

CHAPTER 66

(HB 129)

AN ACT relating to the sale of alcohol to minors.

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

➔Section 1. KRS 244.080 is amended to read as follows:

A retail licensee, *or the licensee's agent, servant, or employee* shall not sell, give away, or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away, *possessed by*, or delivered to:

- (1) A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.
- (2) A person actually or apparently under the influence of alcoholic beverages.
- (3) Anyone known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.
- (4) Anyone known to the seller or server to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or anyone known to the seller or server to have been convicted of a felony.

➔Section 2. KRS 244.085 is amended to read as follows:

- (1) As used in KRS 244.083 and this section: "Premises" has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.
- (2) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
- (3) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.
- (4) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.
- (5) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.
- (6) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:
 - (a) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, *small farm winery*, distillery or brewery or winery tour, ~~establishment where prebooked concerts with advance ticket sales are held~~, convenience store, grocery store, drug store, or similar establishment. ~~For purposes of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts~~;
 - (b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises; ~~or~~
 - (c) Written approval has been granted by the office to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to,

weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state director shall approve or deny the request in writing; *or*

- (d) *The usual and customary business of the establishment is an entertainment facility where pre-booked concerts are held. For the purpose of this subsection, house bands, disc jockeys, and karaoke are not considered concerts. During the times minors are on the premises under this subsection the licensee shall:*
1. *Maintain the responsibility of all ticket sales;*
 2. *Sell the concert tickets directly to the patron or have a contractual agreement with a vendor or promoter to sell the concert tickets for the licensee;*
 3. *Maintain records of all gross concert ticket sales. The concert tickets shall have the name of the band(s) or performer(s) as well as the date of the concert;*
 4. *Permit minors to be in the area where the concert is taking place only during the time of the concert; and*
 5. *Prohibit minors on the premises until thirty (30) minutes prior to the concert and prohibit minors from remaining on the premises more than thirty (30) minutes after the concert performance has ended.*
- (7) Except as provided in subsection (6) of this section, a licensee or *the licensee's*~~his or her~~ agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.
- (8) Except as provided in subsection (6) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.
- (9) A violation of subsection (2), (3), (4), (5), or (8) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

Signed by the Governor March 24, 2009.