- (13) Special nonindustrial alcohol license, per annum \$50.00
- (14) Special agent's or solicitor's license, per annum \$25.00
- (15) Special storage or warehouse license and bottling house storage license,
per annum \$500.00
- (16) Special temporary liquor license, per event \$100.00
- (17) Special private club license, per annum \$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

- (18) Special Sunday retail drink license, per annum \$500.00
- (19) Nonresident, special agent or solicitor's license, per annum \$100.00
- (20) Transport permit, nonresident license, per annum \$100.00
- (21) Through transporter's license, per annum \$100.00
- (22) Freight forwarder's license, per annum\$100.00
- (23) Restaurant wine license, per annum..... \$500.00
- (24) Farm winery license, per annum \$100.00
 - (a) Farm winery, off-premises retail outlet license, per annum \$25.00
- (25) Special temporary wine license, per event \$50.00
- (26) Caterer's license, per annum \$800.00
- (27) Souvenir retail liquor license, per annum \$500.00
- (28) Special temporary distilled spirits and wine
 - auction license, per event \$100.00
- (29) Airport drink license, per annum \$1,000.00
- (30) Convention center or convention hotel complex
 - license, per annum \$5,000.00
- (31) Extended hours~~[-]~~ supplemental license, per annum \$2,000.00
- (32) Horse race track license, per annum \$2,000.00
- (33) Air or rail system license, per annum \$2,000.00
- (34) Riverboat license, per annum \$1,000.00
- (35) Bottling house license, per annum \$1,000.00
- (36) Hotel in-room license, per annum \$200.00
- (37) Bonded warehouse license, per annum \$1,000.00
- (38) Air transporter liquor license, per annum \$500.00
- (39) Replacement or duplicate license \$25.00
- (40) 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 fixing 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.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and (39). The application fee shall be applied to the licensing fee if the

license~~[application]~~ is issued; *otherwise it*~~[-and]~~ shall be retained by the department~~[-if the license is denied]~~.

Section 9. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

- (1) Brewer's license, per annum \$2,500.00
- (2) Microbrewery license, per annum \$500.00 (3)
 Distributor's license, per annum \$500.00
- (4) Malt beverage retail license, per annum:
 - (a) New applicants \$200.00
 - (b) Renewals \$150.00
- (5) Dining car license, per annum \$200.00
- (6) Transporter's license, per annum \$100.00
- (7) Special temporary license, per *event*~~[month or part of month]~~ \$50.00
- (8) Special off-premises retail storage license, per annum \$100.00
- (9) Distributor's storage, per annum \$250.00
- (10) Special beer transporter's license, per annum \$100.00
- (11) Brew-on-premises license, per annum \$500.00
- (12) Out-of-state brewer license, per annum \$1,500.00
- (13) Malt beverage warehouse license, per annum \$1,000.00
- (14) Replacement or duplicate license, per annum \$25.00
- (15) Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

Applicants for special licenses provided for under the authority granted in subsection (15) may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application for a license under this section except for subsections (6), (7), (10), and (14). The application fee shall be applied to the licensing fee *if*~~[when]~~ the *license*~~[application]~~ is issued, or *otherwise the fee shall be* retained by the department~~[-if the license is denied]~~.

Section 10. KRS 243.050 is amended to read as follows:

- (1) The department may issue a railroad system license to a railroad company upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.
- (2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be

in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly-scheduled or charter flights of the licensee, in and out of the State of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.

- (3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the State of Kentucky, upon regularly-scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.
- (4) The department may issue a convention center or convention hotel complex license for the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises to a convention center or hotel having seating capacity of one thousand (1,000) or more persons. The license shall cover all alcoholic beverage sales on the premises, except that a separate hotel in-room service license *shall be* ~~is~~ required, where applicable. ~~An applicant for the license shall meet the qualifications of KRS 243.055, and an~~ extended supplement license under subsection (5) of this section may *also* be issued *where applicable*. The convention center or convention hotel complex license shall be a nonquota license and shall not be transferable to other premises. The provisions of this subsection shall not apply to convention center licenses or the renewal thereof, other than those in a city of the first class or a county containing a city of the first class, if the original license was issued prior to July 15, 1998.
- (5) Where it is determined by the department to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the department may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230, and at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually. Upon application by the holder of a retail alcoholic beverage license at a convention center, convention hotel complex, horse race track, or commercial airport as provided above, the department may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be established, and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The department may, by administrative regulation or special conditions of the supplemental permit, establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention business, the horse racing industry, and passengers at large commercial airports.

Section 11. KRS 243.070 is amended to read as follows:

The city legislative body of any city in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. **Only those licenses set out in this section shall be issued, and the fee for each shall not exceed the specified amount**~~[The licenses may only be issued by the city administrator, and the fee shall not exceed the following]~~: (1) Distilled spirit licenses as set forth in KRS 243.030:

- (a) Distiller's license, per annum \$500.00
- (b) Rectifier's license, per annum \$3,000.00 (c)
Blender's license, per annum \$3,000.00
- (d) Wholesaler's distilled spirits and wine license, per annum \$3,000.00
- (e) Distilled spirits and wine retail package license, per annum:
 - 1. In counties containing cities of the first class \$1,200.00
 - 2. In counties containing cities of the second class \$1,000.00
 - 3. In counties containing cities of the third class \$800.00
 - 4. In counties containing cities of the fourth class \$600.00
 - 5. In all other counties \$400.00
- (2) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
 - (a) In counties containing cities of the first class
\$1,600.00 (b) In counties containing cities of the second class
\$1,000.00 (c) In counties containing cities of the third class
\$800.00
 - (d) In counties containing cities of the fourth class \$600.00
- (3) Distilled spirits and wine special temporary liquor license, per event:
 - (a) In counties containing cities of the first class
\$266.66 (b) In counties containing cities of the second class
\$166.66 (c) In counties containing cities of the third class
\$133.33
 - (d) In counties containing cities of the fourth class \$100.00
- (4) Special temporary wine license, per event \$50.00
- (5) Distilled spirits and wine special temporary auction
license, per event \$200.00
- (6) Special private club license, per annum \$300.00
- (7) Distilled spirits and wine special Sunday retail drink
license, per annum \$300.00

- (8) Extended hours supplemental license, per annum \$2,000.00 (9)
 Nonresident special agent or solicitor's license, per annum \$40.00
- (10) Restaurant wine license, per annum:
 (a) New applicants \$600.00
 (b) Applicants for renewal \$400.00
- (11) Caterer's license, per annum \$800.00
- (12) Riverboat license, per annum \$1,200.00
- (13) Horse race track license, per annum \$2,000.00
- (14) Convention center or convention hotel complex
 license, per annum \$2,000.00
- (15) Bottling house distilled spirits license or wine storage license, per annum
 \$1,000.00
- (16) Souvenir retail liquor license, per annum \$1,000.00
- (17) Malt beverage licenses as follows:
 (a) Brewer's license, per annum \$500.00 (b)
 Microbrewery license, per annum \$500.00 (c)
 Malt beverage distributor's license, per annum \$400.00 (d)
 Retail malt beverage license, per annum \$200.00 (e)
 Special temporary retail malt beverage license, per event \$25.00 (f)
 Malt beverage brew-on-premises license, per annum \$100.00

Section 12. KRS 243.360 is amended to read as follows:

- (1) Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for ***an out-of-state brewer's license, supplemental bar license, extended hours supplemental license***, a special agent or solicitor's license, a bonded warehouse license, a freight forwarding license, a storage warehouse license, an industrial alcohol license, a nonindustrial alcohol license, a storage warehouse license, a nonbeverage-~~alcohol~~ license, a vendor license, a transporter's license, a Sunday license, or a temporary drink license shall, before applying for a license under KRS 243.030 and 243.040, advertise by publication under KRS 424.130(1)(b) his or her intention to apply for a license.
- (2) The notice shall conform in all material respects to the following requirements:
 (a) The notice shall state: the name and address of the applicant if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation;

- (b) The notice shall specifically state the location of the premises for which the license is sought and the type of license being requested; and
 - (c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverages, 1003 Twilight Trail, Suite A-2, Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."
- (3) ~~[A license shall not be issued until the thirty (30) day period in which a protest is permissible has expired.]~~ Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.

Section 13. KRS 243.430 is amended to read as follows:

- (1) The state administrator may reject any application for a license issued under KRS 243.030 and 243.040 if the application is incomplete or the correct fee has not been remitted with the application. In rejecting an application, the state administrator shall provide a written statement of the deficiencies contained in the application.
- (2) A license ***shall not be issued until the thirty (30) day period in which a protest is permissible has expired. Any license*** for which public notice under KRS 243.360 is required ***may conditionally***~~[shall not]~~ be issued in less than thirty (30) days from the date the application is ***received if the premises has previously operated under the same type of license within the last twelve (12) months***~~[substantially complete, except the renewal of the license may be issued upon receipt of all necessary information by the state administrator with jurisdiction over the license].~~ All remaining licenses provided for in KRS 243.030 ***or Section 9 of this Act*** shall be issued when, in the sound discretion of the ~~[distilled spirits]~~ administrator, all of the information necessary has been obtained.

Section 14. KRS 243.540 is amended to read as follows:

- (1) ***The provisions of this section shall apply to any licensee who is unable to continue in business at the license premises because of an act of God; a casualty; an acquisition by a federal, state, city, or other governmental agency under the power of eminent domain granted to the government or agency; a voluntary or involuntary acquisition by any private corporation through the corporation's power of eminent domain; a loss of lease because the landlord fails to renew an existing lease; court action; or other verifiable business reason***~~[If a license issued under KRS 243.020 to 243.670 is revoked, voluntarily surrendered, or subject to disposition by a court, or is not renewed by the licensee, or if an act of God requires the relocation or closure of the licensee's business, the licensee's inventory shall be disposed of in accordance with the requirements set out in this section].~~
- (2) If a license issued by the department has been revoked, the former licensee may, under the supervision of the state administrator, dispose of and transfer his or her stock to another licensee if the disposition is completed within ninety (90) days and the licensee is a distiller, rectifier, vintner, or brewer. The disposition shall be completed within thirty (30) days if the licensee is a wholesaler or distributor or within twenty (20) days if the licensee is a retailer.
- (3) ~~[[~~A retail licensee in good standing with the department ***who*** voluntarily ceases to operate his or her business ***for any reason other than revocation by the board or a court order shall***

dispose of all alcoholic beverage inventory within thirty (30) days of the event. The following requirements shall apply to the disposition of the licensee's inventory:

- (a) If the premises is still open to the public and the licensee has not yet surrendered the license, the licensee shall sell alcoholic beverages only to the public and shall not sell below costs;
 - (b) If a licensee has terminated his or her business and has surrendered his or her license to the department, he or she shall submit a written request for approval from the state administrator within ten (10) days in advance of the sale to dispose of the licensee's remaining inventory. The request shall identify the retailer who is purchasing the inventory, the proposed date of the sale, and the quantity, types, and brands of alcohol to be sold; and
 - (c) If a licensee has more than one (1) licensed retail premises and closes one (1) or more retail premises and seeks to transfer his or her inventory to another licensed retail premises he or she owns, he or she shall submit a request in writing to the state administrator at least ten (10) days before the inventory is transferred. The request shall identify the premises to which the alcohol is being transferred, the proposed date of the transfer, and the quantity, types, and brands of alcohol to be sold.
- (4) If a retail licensee files for bankruptcy or is directed by a court to dispose of inventory to satisfy a lien or judgment, the inventory may be sold only to a retail alcoholic beverage licensee. The bankrupt licensee or the licensee subject to the court order shall notify the department of the sale and shall attach a copy of the court order or the judgment directing the sale and a list of the quantity, types, and brands of alcohol to be sold. Any licensee who purchases the inventory shall notify the department within five (5) days after the transfer of the specific inventory sold.

Section 15. KRS 244.090 is amended to read as follows:

- (1) A person holding any license under KRS 243.020 to 243.670 shall not knowingly employ in connection with his or her business any person who:
 - (a) Has been convicted of any felony within the last two (2) years. The provisions of this paragraph shall apply to any new applicant for a license issued under this chapter after July 15, 1998, but shall not apply to renewals of licenses that were originally issued prior to July 15, 1998, or supplemental licenses related to an original license if the original license was issued prior to July 15, 1998;
 - (b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years; (c)

Is under the age of twenty (20) years, unless the person is employed:

- 1. In a bottling house or room of a licensed distiller, vintner, brewer, or rectifier;
- 2. In an office of a wholesaler or manufacturer that is maintained in a building separate from the warehouses or factory or as provided in KRS 244.087; or
- 3. In any of the following establishments, if the employment is in a capacity that does not involve the sale or serving of alcoholic beverages:

- a. A restaurant that derives at least fifty percent (50%) of its gross sales from the sale of food for consumption on the licensed premises; or
 - b. Any other establishment with alcoholic beverage sales not exceeding fifty percent (50%) of its gross sales.
- (d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.
- (2) ***The provisions of paragraphs (a) and (b) of subsection (1) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.***
- (3) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

Section 16. KRS 244.350 is amended to read as follows:

No retailer of distilled spirits or wine by the package shall ~~accept orders for distilled spirits and wine by telephone or by mail, nor shall he~~ deliver or advertise the delivery of distilled spirits and wine.

Section 17. KRS 242.185 is amended to read as follows:

- (1) This section shall apply to any city of the fourth class or county containing a city of the fourth class in which prohibition is not in effect, notwithstanding any other provisions of this chapter relating to the sales of alcoholic beverages by the drink for consumption on the premises.
- (2) Upon a determination by the legislative body that an economic hardship exists within the city or county and that the sale of alcoholic beverages by the drink could aid economic growth, the legislative body may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.
- (3) Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.
- (4) The city or county legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable administrative regulations as may be necessary for the enforcement or administration of this section, provided that any regulation adopted shall conform to the requirements of KRS 241.190.
- (5) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.070, the city or county may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory or administrative related expenses. ~~The~~^{Such} regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against ~~the~~^{such} fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.070.

- (6) *In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, a city or county in which prohibition is in effect may, by petition in accordance with KRS 242.020, hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food. The election shall be held in accordance with KRS 242.030(1), (2), and (5), 242.040, and 242.060 to 242.120, and the proposition on the ballot shall state "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?". If the majority of the votes in an election held pursuant to this subsection are "Yes", licenses may be issued to qualified restaurants and dining facilities and the licensees may be regulated and taxed in accordance with subsections (4) and (5) of this section.*

Section 18. KRS 243.075 is amended to read as follows:

Notwithstanding the provisions of KRS 243.070, in any city of the third or fourth class in which the discontinuance of prohibition is effective by virtue of a local option election held in the manner prescribed in KRS Chapter 242 and in the case of fourth class cities, KRS 242.127 to 242.129, the governing body of the city **and the governing body of the county containing the city** is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each ~~city~~ budget period at ~~a~~^a~~such~~ percentage rate as shall be reasonably estimated to fully reimburse the **local government**~~city~~ for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city **and county**. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, **except:**

- (1) ~~but~~ A credit against **a regulatory license**~~such~~ fee **in a city** shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070; **and**
- (2) **In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.**

Section 19. KRS 244.290 is amended to read as follows:

- (1) A premises that is licensed to sell distilled spirits or wine at retail shall not be permitted to remain open during the hours the polls are open on any regular or primary election day unless the licensee provides a separate locked department in which all stock of distilled spirits and wine are kept during the hours the polls are open.
- (2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.
- (3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:

- (a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or
 - (b) The legislative body of a city of the first, second, third, or fourth class, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.
- (4) In any county containing a city of the first, ~~or~~ second, *or third* class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:
- (a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and
 - (b) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food.
- (5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits administrator may issue a license to holders of a distilled spirits and wine retail drink quota license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.
- (6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 242.185(1), may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:
- (a) The limited Sunday drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 242.185(3); and
 - (b) The holders of distilled spirits and wine retail drink licenses have applied to the state administrator and meet all other legal requirements for obtaining a limited Sunday liquor by the drink license.

Approved April 21, 2000