

CHAPTER 154

(SB 110)

AN ACT relating to quota licenses for alcohol and declaring an emergency.

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

➔Section 1. KRS 241.065 is amended to read as follows:

- (1) The number of quota retail package licenses issued by the Alcoholic Beverage Control Board to licensees in counties containing cities of the first class, and including such cities, shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.
- (2) ~~{The number of quota retail drink licenses issued by the Alcoholic Beverage Control Board to licensees in counties containing cities of the first class, and including such cities shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.~~
- ~~(3)~~—In order that a fixed and approved standard of population as prescribed in *subsection*~~{subsections}~~ (1)~~{and (2)}~~ of this section may be adopted the annual estimates of population as determined by *the Kentucky State Data Center at the University of Louisville*~~{chambers of commerce of cities of the first class}~~ shall be used in every year except a census year, and during a census year the United States government census figures of population shall be controlling.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

- (1) *The number of quota retail package licenses issued by the department in any wet county shall not exceed one (1) license for every two thousand three hundred (2,300) persons resident in the county, except that:*
 - (a) *A wet county containing a city of the first class shall be subject to the limitations in Section 1 of this Act;*
 - (b) *No fewer than two (2) quota retail package licenses shall be available for issuance by the department in any wet county; and*
 - (c) *Any specific county quota amounts that were issued by the department prior to January 1, 2018, in excess of the population calculations established in this section shall remain in effect, and the department shall maintain the list of specific quotas in an administrative regulation.*
- (2) *Nothing in this section shall be construed to prohibit license renewal or license transfers approved by the department of an existing quota retail license issued in a wet county.*
- (3) *In counties that have not received an increased quota license amount from the department, any quota licenses over the established amount shall be reduced as the licenses are revoked, surrendered, or not renewed by the license holder.*
- (4) *If a dry county that contains a wet city becomes wet, the quota established by this section shall supersede and replace any separate city quota.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

- (1) *The number of quota retail package licenses issued by the department in any city that becomes wet separate from its county by virtue of a local option election pursuant to KRS 242.125 shall not exceed one (1) license for every two thousand three hundred (2,300) persons resident in the city, except that:*
 - (a) *No fewer than two (2) quota retail package licenses shall be available for issuance by the department in any wet city; and*
 - (b) *Any specific city quota amounts that were issued by the department prior to January 1, 2018, in excess of the population calculations established in this section shall remain in effect, and the department shall maintain the list of specific quotas in an administrative regulation.*
- (2) *Nothing in this section shall be construed to prohibit license renewal or license transfers approved by the department of an existing quota retail license issued in a wet city.*

- (3) *In cities that have not received an increased quota license amount from the department, any quota licenses over the established amount shall be reduced as the licenses are revoked, surrendered, or not renewed by the license holder.*
- (4) *If a dry county in which a wet city is located becomes wet, the quota established for that entire county by Section 2 of this Act shall supersede and replace any separate city quota under this section.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

For the purposes of administering Sections 2 and 3 of this Act:

- (1) *The population data shall be based on a wet county's or city's annual population estimates prepared by the Kentucky State Data Center at the University of Louisville in every year except a federal decennial census year. The federal decennial census figures of population shall be used in a census year; and*
- (2)
 - (a) *On or before January 1 of each year, the department shall obtain the population figures of all wet counties and cities as of that date for determination of the number of quota licenses available.*
 - (b) *If a quota retail license vacancy is created by an increase in population or any other reason, the department shall publish notice of the vacancy and information on how to apply for the license within sixty (60) days in the newspaper used for the legal notices of that county or city.*
 - (c) *The department shall accept applications for a quota retail license vacancy not later than thirty (30) days following the date on which the public notice is published.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

- (1) *A city may petition the board for an increase in the number of quota licenses available in its jurisdiction pursuant to Section 6 of this Act. A request for an increase shall not exceed the ratio of one (1) per every one thousand five hundred (1,500) residents.*
- (2) *The board shall consider the following factors when deciding whether to grant the increase:*
 - (a) *Population served by the city;*
 - (b) *Total retail sales of the city for the most recent past fiscal year;*
 - (c) *Retail sales per capita for the most recent past fiscal year;*
 - (d) *Total alcohol sales in the city for the most recent past fiscal year;*
 - (e) *Tourist destinations in the area, if applicable; and*
 - (f) *Other economic and commercial data offered to show the capacity to support additional licenses.*
- (3) *The board shall grant the request if the information supplied supports the requested increase, and shall begin the process of filing an amendment to its administrative regulation to register the increase. Additional licenses shall not be issued until the administrative regulation process is complete and the amendment is adopted.*
- (4) *If the board determines the information supplied does not support a quota increase, it shall notify the city of its decision by registered mail at the address given in the request. The city shall have thirty (30) days from the date of the mailing to file a written request for a hearing before the board regarding its request for an increase.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) *A city shall not file a request with the board seeking to increase the number of quota retail licenses for the city unless at least three (3) years have passed since the certification of its local option election approving alcohol sales.*
- (2) *Prior to making its request, the city shall publish a notice in the newspaper used for its legal notices, advising the general public of the city's intent to request additional licenses from the board.*
- (3) *The request to the board for a quota increase shall include:*
 - (a) *A certified copy of the governing body's resolution approving the request;*
 - (b) *A certified copy of the notice referenced in subsection (2) of this section; and*

- (c) *An explanation as to the reason the city meets the criteria established in Section 5 of this Act for a quota increase.*
- (4) *The city shall bear the burden of showing an increase is necessary.*
- (5) *A city shall not petition the board for an increase more than once every three (3) years.*

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

A quota retail package licensee assumes the business risk that the number of quota licenses available in a city or county may be increased at a later time.

➔Section 8. Whereas, the sale of alcohol is a highly regulated activity under Kentucky law; and whereas the alcohol quota licensing system currently exists primarily in Kentucky Administrative Regulations Chapter 804; and whereas the department has filed to repeal those regulations, a repeal of which will upend the current regulatory licensing scheme of alcohol, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature April 14, 2018.