

## CHAPTER 20

## ( SB 67 )

AN ACT relating to alcoholic beverage sales, and declaring an emergency.

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) *If authorized under its licensing statute, a license holder with the privilege of selling alcoholic beverages by the drink at retail shall be permitted to sell alcoholic beverages by the drink in a sealed container, and by the package in sealed original containers, on a delivery, to-go, or take-out basis, as follows:*
  - (a) *The sale of alcoholic beverages pursuant to this section must be in conjunction with the purchase of a prepared meal and only in quantities that a reasonable person would purchase with a meal;*
  - (b) *Deliveries, if applicable, shall be made in a vehicle operated and owned by the licensee, the licensee's employee, or an independent contractor or agent; and*
  - (c) *Any person delivering alcoholic beverages must be at least twenty-one (21) years of age.*
- (2) *All licensees and their employees and independent contractors are prohibited from:*
  - (a) *Selling alcohol in bulk quantities;*
  - (b) *Completing sales in dry territories; or*
  - (c) *Delivering:*
    1. *Into dry territory;*
    2. *To a minor under twenty-one (21) years of age; or*
    3. *To an intoxicated person.*
- (3) (a) *For purposes of this section, alcoholic drinks to go shall be:*
  1. *Placed in a bag or other container that is secured in a manner that makes it visibly apparent if the container has been subsequently opened or tampered with; and*
  2. *Transported in a locked glove compartment or the trunk or other area that is not a passenger area under KRS 189.530(5).*

(b) *The department may, but is not required to, promulgate an administrative regulation that sets forth the:*

  1. *Conditions under which sales may take place;*
  2. *Days and times that sales may take place; and*
  3. *The requirements for transportation of alcoholic drinks to go under this section.*
- (4) *For purposes of this section, vehicles used for deliveries shall be exempt from displaying the name and license number of the retail licensee selling the alcoholic beverages being delivered.*
- (5) *Except as provided in this section, sales of alcoholic beverages shall be subject to all of the statutes and administrative regulations relating to the retail sale of alcoholic beverages.*

➔Section 2. 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) 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 *or off-premises consumption*

*pursuant to Section 1 of this Act.* 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) 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 3. KRS 243.084 is amended to read as follows:

- (1) A "Nonquota type 2" or "NQ2" retail drink license may be issued to an applicant operating as, or in:
  - (a) A hotel that:
    1. Contains at least fifty (50) sleeping units; and
    2. Receives from its total food and alcoholic beverage sales at least fifty percent (50%) of its gross receipts from the sale of food;
  - (b) A restaurant;
  - (c) An airport;
  - (d) A riverboat;
  - (e) A distiller; or
  - (f) A business located within, or adjacent to, an entertainment destination center licensed premises.
- (2) A holder of an NQ2 retail drink license may purchase, receive, possess, and sell alcoholic beverages at retail by the drink for consumption on the licensed premises *or off-premises consumption pursuant to Section 1 of this Act.* The licensee shall purchase alcoholic beverages only from licensed wholesalers or distributors. A distiller may purchase its own products for retail drink sales under KRS 243.0305. The holder of an NQ2 retail drink license shall store alcoholic beverages in the manner prescribed in KRS 244.260.
- (3)
  - (a) To qualify for an NQ2 license, a riverboat shall have a regular or alternative place of mooring in a wet county or city of this state.
  - (b) If a riverboat moors or makes landfall in a location other than its regular or alternate regular place of mooring, all alcoholic beverages shall be kept locked.
  - (c) A riverboat licensed under this subsection shall not take on or discharge passengers when mooring or making landfall in dry option territory.

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

- (1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The board shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.
- (2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:
  - (a) Engage in the business of a winery under the terms and conditions of KRS 243.120 and 243.130. The manufacture of wine at the small farm winery shall not be less than two hundred fifty (250) gallons, and shall not exceed five hundred thousand (500,000) 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 off-premises consumption pursuant to Section 1 of this Act*, 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 KRS 243.027 to 243.029 if it holds a direct shipper license.
- (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 during the hours and times as permitted in the local ordinance for that locality.
- (4) A small farm winery license holder may also hold an NQ2 retail drink license or an NQ4 retail malt beverage drink license if:
- (a) The small farm winery is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under KRS 242.124; and
  - (b) The issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise designed to promote viticulture, enology, and tourism.
- (5) This section shall not exempt the holder of a small farm winery license from the provisions of KRS Chapters 241 to 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small farm winery, except as expressly stated in this section.
- (6) Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.
- (7) Upon the approval of the department, a small farm winery license may be renewed after the licensee submits to the department the winery's federal basic permit and proof of its annual wine production.
- (8) An employee of a small farm winery may sample the products produced by that small farm winery for purposes of education, quality control, and product development.

➔Section 5. KRS 243.250 is amended to read as follows:

A quota retail drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises, *or off-premises consumption pursuant to Section 1 of this Act*. The licensee shall purchase distilled spirits and wine only from licensed wholesalers.

➔Section 6. Whereas the economic impact of the state of emergency in response to COVID-19 on Kentucky's citizens and small businesses is of the utmost importance,

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 March 15, 2021.**