

1 AN ACT relating to quota licenses for alcohol and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 241.065 is amended to read as follows:

- 4 (1) The number of quota retail package licenses issued by the Alcoholic Beverage  
5 Control Board to licensees in counties containing cities of the first class, and  
6 including such cities, shall not exceed a number equal to one (1) for every one  
7 thousand five hundred (1,500) persons resident in such county.
- 8 (2) The number of quota retail drink licenses issued by the Alcoholic Beverage Control  
9 Board to licensees in counties containing cities of the first class, and including such  
10 cities shall not exceed a number equal to one (1) for every one thousand five  
11 hundred (1,500) persons resident in such county.
- 12 (3) In order that a fixed and approved standard of population as prescribed in  
13 subsections (1) and (2) of this section may be adopted the annual estimates of  
14 population as determined by *the Kentucky State Data Center at the University of*  
15 *Louisville*~~[chambers of commerce of cities of the first class]~~ shall be used in every  
16 year except a census year, and during a census year the United States government  
17 census figures of population shall be controlling.

18 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO  
19 READ AS FOLLOWS:

- 20 ***(1) The number of quota retail package licenses issued by the department in any wet***  
21 ***county shall not exceed one (1) license for every two thousand three hundred***  
22 ***(2,300) persons resident in the county, except that:***
- 23 ***(a) A wet county containing a city of the first class shall be subject to the***  
24 ***limitations in Section 1 of this Act;***
- 25 ***(b) No fewer than two (2) quota retail package licenses shall be available for***  
26 ***issuance by the department in any wet county; and***
- 27 ***(c) Any specific county quota amounts that were issued by the department prior***

1           to January 1, 2018, in excess of the population calculations established in  
2           this section shall remain in effect, and the department shall maintain the  
3           list of specific quotas in an administrative regulation.

4   (2) The number of quota retail drink licenses issued by the department in any wet  
5   county meeting the requirements of KRS 243.230 shall not exceed one (1) license  
6   for every two thousand five hundred (2,500) persons resident in the county,  
7   except that:

8           (a) A wet county containing a city of the first class shall be subject to the  
9           limitations in Section 1 of this Act;

10          (b) No fewer than two (2) quota retail drink licenses shall be available for  
11          issuance by the department in any wet county meeting the requirements of  
12          KRS 243.230;

13          (c) The department may issue a non-quota type 2 retail drink license to an  
14          applicant that is located within a premises that is licensed as an  
15          entertainment destination center by the department; and

16          (d) Any specific county quota amounts that were issued by the department prior  
17          to January 1, 2018, in excess of the population calculations established in  
18          this section shall remain in effect, and the department shall maintain the  
19          list of specific quotas in an administrative regulation.

20   (3) Nothing in this section shall be construed to prohibit license renewal or license  
21   transfers approved by the department of an existing quota retail license issued in  
22   a wet county.

23   (4) In counties that have not received an increased quota license amount from the  
24   department, any quota licenses over the established amount shall be reduced as  
25   the licenses are revoked, surrendered, or not renewed by the license holder.

26   (5) If a dry county that contains a wet city becomes wet, the quotas established by this  
27   section shall supersede and replace any separate city quotas.

1       ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO  
2 READ AS FOLLOWS:

3       *(1) The number of quota retail package licenses issued by the department in any city*  
4       *that becomes wet separate from its county by virtue of a local option election*  
5       *pursuant to KRS 242.125 shall not exceed one (1) license for every two thousand*  
6       *three hundred (2,300) persons resident in the city, except that:*

7       *(a) No fewer than two (2) quota retail package licenses shall be available for*  
8       *issuance by the department in any wet city; and*

9       *(b) Any specific city quota amounts that were issued by the department prior to*  
10       *January 1, 2018, in excess of the population calculations established in this*  
11       *section shall remain in effect, and the department shall maintain the list of*  
12       *specific quotas in an administrative regulation.*

13       *(2) The number of quota retail drink licenses issued by the department in any city*  
14       *that becomes wet separate from its county by virtue of a local option election*  
15       *pursuant to KRS 242.125 shall not exceed one (1) license for every two thousand*  
16       *five hundred (2,500) persons resident in the city, except that:*

17       *(a) No fewer than two (2) quota retail drink licenses shall be available for*  
18       *issuance by the department in any wet city; and*

19       *(b) Any specific city quota amounts that were issued by the department prior to*  
20       *January 1, 2018, in excess of the population calculations established in this*  
21       *section shall remain in effect, and the department shall maintain the list of*  
22       *specific quotas in an administrative regulation.*

23       *(3) Nothing in this section shall be construed to prohibit license renewal or license*  
24       *transfers approved by the department of an existing quota retail license issued in*  
25       *a wet city.*

26       *(4) In cities that have not received an increased quota license amount from the*  
27       *department, any quota licenses over the established amount shall be reduced as*

1 the licenses are revoked, surrendered, or not renewed by the license holder.

2 (5) If a dry county in which a wet city is located becomes wet, the quota established  
3 for that entire county by Section 2 of this Act shall supersede and replace any  
4 separate city quota under this section.

5 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO  
6 READ AS FOLLOWS:

7 For the purposes of administering Sections 2 and 3 of this Act:

8 (1) The population data shall be based on a wet county's or city's annual population  
9 estimates prepared by the Kentucky State Data Center at the University of  
10 Louisville in every year except a federal decennial census year. The federal  
11 decennial census figures of population shall be used in a census year; and

12 (2) (a) On or before January 1 of each year, the department shall obtain the  
13 population figures of all wet counties and cities as of that date for  
14 determination of the number of quota licenses available.

15 (b) If a quota retail license vacancy is created by an increase in population or  
16 any other reason, the department shall publish notice of the vacancy and  
17 information on how to apply for the license within sixty (60) days in the  
18 newspaper used for the legal notices of that county or city.

19 (c) The department shall accept applications for a quota retail license vacancy  
20 not later than thirty (30) days following the date on which the public notice  
21 is published.

22 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO  
23 READ AS FOLLOWS:

24 (1) A city or county may petition the board for an increase in the number of quota  
25 licenses available in its jurisdiction pursuant to Section 6 of this Act. A request  
26 for an increase shall not exceed the ratio of one (1) per every one thousand five  
27 hundred (1,500) residents.

1 (2) The board shall consider the following factors when deciding whether to grant  
2 the increase:

3 (a) Population served by the city or county;

4 (b) Total retail sales of the city or county for the most recent past fiscal year;

5 (c) Retail sales per capita for the most recent past fiscal year;

6 (d) Total alcohol sales in the city or county for the most recent past fiscal year;

7 (e) Tourist destinations in the area, if applicable; and

8 (f) Other economic and commercial data offered to show the capacity to  
9 support additional licenses.

10 (3) The board shall grant the request if the information supplied supports the  
11 requested increase, and shall begin the process of filing an amendment to its  
12 administrative regulation to register the increase. Additional licenses shall not be  
13 issued until the administrative regulation process is complete and the amendment  
14 is adopted.

15 (4) If the board determines the information supplied does not support a quota  
16 increase, it shall notify the city or county of its decision by registered mail at the  
17 address given in the request. The city or county shall have thirty (30) days from  
18 the date of the mailing to file a written request for a hearing before the board  
19 regarding its request for an increase.

20 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO  
21 READ AS FOLLOWS:

22 (1) A city or county shall not file a request with the board seeking to increase the  
23 number of quota retail licenses for the city or county unless at least three (3)  
24 years have passed since the certification of its local option election approving  
25 alcohol sales.

26 (2) Prior to making its request, the city or county shall publish a notice in the  
27 newspaper used for its legal notices, advising the general public of the city's or

1 county's intent to request additional licenses from the board.

2 (3) The request to the board for a quota increase shall include:

3 (a) A certified copy of the governing body's resolution approving the request;

4 (b) A certified copy of the notice referenced in subsection (2) of this section;

5 and

6 (c) An explanation as to the reason the city or county meets the criteria

7 established in Section 5 of this Act for a quota increase.

8 (4) The city or county shall bear the burden of showing an increase is necessary.

9 (5) A city or county shall not petition the board for an increase more than once every  
10 three (3) years.

11 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO  
12 READ AS FOLLOWS:

13 A quota retail package licensee or quota retail drink licensee assumes the business risk  
14 that the number of quota licenses available in a city or county may be increased at a  
15 later time pursuant to Sections 5 and 6 of this Act.

16 ➔Section 8. Whereas, the sale of alcohol is a highly regulated activity under  
17 Kentucky law; and whereas the alcohol quota licensing system currently exists primarily  
18 in Kentucky Administrative Regulations Chapter 804; and whereas the department has  
19 filed to repeal those regulations, a repeal of which will upend the current regulatory  
20 licensing scheme of alcohol, an emergency is declared to exist, and this Act takes effect  
21 upon its passage and approval by the Governor or upon its otherwise becoming a law.