

CHAPTER 104**(HB 536)**

AN ACT relating to alcoholic beverages.

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

➔SECTION 1. KRS 242.1292 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Any license issued by a state or local administrator under this section before the effective date of this Act shall:*
- (a) *Remain valid and in effect unless the license is surrendered to the department as authorized under KRS Chapters 241 to 244;*
 - (b) *Continue to be subject to the regulatory license fee assessed under KRS 243.075, and the jurisdiction that issued the license may continue to assess the regulatory license fee; and*
 - (c) *Not count toward the total for any other city, county, or state license limits.*
- (2) (a) *Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070, for any city with a limited sale precinct established as wet territory under this section prior to the effective date of this Act, the governing body of the city may continue to impose a regulatory license fee upon the gross receipts of each establishment located in said city licensed to sell alcoholic beverages.*
- (b) *The regulatory license fee may be levied at the beginning of each city budget period at the percentage rate reasonably estimated to fully reimburse the city for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city.*
 - (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 pursuant to KRS 243.070.*

➔Section 2. KRS 243.033 is amended to read as follows:

- (1) A caterer's license may be issued as a supplementary license to a caterer that holds a quota retail package license, a quota retail drink license, an NQ1 license, an NQ2 license, or a limited restaurant license.
- (2) The caterer's license may be issued as a primary license to a caterer in any wet territory or in any moist territory under KRS 242.1244 for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall authorize alcoholic beverage sales at a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.
- (3) The caterer's license shall authorize the caterer to:
 - (a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and 244.260;
 - (b) Transport, sell, serve, and deliver alcoholic beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and the customer's guests, in:
 - 1. Cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;
 - 2. *Precincts established as moist territory if the receipts from the catering of food at any catered event are at least ten percent (10%) of the gross receipts from the catering of both food and alcoholic beverages. This subparagraph shall supersede any conflicting provisions of KRS Chapters 241 to 244;*

3. Wet cities and counties in which quota retail drink licenses are not available if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or
- 4.~~{3}~~ All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages;
 - (c) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and
 - (d) Receive payment for alcoholic beverages served at a catered event on a by-the-drink, cash bar, or by-the-event basis. The caterer may bill the customer for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
- (4) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a fundraising event for which a special temporary alcoholic beverage auction license has been issued under KRS 243.036.
- (5) A caterer licensee shall not cater alcoholic beverages on Sunday except in territory in which the Sunday sale of alcoholic beverages is permitted under the provisions of KRS 244.290 and 244.480.
- ~~(6) A caterer licensee shall not cater alcoholic beverages at an event hosted by the caterer licensee or hosted as a joint venture of the caterer licensee.~~
- ~~(7)~~ The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.
- ~~(7)~~~~(8)~~ The caterer licensee shall post a copy of the licensee's caterer's license at the location of the function for which alcoholic beverages are catered.
- ~~(8)~~~~(9)~~ All restrictions and prohibitions applying to a quota retail drink licensee and an NQ4 retail malt beverage drink licensee not inconsistent with this section shall apply to the caterer licensee.
- ~~(9)~~~~(10)~~ The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.
- ~~(10)~~~~(11)~~ Notwithstanding subsection (3)(b) of this section, a caterer may serve alcoholic beverages to guests who are twenty-one (21) years of age or older at a private event in dry territory if:
 - (a) The alcoholic beverages were lawfully purchased in a wet or moist territory:
 1. By an individual; or
 2. At the caterer's licensed premises in wet or moist territory; and
 - (b) The alcoholic beverages are not sold in dry territory to guests at the private residence or private event regardless of whether the venue is a public place.

➔Section 3. KRS 83A.022 is amended to read as follows:

Once a city meets the population criteria established in KRS 67.750, 82.095, 92.281, 96.060, 96.189, 97.120, 99.615, 100.137, 100.209, 100.217, 100.253, 241.160, ~~242.1292,~~ 243.230, 244.290, 244.540, ~~and~~ 281.014, **and prior to the effective date of this Act, Section 1 of this Act**, under the most recent federal decennial census and has exercised the powers and duties pursuant to the section, the city shall not thereafter lose the ability to exercise the powers and duties provided in those sections because of an increase or decrease in population in a subsequent federal decennial census, or because of a judgment of a court pursuant to a petition to certify a city's population as different than the federal decennial census made under KRS 81.006. The city shall be permitted to continue to exercise the powers and duties under the applicable section as if it still meets the population requirements provided by the section. However, if there is a conflict between a power or privilege established under a lower population limit and a higher population limit, then the city shall follow the provisions required by the higher population limit.

➔Section 4. KRS 242.1238 is amended to read as follows:

- (1) Other provisions of the Kentucky Revised Statutes notwithstanding, a limited sale precinct election may be held in any precinct containing a horse racetrack. ~~The election shall be conducted in the same manner as~~

~~provided for in KRS 242.1292.~~ Upon approval of the proposition, a Nonquota type 1 retail drink license may be issued in accordance with KRS 243.265. Nothing in this section shall be construed as authorizing the issuance of any alcoholic beverage licenses other than for the premises of a horse racetrack pursuant to KRS 243.260.

- (2) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)?'".
- (3) ***The question shall be presented to the voters in conformance with the requirements of KRS 242.050, except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)?".***
- (4) ***The election shall be held in the precinct or precincts in the manner prescribed in this chapter. The election shall not be deemed to be an election in the "same territory" within the meaning of KRS 242.030(3).***

➔Section 5. KRS 243.0341 is amended to read as follows:

- (1) Notwithstanding any other provision of law, ***the following local governments may elect to act under this section:***
 - (a) 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
 - (b) Any city with limited sale precincts created pursuant to KRS 242.1292 ***prior to the effective date of this Act***~~{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); 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).
- (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); 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).

➔Section 6. The following KRS sections are repealed:

242.1294 Statement of proposition submitted in election.

242.1296 Requisites for subsequent elections.

242.1298 Moist territory resulting from a special limited local option election to remain dry except for specific type of sales authorized by the election proposition -- Limited local option election to return moist territory to dry status at later date.

Signed by Governor April 8, 2022.

