

## CHAPTER 80

( HB 415 )

AN ACT relating to alcoholic beverages and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *Sections 1 to 3 of this Act shall supersede any conflicting statute in KRS Chapters 241 to 244.*
- (2) *A direct shipper license shall authorize the holder to ship alcoholic beverages to consumers. The department shall issue a direct shipper license to a successful applicant that:*
  - (a) *Is a manufacturer located in this state or any other state or an alcoholic beverage supplier licensed under KRS 243.212 or 243.215. A manufacturer applicant shall:*
    1. *Hold a current license, permit, or other authorization to manufacture alcoholic beverages in the state where the manufacturer is located; and*
    2. *Only ship alcoholic beverages that are sold under a brand name owned or exclusively licensed to the manufacturer and the alcoholic beverages were:*
      - a. *Produced by the manufacturer;*
      - b. *Produced for or by the manufacturer under an existing written contract with another manufacturer; or*
      - c. *Produced and bottled for the manufacturer;*
  - (b) *Pays an annual license fee of one hundred dollars (\$100); and*
  - (c) *If a manufacturer applicant is located outside this state, proves that it has completed the same registration necessary for a manufacturer located in this state with respect to payment of any applicable excise tax, state or local sales or use tax, or other tax owed under the law of this state in connection with the direct shipment of alcoholic beverages to consumers in this state.*
- (3) *The department shall set the requirements and the form for a direct shipper license application through the promulgation of an administrative regulation. These requirements shall include:*
  - (a) *The address and a description of the premises from which the manufacturer or supplier will ship alcoholic beverages to consumers;*
  - (b) *If the applicant is located outside this state, a copy of the applicant's current license, permit, or other authorization to manufacture or supply alcoholic beverages in the state where the applicant is located; and*
  - (c) *Any other information the department determines to be necessary to implement and administer the direct shipper licensing program.*
- (4) *In considering an application from an out-of-state applicant, the department shall use the same standards relating to causes for license denial, suspension, or revocation under KRS 243.100 and 243.500 as those it uses for similarly situated in-state applications.*
- (5) *A direct shipper licensee shall:*
  - (a) *Appoint and continuously maintain an agent for service of process that need not be a resident of this state, and agree that the Secretary of State shall serve as its agent if it fails to maintain a current agent for service of process. The licensee shall agree that legal service on the agent constitutes legal service on the direct shipper licensee;*
  - (b) *Maintain the records required under Sections 1 to 3 of this Act and provide the department and the Department of Revenue access to or copies of these records;*
  - (c) *Allow the department or the Department of Revenue to perform an audit of the direct shipper licensee's records or an inspection of the direct shipper licensee's licensed premises upon request. If*

*an audit or inspection reveals a violation, the department or the Department of Revenue may recover reasonable expenses from the licensee for the cost of the audit or inspection;*

- (d) File all reports and pay all taxes required under Sections 1 to 3 of this Act;*
  - (e) Submit to the jurisdiction of the department and the Department of Revenue, the courts, and all other enforcement authority of this state, including any related laws or administrative regulations, with respect to enforcement against the applicant;*
  - (f) Hold the license contingent on obeying all laws and administrative regulations of both the origin state and the destination state, including those relating to the times, days, or other circumstances when alcoholic beverages may be sold or shipped;*
  - (g) Be subject to potential fines, penalties, license suspension, or license revocation for a violation of the duties or obligations to hold a direct shipper license;*
  - (h) Meet any reciprocal license requirements, if applicable; and*
  - (i) Comply with all applicable federal and state labeling, licensing, and brand registration requirements.*
- (6) (a) The department shall promulgate administrative regulations designed to reduce unlicensed deliveries and shipments of alcoholic beverages in the Commonwealth. Each direct shipper licensee shall submit to the department and the Department of Revenue a quarterly report for that direct shipper license showing:*
- 1. The total amount of alcoholic beverages shipped into the state per consumer;*
  - 2. The name and address of each consumer;*
  - 3. The purchase price of the alcoholic beverages shipped and the amount of taxes charged to the consumer for the alcoholic beverages shipped; and*
  - 4. The name and address of each common carrier.*
- (b) The Department of Revenue shall create a form through the promulgation of an administrative regulation for reporting under paragraph (a) of this subsection.*
- (c) The department shall provide a list of all active direct shipper licensees to licensed common carriers on a quarterly basis to reduce the number of unlicensed shipments in the Commonwealth.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) A direct shipper licensee may sell or ship to a consumer all types of alcoholic beverages that the licensee is authorized to sell, with the following aggregate limits:*
  - (a) Distilled spirits, in quantities not to exceed ten (10) liters per consumer per month;*
  - (b) Wine, in quantities not to exceed ten (10) cases per consumer per month; and*
  - (c) Malt beverages, in quantities not to exceed ten (10) cases per consumer per month.*
- (2) The direct shipper licensee shall notify the consumer placing the order that the shipment shall not be left unless the recipient of the shipment provides a valid identification document at the time verifying that the recipient is at least twenty-one (21) years of age. All alcoholic beverage containers shipped to the consumer shall be conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".*
- (3) At the time of delivery, the recipient of the shipment shall present to the individual delivering the package a valid identification document. Prior to transferring possession of the package, the individual delivering the package shall visually inspect the document and verify the identity of the recipient and, by visual examination or by using age verification technology, that the recipient is at least twenty-one (21) years of age.*
- (4) Before transferring possession of the package, the individual delivering the package shall obtain the signature of the recipient of the shipment. The individual who receives and signs for the alcoholic beverages is not required to be the consumer who purchased the alcoholic beverages.*
- (5) A consumer who intentionally causes shipment to an address deemed unlawful shall, for the first offense, be guilty of a violation punishable by a fine of two hundred fifty dollars (\$250), and for each subsequent*

*offense, be guilty of a violation punishable by a fine of five hundred dollars (\$500). In this instance, the direct shipper licensee and the common carrier shall be held harmless.*

- (6) *A direct shipper licensee may not sell or ship alcoholic beverages to a consumer from its licensed premises if the consumer's address is located in an area in which alcoholic beverages may not be sold or received.*
- (7) *A direct shipper licensee shall only conduct the shipment of alcoholic beverages to a consumer through a common carrier.*
- (8) *A direct shipper licensee may ship alcoholic beverages to a consumer only from the licensed premises described in its direct shipper license application.*
- (9) *If a common carrier is unable to complete delivery, then the alcoholic beverages shall be returned to the consignor.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "taxes" associated with the purchase of alcoholic beverages includes any applicable:*
  - (a) *Sales tax;*
  - (b) *Use tax;*
  - (c) *Excise tax;*
  - (d) *Wholesale tax equivalent at the rate set out in KRS 243.884. If a wholesale price is not readily available, the direct shipper licensee shall calculate the wholesale cost to be seventy percent (70%) of the retail price of the alcoholic beverages;*
  - (e) *Regulatory license fees; and*
  - (f) *Other assessments.*
- (2) *For purposes of this section and for other tax purposes, each sale and delivery of alcoholic beverages under a direct shipper license is a sale occurring at the address of the consumer. For each tax remittance or collected group of tax remittances, the direct shipper licensee shall include its federal tax identification number.*
- (3) *A direct shipper licensee that sells alcoholic beverages under its direct shipper license for shipment to a consumer shall charge the consumer all applicable taxes and shall sell the alcoholic beverages with all applicable taxes included in the selling price. The applicable taxes shall be separately identified on the consumer's invoice. The taxes shall be collected by the direct shipper licensee from the consumer.*
- (4) *The amount of the taxes to be paid by the direct shipper licensee under this section shall be calculated based on the sale of the alcoholic beverages occurring at the location identified as the consumer's address on the shipping label.*
- (5) *For taxes owed by a direct shipper licensee under this section, the direct shipper licensee shall meet the standards of the destination state, including filing a return that contains its license number and federal tax identification number.*

➔Section 4. KRS 241.010 is amended to read as follows:

As used in KRS Chapters 241 to 244, 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, solid, powder, or crystal, 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:
  - (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; and
  - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use;
- (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;
- (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;
- (4) "Automobile race track" means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;
- (5) "Bed and breakfast" means a one (1) family dwelling unit that:
- (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are occupied for sleeping purposes by persons not members of the single-family unit;
  - (b) Holds a permit under KRS Chapter 219; and
  - (c) Has an innkeeper who resides on the premises or property adjacent to the premises during periods of occupancy;
- (6) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030;
- (7) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- (8) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;
- (9) "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;
- (10) "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;
- (11) "Caterer" means a person operating a food service business that prepares food in a licensed and inspected commissary, transports the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to an agreed location, and serves the food and alcoholic beverages pursuant to an agreement with another person;
- (12) "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;
- (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;
- (14) "City administrator" means city alcoholic beverage control administrator;

- (15) "Commercial airport" means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;
- (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10) pairs of fully operative pedals for propulsion by means of human muscular power exclusively and which:
- (a) Has four (4) wheels;
  - (b) Is operated in a manner similar to that of a bicycle;
  - (c) Is equipped with a minimum of thirteen (13) seats for passengers;
  - (d) Has a unibody design;
  - (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
  - (f) Is used for commercial tour purposes; and
  - (g) Is operated by the vehicle owner or an employee of the owner;
- (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;
- (18) ***"Consumer" means a person who purchases alcoholic beverages and who:***
- (a) Does not hold a license or permit issued by the department;***
  - (b) Purchases the alcoholic beverages for personal consumption only and not for resale;***
  - (c) Is of lawful drinking age;***
  - (d) Receives the alcoholic beverages at a location other than a licensed premises; and***
  - (e) Receives the alcoholic beverages in territory where the alcoholic beverages may be lawfully sold or received;***
- (19) "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;
- ~~(20)~~~~(19)~~ "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;
- ~~(21)~~~~(20)~~ "County administrator" means county alcoholic beverage control administrator;
- ~~(22)~~~~(21)~~ "Department" means the Department of Alcoholic Beverage Control;
- ~~(23)~~~~(22)~~ "Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;
- ~~(24)~~~~(23)~~ "Discount in the usual course of business" means price reductions, rebates, refunds, and discounts given by wholesalers to distilled spirits and wine retailers pursuant to an agreement made at the time of the sale of the merchandise involved and are considered a part of the sales transaction, constituting reductions in price pursuant to the terms of the sale, irrespective of whether the quantity discount was:
- (a) Prorated and allowed on each delivery;
  - (b) Given in a lump sum after the entire quantity of merchandise purchased had been delivered; or
  - (c) Based on dollar volume or on the quantity of merchandise purchased;
- ~~(25)~~~~(24)~~ "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;
- ~~(26)~~~~(25)~~ "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;

- (27)~~(26)~~ "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;
- (28)~~(27)~~ "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail;
- (29)~~(28)~~ "Dry" means a territory in which a majority of the electorate voted to prohibit all forms of retail alcohol sales through a local option election held under KRS Chapter 242;
- (30)~~(29)~~ "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;
- (31)~~(30)~~ "Horse racetrack" means a facility licensed to conduct a horse race meeting under KRS Chapter 230;
- (32)~~(31)~~ "Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;
- (33)~~(32)~~ "Investigator" 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 licensees, 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;
- (34)~~(33)~~ "License" means any license issued pursuant to KRS Chapters 241 to 244;
- (35)~~(34)~~ "Licensee" means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;
- (36)~~(35)~~ "Limited restaurant" means:
- (a) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244; or
  - (b) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons of dining, and which is located in a wet or moist territory under KRS 242.1244;
- (37)~~(36)~~ "Local administrator" means a city alcoholic beverage administrator, county alcoholic beverage administrator, or urban-county alcoholic beverage control administrator;
- (38)~~(37)~~ "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 includes weak cider;
- (39)~~(38)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- (40)~~(39)~~ "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
- (41)~~(40)~~ "Minor" means any person who is not twenty-one (21) years of age or older;
- (42)~~(41)~~ "Moist" means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242, 242.1243, 242.1244, or 242.1292;
- (43)~~(42)~~ "Population" means the population figures established by the federal decennial census for a census year or the current yearly population estimates prepared by the Kentucky State Data Center, Urban Studies Center of the University of Louisville, Louisville, Kentucky, for all other years;
- (44)~~(43)~~ "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;

- (45)~~((44))~~ "Primary source of supply" or "supplier" means the distiller, winery, brewer, producer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the United States of the foreign distiller, producer, bottler, or owner;
- (46)~~((45))~~ "Private club" means a nonprofit social, fraternal, military, or political organization, club, or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;
- (47)~~((46))~~ "Public nuisance" means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;
- (48)~~((47))~~ "Qualified historic site" means:
- (a) A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places;
  - (b) A site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served;
  - (c) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; or
  - (d) A not-for-profit or nonprofit facility listed on the National Register of Historic Places;
- (49)~~((48))~~ "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;
- (50)~~((49))~~ "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;
- (51)~~((50))~~ "Restaurant" means a facility where the usual and customary business is the preparation and serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and alcoholic beverage receipts from the sale of food at the premises;
- (52)~~((51))~~ "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 *or shipment* to the consumer or not;
- (53)~~((52))~~ "Retail sale" means any sale *of alcoholic beverages to a consumer, including those transactions taking place in person, electronically, online, by mail, or by telephone* ~~where delivery is made in Kentucky to any consumers~~;
- (54)~~((53))~~ "Retailer" means any licensee who sells and delivers any alcoholic beverage to consumers, except for *manufacturers* ~~producers~~ with limited retail sale privileges *and direct shipper licensees*;
- (55)~~((54))~~ "Riverboat" means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry one hundred (100) or more passengers for hire on navigable waters in or adjacent to this state;
- (56)~~((55))~~ "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;
- (57)~~((56))~~ "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar;

- (58)~~(57)~~ "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;
- (59)~~(58)~~ "Small farm winery" means a winery whose wine production is not less than two hundred fifty (250) gallons and not greater than one hundred thousand (100,000) gallons in a calendar year;
- (60)~~(59)~~ "Souvenir package" means a special package of distilled spirits available from a licensed retailer that is:
- (a) Available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled; or
  - (b) Available for retail sale at a licensed Kentucky distillery but produced or bottled at another of that distiller's licensed distilleries in Kentucky;
- (61)~~(60)~~ "State administrator" or "administrator" means the distilled spirits administrator or the malt beverages administrator, or both, as the context requires;
- (62)~~(61)~~ "State park" means a state park that has a:
- (a) Nine (9) or eighteen (18) hole golf course; or
  - (b) Full-service lodge and dining room;
- (63)~~(62)~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar;
- (64)~~(63)~~ "Territory" means a county, city, district, or precinct;
- (65)~~(64)~~ "Urban-county administrator" means an urban-county alcoholic beverage control administrator;
- (66) ***"Valid identification document" means an unexpired, government-issued form of identification that contains the photograph and date of birth of the individual to whom it is issued;***
- (67)~~(65)~~ "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;
- (68)~~(66)~~ "Vintage distilled spirit" means a package or packages of distilled spirits that:
- (a) Are in their original manufacturer's unopened container;
  - (b) Are not owned by a distillery; and
  - (c) Are not otherwise available for purchase from a licensed wholesaler within the Commonwealth;
- (69)~~(67)~~ "Warehouse" means any place in which alcoholic beverages are housed or stored;
- (70)~~(68)~~ "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;
- (71)~~(69)~~ "Wet" means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050 or 242.125 on the following question: "Are you in favor of the sale of alcoholic beverages in (name of territory)?";
- (72)~~(70)~~ "Wholesale sale" means a sale to any person for the purpose of resale;
- (73)~~(71)~~ "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;
- (74)~~(72)~~ "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 sake, 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 does not include weak cider; and
- (75)~~(73)~~ "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, except a place or premises that manufactures wine for sacramental purposes exclusively.

➔Section 5. KRS 243.030 is amended to read as follows:



The following licenses that authorize traffic in distilled spirits and wine may be issued by the distilled spirits administrator. Licenses that authorize traffic in all alcoholic beverages may be issued by both the distilled spirits administrator and malt beverages administrator. The licenses and their accompanying fees are as follows:

- (1) Distiller's license:
  - (a) Class A, per annum .....\$3,090.00
  - (b) Class B (craft distillery), per annum .....\$1,000.00
- (2) Rectifier's license:
  - (a) Class A, per annum .....\$2,580.00
  - (b) Class B (craft rectifier), per annum.....\$825.00
- (3) Winery license, per annum .....\$1,030.00
- (4) Small farm winery license, per annum .....\$110.00
  - (a) Small farm winery off-premises retail license, per annum .....\$30.00
- (5) Wholesaler's license, per annum .....\$2,060.00
- (6) Quota retail package license, per annum .....\$570.00
- (7) Quota retail drink license, per annum .....\$620.00
- (8) Transporter's license, per annum .....\$210.00
- (9) Special nonbeverage alcohol license, per annum .....\$60.00
- (10) Special agent's or solicitor's license, per annum .....\$30.00
- (11) Bottling house or bottling house storage license,per annum .....\$1,030.00
- (12) Special temporary license, per event .....\$100.00
- (13) Special Sunday retail drink license, per annum .....\$520.00
- (14) Caterer's license, per annum .....\$830.00
- (15) Special temporary alcoholic beverage auction license, per event .....\$100.00
- (16) Extended hours supplemental license, per annum .....\$2,060.00
- (17) Hotel in-room license, per annum .....\$210.00
- (18) Air transporter license, per annum .....\$520.00
- (19) Sampling license, per annum .....\$110.00
- (20) Replacement or duplicate license .....\$25.00
- (21) Entertainment destination center license:
  - (a) When the licensee is a city, county, urban-county government, consolidated local government, charter county government, or unified local government, per annum ...\$2,577.00
  - (b) All other licensees, per annum .....\$7,730.00
- (22) Limited restaurant license, per annum .....\$780.00
- (23) Limited golf course license, per annum .....\$720.00
- (24) Small farm winery wholesaler's license, per annum .....\$110.00
- (25) Qualified historic site license, per annum .....\$1,030.00
- (26) Nonquota type 1 license, per annum .....\$4,120.00
- (27) Nonquota type 2 license, per annum .....\$830.00
- (28) Nonquota type 3 license, per annum .....\$310.00

- (29) Distilled spirits and wine storage license, per annum .....\$620.00
- (30) Out-of-state distilled spirits and wine supplier's license,  
per annum .. .....\$1, 550.00
- (31) Limited out-of-state distilled spirits and  
wine supplier's license, per annum .....\$260.00
- (32) Authorized public consumption license, per annum .....\$250.00
- (33) *Direct shipper license, per annum.....\$100.00***
- ~~(34)(33)~~ A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045.
- ~~(35)(34)~~ 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 establishing 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.
- ~~(36)(35)~~ The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary retail 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.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (4), (8), (9), (10), (12), (15), (19), and (20) of this section. The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

➔Section 6. KRS 243.034 is amended to read as follows:

- (1) A limited restaurant license may be issued to an establishment meeting the definition criteria established in KRS 241.010~~(36)(35)~~ as long as the establishment is within:
- (a) Any wet territory; or
- (b) Any moist precinct that has authorized the sale of alcoholic beverages under KRS 242.1244.
- (2) A limited restaurant license shall authorize the licensee to purchase, receive, possess, and sell alcoholic beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase alcoholic beverages only from licensed wholesalers or distributors. The license shall not authorize the licensee to sell alcoholic beverages by the package.
- (3) The holder of a limited restaurant license shall maintain at least seventy percent (70%) of its gross receipts from the sale of food and maintain the minimum applicable seating requirement required for the type of limited restaurant license.
- (4) A limited restaurant as defined by KRS 241.010~~(36)(a)(35)(a)~~ shall:
- (a) Only sell alcoholic beverages incidental to the sale of a meal; and
- (b) Not have an open bar and shall not sell alcoholic beverages to any person who has not purchased or does not purchase a meal.

➔Section 7. KRS 243.0341 is amended to read as follows:

- (1) Notwithstanding any other provision of law, any city or county that conducted an election under KRS 242.1244(2) prior to January 1, 2016, for by the drink sales of alcoholic beverages in restaurants and dining facilities seating one hundred (100) persons or more or any city with limited sale precincts created pursuant to KRS 242.1292 may elect to act under this section.
- (2) Upon a determination by the legislative body of a city or county that:
- (a) An economic hardship exists within the city or county; and
- (b) Expanded sales of alcoholic beverages by the drink could aid in economic growth;
- the city or county may, after conducting a public hearing that is noticed to the public in accordance with the KRS Chapter 424, adopt an ordinance authorizing by the drink sales of alcoholic beverages in restaurants and dining facilities containing seating for at least fifty (50) persons and meeting the requirements of subsection (3) of this section.

- (3) The ordinance enacted by a city or county pursuant to subsection (2) of this section shall authorize the sale of alcoholic beverages under the following limitations:
  - (a) Sales shall only be conducted in restaurants and other dining facilities meeting the requirements of KRS 241.010(36)(a)~~[(35)(a)]~~; and
  - (b) The provisions of KRS 243.034 shall apply to any restaurant or dining facility operating under a license issued pursuant to this section.
- (4) A city or county acting under this section may allow limited restaurant sales as defined in KRS 241.010(36)~~[(35)]~~.
- (5) The enactment of an ordinance under this section shall not:
  - (a) Modify the city's or county's ability to issue a limited restaurant license to restaurants or other dining facilities meeting the requirements of KRS 241.010(36)(b)~~[(35)(b)]~~; or
  - (b) Affect, alter, or otherwise impair any license previously issued to a restaurant or dining facility meeting the requirements of KRS 241.010(36)(b)~~[(35)(b)]~~.

➔Section 8. KRS 243.040 is amended to read as follows:

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

- (1) Brewer's license, per annum .....\$2,580.00
- (2) Microbrewery license, per annum .....\$520.00
- (3) Distributor's license, per annum .....\$520.00
- (4) Nonquota retail malt beverage package license, per annum .....\$210.00
- (5) Out-of-state malt beverage supplier's license,  
per annum .....\$1,550.00
- (6) Malt beverage storage license, per annum .....\$260.00
- (7) Replacement or duplicate license, per annum .....\$25.00
- (8) Limited out-of-state malt beverage supplier's license,  
per annum .....\$260.00
- (9) Nonquota type 4 malt beverage drink license,  
per annum .....\$210.00
- (10) Direct shipper license, per annum.....\$100.00**

~~(11)(10)~~ The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

~~(12)(11)~~ A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045.

~~(13)(12)~~ Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241 to 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 (8) of this section 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. The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the department.

➔Section 9. KRS 243.075 is amended to read as follows:

- (1)
  - (a) A city with a population of less than twenty thousand (20,000) based upon the most recent federal decennial census, or a county that does not contain a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census, that is wet through a local option election held under KRS Chapter 242 is authorized to impose a regulatory license fee not to exceed five percent (5%) upon the gross receipts of the sale of alcoholic beverages of each establishment located in the city or county licensed to sell alcoholic beverages.
  - (b) The regulatory license fee may be levied at the beginning of each budget period at a percentage rate that is reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county.
  - (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:
    1. A credit against a regulatory license fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 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.
- (2)
  - (a) A city or county that is moist through a local option election held under KRS 242.1244 may by ordinance impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment located in the city or county and licensed to sell alcoholic beverages by the drink for consumption on the premises.
  - (b) The regulatory license fee may be levied annually at a rate that is reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses.
  - (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070.
  - (d) 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.
- (3) For any election held after July 15, 2014, any new fee authorized under subsection (1) or (2) of this section shall be enacted by the city or county no later than two (2) years from the date of the local option election held under KRS Chapter 242.
- (4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section shall be established at a rate that will generate revenue that does not exceed the total of the reasonable expenses actually incurred by the city or county in the immediately previous fiscal year for the additional cost, as demonstrated by reasonable evidence, of:
  - (a) Policing;
  - (b) Regulation; and
  - (c) Administration;as a result of the sale of alcoholic beverages within the city or county.
- (5)
  - (a) The Alcoholic Beverage Control Board shall promulgate administrative regulations which set forth the process by which a city or county, in the first year following the discontinuance of prohibition, may estimate any additional policing, regulation, and administrative expenses by a city or county directly and solely related to the discontinuance of prohibition. This subsection shall apply to any discontinuance of prohibition occurring after the promulgation of administrative regulations required by this subsection.
  - (b) After the first year, the regulatory license fee for each subsequent year shall conform to the requirements of subsection (4) of this section.
- (6) The revenue received from the imposition of the regulatory license fee authorized under subsections (1) and (2) of this section shall be:

- (a) Deposited into a segregated fund of the city or county;
  - (b) Spent only in accordance with the requirements of subsections (1) and (2) of this section; and
  - (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810, and 91A.040.
- (7) Any city or county found by a court to have violated the provisions of this section shall:
- (a) Provide a refund as determined by the court to any licensee that has been harmed in an amount equal to its prorated portion of the excess revenues collected by the city or county that are directly attributable to a violation occurring after July 15, 2014;
  - (b) Be responsible for the payment of the reasonable attorney fees directly incurred by a party to a litigation in an amount ordered by the court upon its finding of an intentional and willful violation of this section by a city or county occurring after July 15, 2014; and
  - (c) Upon the finding by a court of a second intentional and willful violation of the provisions of this section, lose the ability to impose the regulatory fee provided by this section for a period of five (5) years and, upon the finding by a court of a third intentional and willful violation, forfeit the right to impose the regulatory license fee authorized by this section.
- (8) Any party bringing suit against a city or county for an alleged violation of this section occurring after July 15, 2014, shall be responsible for the payment of the reasonable attorney fees of the city or county in an amount determined by the court upon a finding by the court that the city or county did not violate this section.
- (9) (a) Any city that does not meet the population requirements of subsection (1) of this section, and any county that has a city exceeding the population requirements of subsection (1) of this section, that imposed a regulatory license fee pursuant to this section as of January 1, 2019, shall be deemed to meet the requirements for doing so set out in this section and may continue to impose the regulatory license fee previously established pursuant to this section.
- (b) Any city or county that is authorized to impose the regulatory license fee under subsection (1) of this section, or under paragraph (a) of this subsection, that imposed the regulatory license fee at a rate higher than five percent (5%) prior to June 27, 2019, may continue to impose the regulatory license fee at a rate that exceeds five percent (5%). The rate shall continue to be calculated annually pursuant to the requirements of this section and shall not exceed the rate that was imposed by the city or county on January 1, 2019.
- (10) *A direct shipper licensee shall collect and remit the regulatory license fee imposed by this section as though it were an establishment located in a city or county licensed to sell alcoholic beverages. This fee shall be considered a tax as defined in Section 3 of this Act.*
- (11) *Any city or county imposing a regulatory license fee under this section shall file with the department a report showing the applicable fee amount and remittance address for each affected license type in its jurisdiction on or before August 1, 2020. Any adoption of this fee after the effective date of this Act or modification of the applicable fee amount or remittance address for each affected licensee shall be reported to the department within thirty (30) days of adoption by the city or county imposing the fee. Within twenty (20) days after receipt of the information, the department shall compile and publish the information so that it is readily available to the public.*

➔Section 10. 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 ~~shall~~~~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. *No properly licensed common carrier or any of its employees acting on behalf*

*of a consignor in the course and scope of a delivery or shipment of alcoholic beverages to a consumer shall be liable for a violation of this subsection or any provision of KRS 242.250, 242.260, or 242.270 prohibiting the delivery or shipment of* ~~or to knowingly deliver or ship~~ alcoholic beverages into areas of the state in which alcoholic beverages are not ~~lawfully~~~~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) 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) Applicants for the transporter's license under this section, and their employees, shall be exempt from the residency requirements of KRS 243.100.
- (6) 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) 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 11. 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 *consumer*~~customer~~, at the *consumer's*~~customer's~~ request, alcoholic beverages that are purchased  ~~from~~
    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 *consumer* ~~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 *consumer* ~~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:
  - (a) Licensed wholesalers; *or*
  - (b) *Those licensees authorized to sell distilled spirits and wine by the package at retail, but only if the distilled spirits and wine have first gone through the three (3) tier system.*
- ~~(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 12. KRS 243.360 is amended to read as follows:

- (1) All persons *shall, before applying for a license, advertise by publication their intention to apply for a license in the newspaper for legal notices under KRS 424.120 for the county or city whose local administrator has local jurisdiction over the proposed premises. This requirement shall not apply to* ~~except~~ *an applicant for the same license for the same premises, or an applicant for any of the following licenses:* ~~and~~
- (a) Out-of-state malt beverage supplier's license; ~~and~~
  - (b) Limited out-of-state malt beverage supplier's license; ~~and~~
  - (c) Out-of-state distilled spirits and wine supplier's license; ~~and~~
  - (d) Limited out-of-state distilled spirits and wine supplier's license; ~~and~~
  - (e) Supplemental bar license; ~~and~~
  - (f) Extended hours supplemental license; ~~and~~
  - (g) Special agent or solicitor's license; ~~and~~
  - (h) Special nonbeverage alcohol license; ~~and~~
  - (i) Transporter's license; ~~and~~
  - (j) Special Sunday drink license; ~~and~~
  - (k) Hotel in-room license; ~~and~~
  - (l) Sampling license; ~~and~~
  - (m) *Direct shipper license*; or ~~and~~
  - (n) Special temporary drink license ~~shall, before applying for a license, advertise by publication their intention to apply for a license in the newspaper for legal notices under KRS 424.120 for the county or city whose local administrator has local jurisdiction over the proposed premises.~~
- (2) The notice shall contain the following information:
- (a) The notice shall state: the name and address of the applicant and the name and address of each principal owner, partner, member, officer, and director if the applicant is a partnership, limited partnership, limited liability company, corporation, governmental agency, or other business entity recognized by law;
  - (b) The notice shall specifically state the location of the premises for which the license is sought, the type of business, 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 approval of the license by writing the Department of Alcoholic Beverage Control, ~~1003 Twilight Trail, Frankfort, Kentucky 40601,~~ within thirty (30) days of the date of legal publication."
- (3) Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.
- (4) Substantial compliance with the information listed in subsection (2) of this section shall be sufficient to comply with this section.

➔Section 13. KRS 244.150 is amended to read as follows:

~~(1) Each licensee shall keep and maintain upon the licensed premises, or make readily available upon request of the department or the Department of Revenue, adequate books and records of all transactions involved in the manufacture, *distribution*, or sale of alcoholic beverages, in the manner required by administrative regulations of the department and the Department of Revenue.~~

~~(2) The department may require common carriers to provide information in an approved form respecting all shipments of alcoholic beverages to, from, or between persons in Kentucky.~~

➔Section 14. 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 *independent contractor*, 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 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 15. 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 permit the distiller to *transfer*~~{deliver}~~ its products 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 *of these transfers*~~{direct shipments}~~ shall be invoiced from the distiller to the wholesaler and from the wholesaler to the distiller, and all *of these transferred* 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:
  - (a) *To consumers in accordance with Sections 1 to 3 of this Act if it holds a direct shipper license; and*
  - (b) 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 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 *sold to distillery visitors* at retail shall be in conformity with KRS 244.290(3).
- (5) Except as provided in this section, souvenir package sales *to distillery visitors* 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; and
  - (b) 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 16. KRS 243.110 is amended to read as follows:

- (1) Except as provided in subsection (3) of this section, each kind of license listed in KRS 243.030 shall be incompatible with every other kind listed in that section and no person or entity holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.
- (2)
  - (a) Each kind of license listed in KRS 243.040(1), (3), or (4) shall be incompatible with every other kind listed in KRS 243.040(1), (3), or (4), and no person holding a license of any of those kinds shall apply for or hold a license of any other kind listed in KRS 243.040(1), (3), or (4).
  - (b) A brewery holding a license listed in KRS 243.040(5) or (8) shall not apply for or hold a license listed in KRS 243.040(3) or (4).
- (3)
  - (a) The holder of a quota retail package license may also hold a quota retail drink license, an NQ1 retail drink license, an NQ2 retail drink license, or a special nonbeverage alcohol license.
  - (b) The holder of a transporter's license may also hold a distilled spirits and wine storage license.
  - (c) The holder of a distiller's license may also hold a rectifier's license, a special nonbeverage alcohol license, a winery license, or a small farm winery license.
  - (d) A commercial airline system or charter flight system retail license, a commercial airline system or charter flight system transporter's license, and a retail drink license if held by a commercial airline or charter flight system may be held by the same licensee.
  - (e) A Sunday retail drink license and supplemental license may be held by the holder of a primary license.
  - (f) ***The holder of a distiller's, winery, or small farm winery license may also hold a direct shipper license.***
- (4) Any person may hold two (2) or more licenses of the same kind.
- (5) A person or entity shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license through or under the name of a different person or entity. The state administrator shall examine the ownership, membership, and management of applicants, and shall deny the application for a license if the applicant is substantially interested in a person or entity that holds an incompatible license.

➔Section 17. 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 *Sections 1 to 3 of this Act and KRS 243.0305*, 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) Vitate 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 18. KRS 243.150 is amended to read as follows:

- (1) A brewer's license shall authorize the licensee to engage in the business of a brewer at the premises specifically designated in the license, and to transport for itself only any malt beverage which the licensee is authorized by its license to manufacture or sell, but the licensee shall transport any malt beverages in accordance with the requirements provided by KRS 243.120 for distillers.
- (2) A brewer may sell any malt beverage produced under its license to:
  - (a) A licensed wholesaler from the licensed premises;
  - (b) Any of its employees for home consumption;
  - (c) Charitable or fraternal organizations holding group meetings, picnics, or outings;~~[-and]~~
  - (d) A customer, strictly limited to the following types of sales on the premises of a brewery located in wet territory:
    1. By the drink sales for consumption on the premises only, to be conducted in a taproom or similar space that is located at the licensed brewery; and
    2. Package sales for off-premises consumption only by using a refillable, resealable growler; *and*
  - (e) *Consumers, if the brewer holds a direct shipper license under Sections 1 to 3 of this Act.*

- (3) A licensed brewer may buy malt beverages from another licensed brewer in this state or nonresident brewer authorized by the law of the state of its residence, and by the United States government if located in the United States, to make these sales;
- (4) Employees of a licensed brewer may sample the products produced by that manufacturer for purposes of education, quality control, and product development.
- (5) A brewer may serve on the licensed premises of its brewery complimentary samples of malt beverages produced at the brewery in an amount not to exceed sixteen (16) ounces per patron per day, if the brewery is located in wet territory.

➔Section 19. 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 *consumers*, 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) *A small farm winery may sell wine at retail to consumers in accordance with Sections 1 to 3 of this Act if it holds a direct shipper license*~~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.~~

- (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 20. KRS 243.157 is amended to read as follows:

- (1) A microbrewery license shall authorize the licensee to perform the following functions:
  - (a) Engage in the business of a brewer under the terms and conditions of KRS 243.150, provided that production of malt beverages at the microbrewery shall not exceed fifty thousand (50,000) barrels in one (1) year;
  - (b) Serve on the premises complimentary samples of malt beverages produced by the microbrewery in amounts not to exceed sixteen (16) ounces per patron, provided the microbrewery is located in wet territory;
  - (c) Sell malt beverages produced on the premises of the microbrewery to licensed distributors;
  - (d) Sell malt beverages produced on the premises of the microbrewery for on- and off-premises purposes in accordance with subsection (3)(b) and (c) of this section, pursuant to the following:
    1. Without restriction on the amount of malt beverages sold by the drink for on-premises consumption; and
    2. With a restriction on the amount of malt beverages sold for off-premises consumption, in an aggregate amount not to exceed thirty-one (31) gallons per person per day that shall not include more than three (3) cases in case format; and
  - (e) Sell:
    1. Unlimited amounts of malt beverages by the drink; and
    2. Not more than one (1) case of packaged malt beverages;
 

produced on the premises of the microbrewery to consumers at fairs, festivals, and other similar types of events located in wet territory, in accordance with subsection (3)(b)2. and (c)2. of this section.
- (2) A microbrewery license shall not be deemed to be incompatible with any other license except for a distributor's license under the provisions of KRS 243.180.
- (3) In accordance with the provisions of this section, a microbrewery license holder may:

- (a) Hold retail drink and package licenses both on and off the premises of the microbrewery. The holder of a microbrewery license is exempt from the provisions of KRS 244.570 and 244.590 as applied to any retail licenses held by the microbrewery license holder, and from any other sections which would restrict the co-ownership of the microbrewery license and any retail licenses described in this section;
- (b) Sell malt beverages produced on the premises of the microbrewery for on-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided:
  - 1. The microbrewery possesses a retail drink license for those premises; and
  - 2. The microbrewery reports and pays all taxes required by subsection (5)(a) and (b) of this section to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its powers under KRS 131.130(3); and
- (c) Sell malt beverages produced on the premises of the microbrewery for off-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided that:
  - 1. The microbrewery possesses a retail package license for those premises; and
  - 2. The microbrewery reports and pays all taxes required by subsection (5)(a) and (b) of this section to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its powers under KRS 131.130(3).
- (4) The provisions of subsection (3)(b) and (c) of this section shall apply only to malt beverages that are produced by the microbrewery at its licensed premises and:
  - (a) Offered for sale by the microbrewery at that same premises under the microbrewery's retail drink or package license; or
  - (b) Offered for sale by the microbrewery at a fair, festival, or other similar type of event as authorized under subsection (1)(e) of this section.

All other malt beverages produced by the microbrewery which are offered for retail sale shall be sold and physically transferred to a licensed distributor in compliance with all other relevant provisions of KRS Chapters 241 to 244, and a licensed microbrewery shall not otherwise affect sales of malt beverages directly to retail customers except as provided in subsection (3)(b) and (c) of this section, ***under Sections 1 to 3 of this Act if the microbrewery holds a direct shipper license.***

- (5) (a) A microbrewery selling malt beverages in accordance with subsection (3)(b) and (c) of this section shall pay all wholesale sales taxes due under KRS 243.884. For the purposes of this subsection, "wholesale sales" means a sale of malt beverages made by a microbrewery under subsection (3)(b) and (c) of this section, as applicable.
- (b) A microbrewery shall pay the excise tax on malt beverages in accordance with KRS 243.720(3) and 243.730 and shall be entitled to the credit set forth in KRS 243.720(3)(b).
- (6) A microbrewery shall not be located in dry or moist territory.
- (7) An employee of a microbrewery may sample the products produced by that microbrewery for purposes of education, quality control, and product development.
- (8) This section does not exempt the holder of a microbrewery license from the provisions of KRS Chapters 241 to 244, nor from any rules of the board as established by administrative regulations, nor from regulation by the board, except as expressly stated in this section. The provisions of this section shall not be deemed inconsistent with the provisions of KRS 244.602.
- (9) Nothing in this section shall be construed to vitiate the policy of this Commonwealth, as set forth in KRS 244.167 and 244.602, supporting an orderly three (3) tier system for the production and sale of malt beverages.

➔Section 21. KRS 244.165 is amended to read as follows:

- (1) Except as provided in ***Sections 1 to 3 of this Act***~~[subsections (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 ***consumer***~~[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.~~
- (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 ~~shall~~**must** request adult-signature-only service from the carrier. ***A licensed common carrier shall not knowingly ship unlicensed alcoholic beverage shipments into the Commonwealth.*** 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. ***No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of any provision of KRS 242.250, 242.260, or 242.270 prohibiting the delivery or shipment of*** ~~or to knowingly deliver or ship~~ alcoholic beverages into areas of the state in which alcoholic beverages are not **lawfully**~~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.~~
- (3)~~(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 ***the department shall mail a copy of the certified letter to the licensing authority where the person is located. Any subsequent violations may result in further legal action*** ~~for the second and each subsequent offense, be guilty of a Class D felony.~~

Became law without Governor's signature April 8, 2020.