

243.027 KRS 243.027 to 243.029 supersedes any conflicting provision of KRS Chapters 241 to 244 -- Licensing of direct shippers of alcoholic beverages -- Duties of direct shipper licensees -- Administrative regulations.

- (1) KRS 243.027 to 243.029 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 KRS 243.027 to 243.029 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 KRS 243.027 to 243.029;
 - (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.

Effective: July 15, 2020

History: Created 2020 Ky. Acts ch. 80, sec. 1, effective July 15, 2020.