

**244.609 Resolution of disputes between microbrewer and distributor -- Arbitration.**

In the event the microbrewer and distributor cannot agree on the fair market value as set forth in KRS 244.608(4)(g), then the parties shall arbitrate in accordance with the following:

- (1) If the parties fail to reach an agreement not later than thirty (30) days after the distributor receives the microbrewer's written notice to terminate, the distributor or microbrewer may send a written notice to the other party and the American Arbitration Association, or its successor in interest, declaring the party's intention to proceed with final and binding arbitration administered by the American Arbitration Association under the American Arbitration Association's Commercial Arbitration Rules. Thereafter, an arbitration shall be held for the purpose of determining the fair market value of the distributor's total investment in the microbrewer's products being terminated. For the purpose of this subsection, fair market value shall be the value that would be determined in an arm's length transaction entered into without duress or threat of termination of the existing distributor's right and shall include all elements of value, including goodwill and going-concern value.
- (2) Notice of intent to arbitrate shall be sent, as provided in subsection (1) of this section, not later than thirty-five (35) days after the distributor receives written notice to terminate. The arbitration proceeding shall conclude not later than forty-five (45) days after the date the notice of intent to arbitrate is mailed to a party.
- (3) Any arbitration held pursuant to this section shall be conducted in the city within Kentucky that:
  1. Is closest to the distributor; and
  2. Has a population of more than twenty thousand (20,000).
- (4) Any arbitration held pursuant to this section shall be conducted before one (1) impartial arbitrator to be selected by the American Arbitration Association. The arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association.
- (5) An arbitrator's award in any arbitration held pursuant to this section shall be monetary only and shall not enjoin or compel conduct. Any arbitration held pursuant to this section shall be instead of all other remedies and procedures.
- (6) The cost of the arbitrator and any other direct costs of any arbitration held pursuant to this section shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them.
- (7) The arbitrator in any arbitration held pursuant to this section shall render a decision not later than thirty (30) days after the conclusion of the arbitration, unless this time period is extended by mutual agreement of the parties or by the arbitrator. The decision of the arbitration is final and binding on the parties. Under no circumstances may the parties appeal the decision of the arbitrator.
- (8) A party who fails to participate in the arbitration hearings in any arbitration held pursuant to this section waives all rights the party would have had in the arbitration and is considered to have consented to the determination of the arbitrator.

- (9) Nothing in this section shall be construed to limit or prohibit good-faith settlements voluntarily entered into by the parties.

**Effective:** June 29, 2021

**History:** Created 2021 Ky. Acts ch. 34, sec. 3, effective June 29, 2021.