

## CHAPTER 164

## ( HB 400 )

AN ACT relating to direct shipment of alcoholic beverages and declaring an emergency.

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

→Section 1. 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) ***For purposes of all retail drink and package sales under this section***, a wholesaler registered to distribute the brands of any distiller ~~shall~~~~may~~ permit the distiller to deliver ***its products***~~[a souvenir package]~~ directly from the distillery proper to any portion of the distillery premises. However, ***for purposes of all retail drink and package sales by distillers under subsections (3), (8), and (9) of this section*** all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the distiller, and all products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.895 and 243.990.
- (3) A distiller may sell souvenir packages at retail~~[-to-]~~:
  - (a) ***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~~~~visitor~~ 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. At the purchaser's request, an order may be delivered or shipped directly to the purchaser. All deliveries or shipments shall be made through a licensed common carrier authorized to deliver or ship distilled spirits in the jurisdiction to which the products will be delivered or shipped; and***
  - (b) ***Pursuant to subscription or distillery-sponsored club programs, in quantities not to exceed an aggregate of nine (9) liters per calendar year, provided that the enrollment and payment for the subscription or club is arranged in person at the distillery. At the member's request, an order may be delivered or shipped directly to the member. All deliveries or shipments shall be made through a licensed common carrier authorized to deliver or ship distilled spirits in the jurisdiction to which the products will be delivered or shipped.***
- (4) Hours of sale for souvenir packages at retail shall be in conformity with KRS 244.290(3).
- (5) Except as provided in this section, souvenir package sales shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.
- (6) No wholesaler may restrict the sale of souvenir packages to the distiller of origin exclusively, but shall make souvenir packages available to any Kentucky retail licensee licensed for the sale of distilled spirits by the package.
- (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.
- (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~~[-~~~~Notwithstanding KRS 243.110, a licensed distiller may also hold any of the retail licenses available to it under this section]; and~~

- (b) ~~}[Sell alcoholic beverages produced or bottled on the premises of its Kentucky licensed distillery for on-premises purposes without having to transfer physical possession of those alcoholic beverages to a licensed wholesaler if:~~
- ~~1. All direct shipments are invoiced from the distiller to its wholesaler and from the wholesaler to the distiller; and~~
  - ~~2. All products directly shipped are included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.890 and 243.990; and~~
- (e) ~~}[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.~~
- (9) A distiller may sell to consumers at fairs, festivals, and other similar types of events located in wet territory alcoholic beverages by the drink, containing spirits distilled or bottled on the premises of the distillery.
- (10) 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.
- (11) 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 2. KRS 243.120 is amended to read as follows:
- (1) A distiller's, rectifier's, or winery license shall authorize the licensee to engage in the business of distiller, rectifier, or winery at the premises specifically designated in the license, to maintain aging warehouses, and to transport for himself or herself only any alcoholic beverage which he or she is authorized under the license to manufacture or sell. The licensee shall transport alcoholic beverages only by a vehicle operated by himself or herself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of the truck or vehicle holds a distributor's license.
  - (2)
    - (a) Distillers that produce more than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class A.
    - (b) Distillers that produce fifty thousand (50,000) gallons or less of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class B (craft distillery).
  - (3)
    - (a) Rectifiers that rectify more than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises shall obtain a rectifier's license, Class A.
    - (b) Rectifiers that rectify fifty thousand (50,000) gallons or less of distilled spirits per calendar year at the premises shall obtain a rectifier's license, Class B (craft rectifier).
  - (4)
    - (a) A 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, may sell distilled spirits by the drink **or by the package** at retail to consumers in accordance with KRS 243.0305.
    - (b) Any distilled spirits sold under this subsection shall be taxed and distributed in the same manner as ~~}[souvenir package] sales under KRS 243.0305(2).~~
    - (c) Except as provided in this subsection, sales under this subsection shall be governed by all of the statutes and administrative regulations governing the retail sale of distilled spirits by the drink.
  - (5) ***Nothing in this section shall be construed to:***
    - (a) ***Vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages; or***
    - (b) ***Allow delivery or shipment of alcohol into dry or moist territory.***

➔Section 3. KRS 243.130 is amended to read as follows:

- (1) Sales and deliveries of distilled spirits and wine may be made at wholesale, and from the licensed premises only:
  - (a) By distillers to rectifiers, wineries, holders of special nonbeverage alcohol licenses so far as they may make the purchases, or other distillers;
  - (b) By rectifiers to wineries or to distillers if distilled spirits sold to distillers are packaged in retail containers;
  - (c) By wineries to rectifiers or other wineries, or to the holders of special nonbeverage alcohol licenses;
  - (d) By distillers, rectifiers, or wineries to wholesalers; or
  - (e) By distillers, rectifiers, or wineries for export out of the state.
- (2) No distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any alcoholic beverages to any person who is not authorized by the law of the state of the person's residence, and of the United States government if located in the United States, to receive and possess those alcoholic beverages. ***Except as provided in Section 1 of this Act***, no distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any of its products to any retailer or consumer in Kentucky.
- (3) Employees of distillers, rectifiers, and wineries may sample the products produced by that manufacturer for purposes of education, quality control, and product development.
- (4) Distillers may purchase distilled spirits only from other licensed distillers in this state or in another state or province, but distillers may purchase from rectifiers licensed in Kentucky, distilled spirits which are packaged in retail containers.
- (5) Rectifiers may purchase distilled spirits and wine only from licensed distillers or wineries in Kentucky, or from nonresident distillers or wineries authorized by the law of the state of their residence and by the United States government, if the distillers or wineries are located in the United States, to make the sales.
- (6) Wineries may purchase distilled spirits or wine only from licensed distillers or wineries in Kentucky, or from nonresident distillers or wineries authorized by law of the state of their residence, and by the United States government if located in the United States, to make the sales.
- (7) Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but this subsection does not authorize the owner of a warehouse receipt to accept delivery of any distilled spirits unless the owner is a person who is permitted by law to receive the distilled spirits.
- (8) ***Nothing in this section shall be construed to:***
  - (a) ***Vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages; or***
  - (b) ***Allow delivery or shipment of alcohol into dry or moist territory.***

➔Section 4. KRS 243.155 is amended to read as follows:

- (1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The board shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.
- (2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:
  - (a) Engage in the business of a winery under the terms and conditions of KRS 243.120 and 243.130. The manufacture of wine at the small farm winery shall not be less than two hundred fifty (250) gallons, and shall not exceed one hundred thousand (100,000) gallons, in one (1) year;
  - (b) Bottle wines produced by that small farm winery and other licensed small farm wineries;

- (c) Enter into an agreement with another licensed small farm winery under which it crushes, processes, ferments, bottles, or any combination of these services, the grapes, fruits, or other agricultural products of the other small farm winery for a production year. The resulting wine shall be considered the product of the small farm winery that provides the fruit. The small farm winery providing the custom crushing services may exclude the wine produced under this paragraph from its annual production gallonage;
- (d) If the licensed small farm winery or off-premises retail site premises is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under KRS 242.124:
  1. Serve complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day; and
  2. Sell by the drink for on-premises consumption or by the package wine produced by it or by another licensed small farm winery, at retail to consumers;
- (e) Sell by the drink or by the package, at fairs, festivals, and other similar types of events, wine produced by it or by another licensed small farm winery, at retail to consumers if all sales occur in a wet territory;
- (f) Sell and transport wine produced by it to licensed small farm winery off-premises retail sites, wholesale license holders, and small farm winery license holders;
- (g) Consume on the premises wine produced by the small farm winery or a licensed small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm winery is located in wet territory; and
- (h) *Deliver or ship packages of wine at retail:*
  1. *To small farm winery visitors of legal drinking age, in quantities not to exceed four (4) cases per purchaser per day. A winery shall deliver or ship the packages to the purchaser through a licensed common carrier that is authorized to deliver or ship wine in the jurisdiction to which the products will be delivered or shipped; and*
  2. *Pursuant to subscription or small farm winery-sponsored club programs, in quantities not to exceed an aggregate of one (1) case per month per calendar year, provided that the enrollment and payment for the subscription or club is arranged in person at the small farm winery. At the member's request, an order may be delivered or shipped directly to the member. All deliveries or shipments shall be made through a licensed common carrier authorized to deliver or ship wine in the jurisdiction to which the products will be delivered or shipped to a customer wine produced by a small farm winery if:*
    1. ~~The wine is shipped by licensed common carrier; and~~
    2. ~~The amount of wine shipped is limited to two (2) cases per customer per order.~~
- (3) If the requirements of KRS 242.1241 or 244.290(5) relating to Sunday sales on the licensed premises of a small farm winery are met, a small farm winery within that territory may sell alcoholic beverages on Sunday only in accordance with this section between the hours of 1 p.m. until the prevailing time for that locality.
- (4) A small farm winery license holder may also hold an NQ2 retail drink license or an NQ4 retail malt beverage drink license if:
  - (a) The small farm winery is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under KRS 242.124; and
  - (b) The issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise designed to promote viticulture, enology, and tourism.
- (5) This section shall not exempt the holder of a small farm winery license from the provisions of KRS Chapters 241 to 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small farm winery, except as expressly stated in this section.
- (6) Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.
- (7) Upon the approval of the department, a small farm winery license may be renewed after the licensee submits to the department the winery's federal basic permit and proof of its annual wine production.

- (8) An employee of a small farm winery may sample the products produced by that small farm winery for purposes of education, quality control, and product development.

➔Section 5. KRS 243.200 is amended to read as follows:

- (1) A transporter's license may be issued as a primary license to a motor carrier authorized to transact business in the Commonwealth by the Transportation Cabinet or the Federal Motor Carrier Safety Administration or to another person engaged in business as a common carrier. A person holding a transporter's license may transport alcoholic beverages to or from the licensed premises of any licensee under this chapter **to an individual consumer** if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, *deliver*, ship, or receive the alcoholic beverages.
- (2) ***A transporter may deliver or ship directly to consumers over twenty-one (21) years of age in packages clearly marked "Alcoholic Beverages, adult signature (21 years of age or over) required," and must request adult-signature-only service from the carrier. Deliveries or shipments of alcoholic beverages shall only be made into areas of the state in which alcoholic beverages may be lawfully sold. When the shipper requests adult-signature-only service, it shall be a violation for a common carrier not to inspect government-issued identification for proof of age or to knowingly deliver or ship alcoholic beverages into areas of the state in which alcoholic beverages are not legally sold.***
- (3) ***Except for a common carrier that has been assigned a USDOT number issued by the Federal Motor Carrier Safety Administration***, the holder of a transporter's license shall cause each truck or vehicle to display the name of the licensee and the state license numbers in a manner prescribed by an administrative regulation promulgated by the board.
- ~~(4)(3)~~ ***Except for an application by a common carrier that has been assigned a USDOT number issued by the Federal Motor Carrier Safety Administration***, an application for a transporter's license shall include a statement that the applicant, if issued a license, shall allow any authorized investigators of the department to stop and examine the cargo of any truck or vehicle in which alcoholic beverages are being transported within the boundaries of the Commonwealth of Kentucky.
- ~~(5)(4)~~ Applicants for the transporter's license under this section, and their employees, shall be exempt from the residency requirements of KRS 243.100.
- ~~(6)(5)~~ A licensee may move, within the same county, alcoholic beverages from one (1) of the licensee's licensed premises to another without a transporter's license. A licensee may move alcoholic beverages from one (1) of the licensee's licensed premises located in one (1) county to a licensed premises located in another county, without a transporter's license, with prior written approval of the administrator for good cause shown. The licensee shall keep and maintain, in one (1) of its licensed premises, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed premises to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Department of Revenue upon request.
- ~~(7)(6)~~ Distilled spirits and wine may be transported by any licensed retailer selling distilled spirits or wine, by the package or by the drink, from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the board. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

➔Section 6. KRS 243.240 is amended to read as follows:

- (1) A quota retail package license shall authorize the licensee to:
- (a) Purchase, receive, possess, and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises~~}; and~~
- (b) ***Deliver or ship to the customer, at the customer's request, alcoholic beverages that are purchased:***
1. ***From the licensed premises where eighty percent (80%) of the monthly gross sales receipts are sales to Kentucky residents, in quantities not to exceed four and one-half (4 1/2) liters of distilled spirits and four (4) cases of wine per purchaser per day for sales prior to January 1, 2021, and in quantities not to exceed an aggregate of nine (9) liters of distilled spirits and four (4) cases of wine per purchaser per day on and after January 1, 2021; and***

2. *By subscription members or club program members, in quantities not to exceed an aggregate of nine (9) liters per calendar year for distilled spirits, and an aggregate of one (1) case of wine per month per calendar year, provided that the enrollment and payment for the subscription or club is arranged in person at the premises.*

(2) The licensee shall purchase distilled spirits and wine in retail packages only and only from licensed wholesalers.

(3) *All deliveries or shipments made pursuant to this section shall be made through a licensed transporter or licensed common carrier authorized to deliver or ship distilled spirits in the jurisdiction to which the products will be delivered or shipped.*

➔Section 7. KRS 244.165 is amended to read as follows:

(1) Except as provided in ~~subsections~~~~[subsection]~~ (2), (3), and (4) of this section, it shall be unlawful for any person in the business of selling alcoholic beverages in another state or country to *deliver or* ship or cause to be *delivered or* shipped any alcoholic beverage directly to any Kentucky resident who does not hold a valid wholesaler or distributor license issued by the Commonwealth of Kentucky.

(2) A *winery or* small farm winery located in another state may *deliver or* ship wine to a customer in Kentucky if:

(a) The wine, *subscription, or club program membership*, is purchased by the customer in person at the winery *or small farm winery*;

(b) *The Kentucky purchaser is of legal age;*

(c) *The out of state winery or small farm winery is licensed in Kentucky;*

(d) *Either:*

1. *No more than four (4) cases of wine are purchased per day per visit; or*

2. *The wine is purchased pursuant to subscription, or winery-sponsored or small farm winery-sponsored club programs, in quantities not to exceed an aggregate of one (1) case of wine per month per calendar year; and*

(e) The wine is *delivered or* shipped *through a licensed transporter or licensed common carrier authorized to deliver or ship wine in the jurisdiction in which the delivery or shipment will occur*~~[by licensed common carrier; and~~

~~(e) The amount of wine shipped is limited to two (2) cases per customer per visit].~~

(3) A distillery located in another state may deliver or ship distilled spirits directly to a customer in Kentucky if:

(a) *The distilled spirits, subscription, or club program membership, is purchased by the customer in person at the distillery;*

(b) *The Kentucky purchaser is of legal age;*

(c) *The distillery is licensed in Kentucky;*

(d) *Either:*

1. *No more than four and one-half (4 1/2) liters of distilled spirits are purchased per day per visit for sales prior to January 1, 2021, and in quantities not to exceed an aggregate of nine (9) liters per purchaser per day for sales on and after January 1, 2021; or*

2. *The distilled spirits are purchased pursuant to subscription or distillery-sponsored club programs, in quantities not to exceed an aggregate of nine (9) liters of distilled spirits per calendar year; and*

(e) *The distilled spirits are delivered or shipped through a licensed transporter or licensed common carrier authorized to deliver or ship distilled spirits in the jurisdiction in which the delivery or shipment will occur.*

(4) A licensed transporter or common carrier making deliveries or shipments pursuant to this section shall deliver or ship directly to consumers over twenty-one (21) years of age in packages clearly marked "Alcoholic Beverages, adult signature (21 years of age or over) required," and must request adult-signature-only service from the carrier. Deliveries or shipments of alcoholic beverages shall only be made into areas of the state in which alcoholic beverages may be lawfully sold. When the shipper requests adult-

*signature-only service, it shall be a violation for a common carrier not to inspect government-issued identification for proof of age or to knowingly deliver or ship alcoholic beverages into areas of the state in which alcoholic beverages are not legally sold.*

- (5) *Nothing contained in this section shall exempt a licensed out-of-state alcoholic beverage producer from obeying the laws of its resident state.*
- (6) Any person who violates subsection (1) of this section shall, for the first offense, be mailed a certified letter by the department ordering that person to cease and desist any **deliveries or** shipments of alcoholic beverages to Kentucky residents, and for the second and each subsequent offense, be guilty of a Class D felony.

➔Section 8. 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:
- Except as provided in Sections 1 and 4 of this Act*, 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;
  - 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;
  - 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
  - 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.

➔Section 9. KRS 242.250 is amended to read as follows:

- (1) No person, while representing either the buyer or seller, shall distribute, solicit, or receive contracts, proposals, or orders for the purchase or sale of any alcoholic beverages, or distribute any handbills or posters advertising them in dry territory.
- (2) Each act of distributing, soliciting, or receiving contracts, proposals, or orders as denounced in subsection (1), and each day in which advertising matter is distributed, shall constitute a separate offense.
- (3) This chapter shall not prevent any manufacturer of or wholesale dealer in alcoholic beverages, or any authorized agent of either from making contracts of barrel, case, or package lots in any dry or moist territory, if his or her distilleries, breweries, wineries, or warehouses are located in that territory and his or her products are to be shipped into territory, either within or without the state, where alcoholic beverages may lawfully be sold.
- (4) Subsections (1) and (2) of this section shall also apply to moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.
- (5) *No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.*
- (6) *Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery, or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.*

➔Section 10. KRS 242.260 is amended to read as follows:

- (1) It shall be unlawful for any person ~~for public or private carrier~~ to bring into, transfer to another, deliver, or distribute in any dry or moist territory, except as provided in subsection (2) of this section, any alcoholic beverage, regardless of its name. Each package of such beverage so brought, transferred, or delivered in such territory shall constitute a separate offense. Nothing in this section shall be construed to prevent any distiller or

manufacturer or any authorized agent of a distiller, manufacturer, or wholesale dealer from transporting or causing to be transported by a licensed carrier any alcoholic beverage to their distilleries, breweries, wineries, or warehouses where the sale of such beverage may be lawful, either in or out of the state.

- (2) Subsection (1) of this section shall also apply to any moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.
- (3) *No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.*
- (4) *Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.*

➔Section 11. KRS 242.270 is amended to read as follows:

- (1) No person shall sell or deliver any alcoholic beverages that are to be paid for on delivery, in dry territory.
- (2) Such transactions shall be deemed sales at the place where the money is paid or the goods delivered.
- (3) This section shall also apply to the sale or delivery of any alcoholic beverages that are to be paid for on delivery in moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.
- (4) *No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.*
- (5) *Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.*

➔Section 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 13. Nothing in this Act shall be construed as altering or affecting the rights or privileges of any licensee under KRS Chapter 243 not expressly mentioned herein.

➔Section 14. Whereas issues exist in statutes regarding the ability to deliver alcoholic beverages to consumers, and those issues are a hindrance to commerce, and consumers may find themselves subject to needless prosecution if these are not corrected immediately, 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.

**Signed by Governor April 13, 2018.**