

243.0305 Souvenir package sales by licensed distillers -- Payment of taxes -- Direct transfer of souvenir packages to distillery visitors and consumers -- Direct shipment to visitors -- Availability of souvenir packages to Kentucky licensed wholesalers -- Sampling and sale of alcoholic beverages on premises of distillery -- Sale of alcoholic beverages by the drink at certain events -- Sale of products in collaboration with a brewer.

- (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)
 - (a) For purposes of all retail drink and package sales that occur pursuant to subsection (3), (8), or (9) of this section, the distillery shall:
 1. Be permitted to transfer its products from the distillery proper to the location where those sales occur without having to transfer physical possession of those distilled spirits to a licensed wholesaler; and
 2. Effective January 1, 2022, without otherwise reporting those distilled spirits to a licensed wholesaler, report and pay all taxes required 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).
 - (b)
 1. Effective January 1, 2022, a distiller selling distilled spirits in accordance with this subsection shall pay all wholesale sales taxes due under KRS 243.884. For the purposes of this subsection, "wholesale sales" means a sale of distilled spirits made by a distiller under subsection (3)(b), (8), and (9) of this section, if required by KRS 243.884.
 2. Effective January 1, 2022, a distiller shall pay the excise tax on distilled spirits in accordance with KRS 243.720 and 243.730.
 - (c) All other distilled spirits that are produced by the distillery shall be sold and physically transferred in compliance with all other relevant provisions of KRS Chapters 241 to 244.
- (3) A distiller may sell souvenir packages at retail:
 - (a) To consumers in accordance with KRS 243.027 to 243.029 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.
- (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) Souvenir packages sold to distillery visitors under subsection (3)(b) of this section shall be registered with the department pursuant to KRS 244.440 and made available to a Kentucky licensed wholesaler.
- (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) A distiller may offer for sale in its gift shop products that were produced in collaboration with a brewer or microbrewer, except that:
 - (a) These packages shall not be exclusive to the distiller's gift shop; and
 - (b) The distiller shall purchase the jointly branded souvenir package only from a licensed malt beverage distributor.
- (11) 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.
- (12) 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.

Effective: March 12, 2021

History: Amended 2021 Ky. Acts ch. 13, sec. 12, effective March 12, 2021. -- Amended 2020 Ky. Acts ch. 80, sec. 15, effective July 15, 2020; and ch. 102, sec. 2, effective July 15, 2020. -- Amended 2018 Ky. Acts ch. 164, sec. 1, effective April 13, 2018. -- Amended 2017 Ky. Acts ch. 59, sec. 3, effective June 29, 2017; and ch. 62, sec. 32, effective June 29, 2017. -- Amended 2016 Ky. Acts ch. 80, sec. 5, effective July 15, 2016. -- Amended 2013 Ky. Acts ch. 121, sec. 46, effective June 25, 2013. -- Amended 2003 Ky. Acts ch. 102, sec. 1, effective June 24, 2003. -- Amended 1998 Ky. Acts ch. 53, sec. 1, effective July

15, 1998. -- Created 1996 Ky. Acts ch. 95, sec. 2, effective July 15, 1996.

Legislative Research Commission Note (7/15/2016). A reference to "KRS 243.895" in this statute has been changed in codification to read "KRS 243.890." In 2016 Ky. Acts ch. 80, sec. 5, subsection (8)(b)2. refers to "tax collections imposed pursuant to KRS 243.710 to 243.895." It is obvious from the context that the citation of this range should not include the final section, KRS 243.895, which is a statute on an unrelated topic. Under the authority of KRS 7.136(1), the Reviser of Statutes has inserted the correct reference.