

243.0305 Licensed distillers with retail outlets on premises -- Payment of taxes Sale of souvenir packages and private selection packages -- 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 -- Off-premises retail sales outlet.

- (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), (4), (7), (9), (10), or (12) of this section, the distillery shall:
 1. Be permitted to transfer its products from the distillery proper to the location where those retail sales occur without having to transfer physical possession of those distilled spirits to a licensed wholesaler; and
 2. Without otherwise reporting those distilled spirits to a licensed wholesaler, report those retail sales 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. 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), (4), (7), (9), (10), and (12) of this section, if required by KRS 243.884, excluding sales made by a distiller under subsection (4)(a)3. and (b) of this section that utilize a licensed wholesaler.
 2. 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 its own private selection packages and 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 nine (9) liters per purchaser per day.
- (4) A distiller may conduct private selection events and sell private selection packages at retail, as follows:
 - (a) Distillers may sell private selection packages to consumers who participated in a private selection event only by:
 1. Shipping the private selection packages in accordance with KRS 243.027 to 243.029 if the distiller holds a direct shipper license, but

these sales and shipments shall be exempt from the quantity limitations established in KRS 243.028(1);

2. Selling the private selection packages to the participating consumers directly from the distillery premises, but these sales shall be exempt from the quantity limitations established in subsection (3)(b) of this section; or
 3. Selling the private selection packages through a wholesaler and to a licensed retailer of the consumer's choice. The distillery and wholesaler's cooperation in facilitating the sale of the private selection packages to the retailer of the consumer's choice shall not be deemed a violation of KRS 244.240.
- (b) Except as provided in KRS 243.036, distillers may sell private selection packages to retail licensees that participated in a private selection event only through a licensed wholesaler.
 - (c) A distillery shall make available for purchase not less than seventy percent (70%) of its annual private selection packages to licensed wholesalers and shall maintain records of such transactions in accordance with KRS 244.150.
 - (d) Distillers may sell private selection packages to wine and distilled spirits wholesalers, malt beverage distributors, and microbreweries that hold a quota retail drink or quota retail package license that participated in a private selection event if the private selection packages resulting from the event are sold only through a licensed retailer.
- (5) Hours of sale for souvenir packages sold at retail and private selection packages sold at retail shall be in conformity with KRS 244.290(3).
 - (6) Except as provided in this section, souvenir package and private selection 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.
 - (7) Souvenir packages sold to distillery visitors under subsection (3)(b) of this section, which are not made available to wholesalers licensed in Kentucky or elsewhere, shall be registered by the licensed distiller with the department and shall be sold exclusively to in-person distillery visitors in quantities not to exceed three (3) liters per person per day.
 - (8) 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, except in connection with a private selection event.
 - (9) 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.
- (10) A distiller may sell to consumers at fairs, festivals, and other similar types of events located in wet territory. A distiller may:
- (a) Sell alcoholic beverages by the drink, containing spirits distilled or bottled on the premises of the distillery;
 - (b) Sell by the package in quantities not to exceed nine (9) liters per person, per day; and
 - (c) Serve complimentary samples not to exceed one and three-fourths (1-3/4) ounces per person, per day.
- (11) 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 or a microbrewery pursuant to KRS 243.157(1)(f). A microbrewery selling and delivering the jointly branded souvenir package directly to a distiller under this subsection shall provide notice to the distributor of any self-distribution delivery by electronic or other means.
- (12) A distiller that sells souvenir packages and serves complimentary samples in accordance with this section at any of its licensed premises may, for each such premises, maintain one (1) separately licensed off-premises retail sales outlet and engage in the activities and hold the licenses authorized in subsections (3), (4), (8), (9), and (11) of this section if the off-premises retail sales outlet premises are located in wet territory or in a precinct that has authorized alcoholic beverage sales by the distillery under KRS 242.1243. The distiller shall pay the fee required under KRS 243.030 for each off-premises retail sales outlet it maintains.
- (13) 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.
- (14) 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 29, 2022

History: Amended 2022 Ky. Acts ch. 39, sec. 6, effective March 29, 2022. -- 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.