

**PUBLIC PROTECTION CABINET**  
**Department of Alcoholic Beverage Control**  
**(New Administrative Regulation)**

**804 KAR 4:221. Alternating proprietorship agreements.**

RELATES TO: KRS 243.220

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060 authorizes the board to promulgate reasonable regulations governing procedures relative to the applications for and revocations of licenses, and the supervision and control of the use, manufacture, sale, transportation, storage, advertising, and trafficking of alcoholic beverages. This regulation provides for the sharing of a licensed premises between two or more licensees in accordance with an alternating proprietorship agreement.

Section 1. Definition. "Alternating proprietorship agreement" means a written agreement under which two or more licensees share possession or ownership of a licensed premises and alternate exclusive use of the premises over the term of the agreement.

Section 2. A licensed premises may meet the requirements of KRS 243.220 if it is owned or possessed for a term not less than the license period by two or more eligible licensees under an alternating proprietorship agreement.

Section 3. A licensee may not enter into an alternating proprietorship agreement with any other licensee with whom the licensee would have a prohibited interlocking substantial interest under 804 KAR 4:015.

Section 4. Licensees who share a licensed premises in accordance with an alternating proprietorship agreement shall individually meet any requirements of their licenses, including, but not limited to, production and record-retention requirements.

Section 5. This administrative regulation shall not be interpreted to relate to direct shipper licenses.

Section 6. Federal Law. This administrative regulation shall not exempt a person from complying with any applicable federal laws.

*ALLYSON C TAYLOR, Commissioner*

*RAY PERRY, Secretary*

APPROVED BY AGENCY: August 31, 2021

FILED WITH LRC: September 2, 2021 at 3:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. EST on November 22, 2021 at 500 Mero Street, Room 127CW, Frankfort, Kentucky 40601. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. At the time of filing this proposed administrative regulation, the Commonwealth of Kentucky is facing a pandemic of COVID-19 which may affect in-person services at state government offices. The physical location listed in this notice is a state government office, and the public hearing will be held at this location if the location is open to in-person services on November 22, 2021, but if the location is closed to in-person services on November 22, 2021, then the public hearing on this administrative regulations shall be held by video teleconference at 9:00 a.m. on November 22, 2021. The primary location for the video teleconference will be at 500 Mero Street, Room 127CW. However, in light of the COVID-19 pandemic, proper health precautions to mitigate the spread of

COVID-19 may preclude the provision of adequate public viewing space within the primary location. In such event, instructions for accessing the video teleconference a link will be provided on the website of the Department of Alcoholic Beverage Control, <http://abc.ky.gov>, by which members of the public will be able to view the video teleconference of the public hearing remotely. Individuals interested in being heard at this hearing shall notify this agency of their intention to attend and comment in writing at least five workdays prior to the hearing. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. Written comments shall be accepted through 11:59 p.m. on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

**CONTACT PERSON:** Joshua Newton, General Counsel, Department of Alcoholic Beverage Control, 500 Mero Street, 2 NE #226, Frankfort, Kentucky 40601, phone (502) 782-0770, fax (502) 564-4850, email [Joshua.Newton@ky.gov](mailto:Joshua.Newton@ky.gov).