

CHAPTER 201

(HB 256)

AN ACT relating to alcohol in dry or moist territories and declaring an emergency.

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

➔Section 1. KRS 242.230 is amended to read as follows:

- (1) No person in dry territory shall sell, barter, loan, ~~give,~~ procure for, or **provide**~~{furnish}~~ another, or keep or transport for sale, barter, or loan, directly or indirectly, any alcoholic beverage.
- (2) No person in moist territory shall sell, barter, loan, ~~give,~~ procure for, or **provide**~~{furnish}~~ another, or keep or transport for sale, barter, or loan, directly or indirectly, any alcoholic beverage unless the sale of that alcoholic beverage has been specifically authorized in that moist territory under a limited local option election.
- (3) No person shall possess any alcoholic beverage unless it has been lawfully acquired and is intended to be used lawfully, and in any action the defendant shall have the burden of proving that the alcoholic beverages found in his or her possession were lawfully acquired and were intended for lawful use.
- (4) *(a) It shall not be a violation of this section for a person to possess or consume, or to provide alcoholic beverages to others in dry or moist territory, if:*
 1. *The alcoholic beverages were lawfully purchased in wet or moist territory;*
 2. *The alcoholic beverages are not sold to any person in dry or moist territory;*
 3. *Any person possessing or consuming alcohol is twenty-one (21) years of age or older;*
 4. *The possession, consumption, or provision occurs at a private residence or private event, regardless of whether the venue is a public place; and*
 5. *The possession, consumption, or provision does not occur at a public place in violation of KRS Chapter 222.**(b) For purposes of this section, an event is public, not private, if any member of the public is permitted to enter or attend the event upon payment of consideration.*

➔Section 2. KRS 242.260 is amended to read as follows:

- (1) It shall be unlawful for any person 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.
- (5) *It shall not be a violation of this section for a person to bring alcoholic beverages that were lawfully purchased in wet or moist territory into dry or moist territory to a private residence, or to a private event regardless of whether the venue is a public place, for personal consumption or consumption by others so long as the possession, consumption, or provision does not occur at a public place in violation of KRS Chapter 222. For purposes of this subsection, an event is public, not private, if any member of the public is permitted to enter or attend the event upon payment of consideration.*

➔Section 3. KRS 243.020 is amended to read as follows:

- (1) A person shall not do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless the person holds or is an agent, servant, or employee of a person who holds the kind of license that authorizes the act.
- (2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a rebuttable presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.
- (3) Except as permitted by KRS 243.033, 243.036, 243.155, 243.157, and 243.260, a person, conducting a place of business patronized by the public, who is not a licensee authorized to sell alcoholic beverages, shall not permit any person to sell, barter, loan, give away, or drink alcoholic beverages on the premises of the licensee's place of business.
- (4) A licensee shall not permit any consumer to possess, give away, or drink alcoholic beverages on the licensed premises that are not purchased from the licensee.
- (5) Any distilled spirits or wine in excess of three (3) gallons (twelve (12) liters) shall not be stored or kept except upon the licensed premises of a licensee.
- (6) In a moist territory, the only types of licenses that may be issued are those that directly correspond with the types of sales approved by the voters through moist elections within the territory, unless otherwise specifically authorized by statute.

➔Section 4. KRS 243.033 is amended to read as follows:

- (1) A caterer's license may be issued as a supplementary license to a caterer that holds a quota retail package license, a quota retail drink license, an NQ1 license, an NQ2 license, or a limited restaurant license.
- (2) The caterer's license may be issued as a primary license to a caterer in any wet territory or in any moist territory under KRS 242.1244 for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall authorize alcoholic beverage sales at a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.
- (3) The caterer's license shall authorize the caterer to:
 - (a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and 244.260;
 - (b) Transport, sell, serve, and deliver alcoholic beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and the customer's guests, in:
 1. Cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;
 2. Wet cities and counties in which quota retail drink licenses are not available if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or
 3. All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages;
 - (c) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and
 - (d) Receive payment for alcoholic beverages served at a catered event on a by-the-drink, cash bar, or by-the-event basis. The caterer may bill the customer for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
- (4) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a fundraising event for which a special temporary alcoholic beverage auction license has been issued under KRS 243.036.

- (5) A caterer licensee shall not cater alcoholic beverages on Sunday except in territory in which the Sunday sale of alcoholic beverages is permitted under the provisions of KRS 244.290 and 244.480.
- (6) A caterer licensee shall not cater alcoholic beverages at an event hosted by the caterer licensee or hosted as a joint venture of the caterer licensee.
- (7) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.
- (8) The caterer licensee shall post a copy of the licensee's caterer's license at the location of the function for which alcoholic beverages are catered.
- (9) All restrictions and prohibitions applying to a quota retail drink licensee and an NQ4 retail malt beverage drink licensee not inconsistent with this section shall apply to the caterer licensee.
- (10) The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.
- (11) ***Notwithstanding subsection (3)(b) of this section, a caterer may serve alcoholic beverages to guests who are twenty-one (21) years of age or older at a private event in dry territory if:***
 - (a) ***The alcoholic beverages were lawfully purchased in a wet or moist territory:***
 1. ***By an individual; or***
 2. ***At the caterer's licensed premises in wet or moist territory; and***
 - (b) ***The alcoholic beverages are not sold in dry territory to guests at the private residence or private event regardless of whether the venue is a public place.***

➔Section 5. Whereas the inability to possess, consume, or provide alcoholic beverages at a private residence, or at a private event regardless of whether the venue is a public place, is a hindrance to individual freedoms and commerce, and individuals 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 9, 2019.