

1 AN ACT relating to alcoholic beverages.

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

3 ➔Section 1. KRS 242.1243 is amended to read as follows:

- 4 (1) To promote economic development and tourism in any dry or moist county or city
5 in which a distillery is located, a local option election for the sale of alcoholic
6 beverages may be held in a city or county precinct where the distillery is located,
7 notwithstanding any other provision of the Kentucky Revised Statutes.
- 8 (2) A petition seeking a local option election under this section shall state "We the
9 undersigned registered voters hereby petition for an election on the following
10 question: 'Are you in favor of the sale of alcoholic beverages at distilleries located
11 in (name of precinct)?'".
- 12 (3) When a majority of the votes cast in an election held under subsections (1) and (2)
13 of this section are in favor of establishing moist territory, the premises of the
14 distilleries located in that precinct shall become moist in the manner specified in
15 KRS 242.200.

16 ~~[(4) The provisions of this section shall expire three (3) years after July 15, 2016.]~~

17 ➔Section 2. KRS 243.020 is amended to read as follows:

- 18 (1) A person shall not do any act authorized by any kind of license with respect to the
19 manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic
20 beverages unless the person holds or is an agent, servant, ***independent contractor,***
21 or employee of a person who holds the kind of license that authorizes the act.
- 22 (2) The holding of any permit from the United States government to traffic in alcoholic
23 beverages without the corresponding requisite state and local licenses shall in all
24 cases raise a rebuttable presumption that the holder of the United States permit is
25 unlawfully trafficking in alcoholic beverages.
- 26 (3) Except as permitted by KRS 243.033, 243.036, 243.155, 243.157, and 243.260, a
27 person, conducting a place of business patronized by the public, who is not a

1 licensee authorized to sell alcoholic beverages, shall not permit any person to sell,
2 barter, loan, give away, or drink alcoholic beverages on the premises of the
3 licensee's place of business.

4 (4) A licensee shall not permit any consumer to possess, give away, or drink alcoholic
5 beverages on the licensed premises that are not purchased from the licensee.

6 (5) Any distilled spirits or wine in excess of three (3) gallons (twelve (12) liters) shall
7 not be stored or kept except upon the licensed premises of a licensee.

8 (6) In a moist territory, the only types of licenses that may be issued are those that
9 directly correspond with the types of sales approved by the voters through moist
10 elections within the territory, unless otherwise specifically authorized by statute.

11 ➔Section 3. KRS 243.0305 is amended to read as follows:

12 (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that
13 has authorized the limited sale of alcoholic beverages at distilleries under KRS
14 242.1243 and that has a gift shop or other retail outlet on its premises may conduct
15 the activities permitted under this section as a part of its distiller's license.

16 (2) For purposes of all retail drink and package sales under this section, a wholesaler
17 registered to distribute the brands of any distiller shall permit the distiller to deliver
18 its products directly from the distillery proper to any portion of the distillery
19 premises. However, for purposes of all retail drink and package sales by distillers
20 under subsections (3), (8), and (9) of this section, all direct shipments shall be
21 invoiced from the distiller to the wholesaler and from the wholesaler to the distiller,
22 and all products directly shipped shall be included in the wholesaler's inventory and
23 depletions for purposes of tax collections imposed pursuant to KRS 243.710 to
24 243.895 and 243.990.

25 (3) A distiller may sell souvenir packages at retail:

26 (a) To distillery visitors of legal drinking age, in quantities not to exceed an
27 aggregate of four and one-half (4-1/2) liters per purchaser per day for sales

1 prior to January 1, 2021, and in quantities not to exceed an aggregate of nine
 2 (9) liters per purchaser per day on and after January 1, 2021. At the
 3 purchaser's request, an order may be delivered or shipped directly to the
 4 purchaser or his or her designee to a valid unlicensed business address or
 5 personal address, by an employee of the licensee, an independent contractor
 6 pursuant to Section 2 of this Act, or through a licensed transporter or
 7 common carrier authorized to deliver or ship alcoholic beverages in the
 8 jurisdiction to which the product will be delivered or shipped. ~~All deliveries~~
 9 ~~or shipments shall be made through a licensed common carrier authorized to~~
 10 ~~deliver or ship distilled spirits in the jurisdiction to which the products will be~~
 11 ~~delivered or shipped~~; and

12 (b) Pursuant to subscription or distillery-sponsored club programs, in quantities
 13 not to exceed an aggregate of nine (9) liters per calendar year, provided that
 14 the enrollment and payment for the subscription or club is arranged in person
 15 at the distillery. At the member's request, an order may be delivered or
 16 shipped directly to the member or his or her designee to a valid unlicensed
 17 business address or personal address, by an employee of the licensee, an
 18 independent contractor pursuant to Section 2 of this Act, or through a
 19 licensed transporter or common carrier authorized to deliver or ship
 20 alcoholic beverages in the jurisdiction to which the product will be delivered
 21 or shipped. ~~All deliveries or shipments shall be made through a licensed~~
 22 ~~common carrier authorized to deliver or ship distilled spirits in the jurisdiction~~
 23 ~~to which the products will be delivered or shipped.~~

24 (4) Hours of sale for souvenir packages at retail shall be in conformity with KRS
 25 244.290(3).

26 (5) Except as provided in this section, souvenir package sales shall be governed by all
 27 the statutes and administrative regulations governing the retail sale of distilled

1 spirits by the package.

2 (6) No wholesaler may restrict the sale of souvenir packages to the distiller of origin
3 exclusively, but shall make souvenir packages available to any Kentucky retail
4 licensee licensed for the sale of distilled spirits by the package.

5 (7) Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding
6 a sampling license may allow visitors to sample distilled spirits under the following
7 conditions:

8 (a) Sampling shall be permitted only on the licensed premises during regular
9 business hours;

10 (b) A distillery shall not charge for the samples; and

11 (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces
12 of samples per visitor per day.

13 (8) Notwithstanding the provisions of KRS 243.110, in accordance with this section, a
14 distillery located in wet territory or in any territory that has authorized the limited
15 sale of alcoholic beverages under an election held pursuant to KRS 242.1243 may:

16 (a) Hold an NQ2 retail drink license for the sale of alcoholic beverages on the
17 distillery premises; and

18 (b) Employ persons to engage in the sale or service of alcohol under an NQ2
19 license, if each employee completes the department's Server Training in
20 Alcohol Regulations program within thirty (30) days of beginning
21 employment.

22 (9) A distiller may sell to consumers at fairs, festivals, and other similar types of events
23 located in wet territory alcoholic beverages by the drink, containing spirits distilled
24 or bottled on the premises of the distillery.

25 (10) Except as expressly stated in this section, this section does not exempt the holder of
26 a distiller's license from:

27 (a) The provisions of KRS Chapters 241 to 244;

1 (b) The administrative regulations of the board; and

2 (c) Regulation by the board at all the distiller's licensed premises.

3 (11) Nothing in this section shall be construed to vitiate the policy of this
4 Commonwealth supporting an orderly three (3) tier system for the production and
5 sale of alcoholic beverages.

6 ➔Section 4. KRS 243.200 is amended to read as follows:

7 (1) A transporter's license may be issued as a primary license to a motor carrier
8 authorized to transact business in the Commonwealth by the Transportation Cabinet
9 or the Federal Motor Carrier Safety Administration or to another person engaged in
10 business as a common carrier. A person holding a transporter's license may
11 transport alcoholic beverages to or from the licensed premises of any licensee under
12 this chapter to an individual consumer if both the consignor and consignee in each
13 case are authorized by the law of the states of their residence to sell, purchase,
14 deliver, ship, or receive the alcoholic beverages.

15 (2) A transporter may deliver or ship directly to consumers over twenty-one (21) years
16 of age in packages clearly marked "Alcoholic Beverages, adult signature (21 years
17 of age or over) required," and must request adult-signature-only service from the
18 carrier. Deliveries or shipments of alcoholic beverages shall only be made into areas
19 of the state in which alcoholic beverages may be lawfully sold. When the shipper
20 requests adult-signature-only service, it shall be a violation for a common carrier
21 not to inspect government-issued identification for proof of age ~~or to knowingly~~
22 ~~deliver or ship alcoholic beverages into areas of the state in which alcoholic~~
23 ~~beverages are not legally sold~~. **No properly licensed common carrier or any of its**
24 **employees acting on behalf of a consignor in the course and scope of a delivery**
25 **or shipment of alcoholic beverages directly to a consumer shall be liable for a**
26 **violation of this subsection or any provision of KRS 242.250, 242.260, or 242.270**
27 **that prohibits the delivery or shipment of alcoholic beverages into areas of the**

1 *state in which alcoholic beverages are not lawfully sold.*

- 2 (3) Except for a common carrier that has been assigned a USDOT number issued by the
3 Federal Motor Carrier Safety Administration, the holder of a transporter's license
4 shall cause each truck or vehicle to display the name of the licensee and the state
5 license numbers in a manner prescribed by an administrative regulation
6 promulgated by the board.
- 7 (4) Except for an application by a common carrier that has been assigned a USDOT
8 number issued by the Federal Motor Carrier Safety Administration, an application
9 for a transporter's license shall include a statement that the applicant, if issued a
10 license, shall allow any authorized investigators of the department to stop and
11 examine the cargo of any truck or vehicle in which alcoholic beverages are being
12 transported within the boundaries of the Commonwealth of Kentucky.
- 13 (5) Applicants for the transporter's license under this section, and their employees, shall
14 be exempt from the residency requirements of KRS 243.100.
- 15 (6) A licensee may move, within the same county, alcoholic beverages from one (1) of
16 the licensee's licensed premises to another without a transporter's license. A licensee
17 may move alcoholic beverages from one (1) of the licensee's licensed premises
18 located in one (1) county to a licensed premises located in another county, without a
19 transporter's license, with prior written approval of the administrator for good cause
20 shown. The licensee shall keep and maintain, in one (1) of its licensed premises,
21 adequate books and records of the transactions involved in transporting alcoholic
22 beverages from one (1) licensed premises to another in accordance with standards
23 established in administrative regulations promulgated by the board. The records
24 shall be available to the department and the Department of Revenue upon request.
- 25 (7) Distilled spirits and wine may be transported by any licensed retailer selling
26 distilled spirits or wine, by the package or by the drink, from the premises of a
27 licensed wholesaler to the licensed premises of the retail licensee. Any retailer

1 transporting alcoholic beverages under this subsection shall do so in a vehicle
2 marked in conformity with administrative regulations of the board. Both the
3 wholesaler and the retailer engaging in activity under this subsection shall be
4 responsible for maintaining records documenting the transactions.

5 ➔Section 5. KRS 243.240 is amended to read as follows:

6 (1) A quota retail package license shall authorize the licensee to:

7 (a) Purchase, receive, possess, and sell distilled spirits and wine at retail in
8 unbroken packages only, and only for consumption off the licensed premises;
9 and

10 (b) Deliver or ship, at the customer's request, to the customer or his or her
11 designee to a valid unlicensed business address or personal address, by an
12 employee of the licensee, an independent contractor pursuant to Section 2
13 of this Act, or through a licensed transporter or common carrier authorized
14 to deliver or ship alcoholic beverages in the jurisdiction to which the
15 product will be delivered or shipped, ~~[at the customer's request,]~~alcoholic
16 beverages that are purchased:

- 17 1. From the licensed premises where eighty percent (80%) of the monthly
18 gross sales receipts are sales to Kentucky residents, in quantities not to
19 exceed four and one-half (4 1/2) liters of distilled spirits and four (4)
20 cases of wine per purchaser per day for sales prior to January 1, 2021,
21 and in quantities not to exceed an aggregate of nine (9) liters of distilled
22 spirits and four (4) cases of wine per purchaser per day on and after
23 January 1, 2021; and
- 24 2. By subscription members or club program members, in quantities not to
25 exceed an aggregate of nine (9) liters per calendar year for distilled
26 spirits, and an aggregate of one (1) case of wine per month per calendar
27 year, provided that the enrollment and payment for the subscription or

1 club is arranged in person at the premises.

2 (2) The licensee shall purchase distilled spirits and wine in retail packages only and
3 only from licensed wholesalers.

4 ~~[(3) All deliveries or shipments made pursuant to this section shall be made through a
5 licensed transporter or licensed common carrier authorized to deliver or ship
6 distilled spirits in the jurisdiction to which the products will be delivered or
7 shipped.]~~

8 ➔Section 6. KRS 244.165 is amended to read as follows:

9 (1) Except as provided in subsections (2), (3), and (4) of this section, it shall be
10 unlawful for any person in the business of selling alcoholic beverages in another
11 state or country to deliver or ship or cause to be delivered or shipped any alcoholic
12 beverage directly to any Kentucky resident who does not hold a valid wholesaler or
13 distributor license issued by the Commonwealth of Kentucky.

14 (2) A winery or small farm winery located in another state may deliver or ship wine to a
15 consumer~~customer~~ in Kentucky if:

16 (a) The wine, subscription, or club program membership is purchased by the
17 consumer~~customer~~ in person at the winery or small farm winery;

18 (b) The Kentucky purchaser is of legal age;

19 (c) The out-of-state winery or small farm winery is licensed in Kentucky;

20 (d) Either:

21 1. No more than four (4) cases of wine are purchased per day per visit; or

22 2. The wine is purchased pursuant to subscription, or winery-sponsored or
23 small farm winery-sponsored club programs, in quantities not to exceed
24 an aggregate of one (1) case of wine per month per calendar year; and

25 (e) The wine is delivered or shipped through a licensed transporter or licensed
26 common carrier authorized to deliver or ship wine in the jurisdiction in which
27 the delivery or shipment will occur.

- 1 (3) A distillery located in another state may deliver or ship distilled spirits directly to a
 2 consumer~~[customer]~~ in Kentucky if:
- 3 (a) The distilled spirits, subscription, or club program membership is purchased
 4 by the consumer~~[customer]~~ in person at the distillery;
- 5 (b) The Kentucky purchaser is of legal age;
- 6 (c) The distillery is licensed in Kentucky;
- 7 (d) Either:
- 8 1. No more than four and one-half (4 1/2) liters of distilled spirits are
 9 purchased per day per visit for sales prior to January 1, 2021, and in
 10 quantities not to exceed an aggregate of nine (9) liters per purchaser per
 11 day for sales on and after January 1, 2021; or
- 12 2. The distilled spirits are purchased pursuant to subscription or distillery-
 13 sponsored club programs, in quantities not to exceed an aggregate of
 14 nine (9) liters of distilled spirits per calendar year; and
- 15 (e) The distilled spirits are delivered or shipped through a licensed transporter or
 16 licensed common carrier authorized to deliver or ship distilled spirits in the
 17 jurisdiction in which the delivery or shipment will occur.
- 18 (4) A licensed transporter or common carrier making deliveries or shipments pursuant
 19 to this section shall deliver or ship directly to consumers over twenty-one (21) years
 20 of age in packages clearly marked "Alcoholic Beverages, adult signature (21 years
 21 of age or over) required," and must request adult-signature-only service from the
 22 carrier. Deliveries or shipments of alcoholic beverages shall only be made into areas
 23 of the state in which alcoholic beverages may be lawfully sold. When the shipper
 24 requests adult-signature-only service, it shall be a violation for a common carrier
 25 not to inspect government-issued identification for proof of age~~[or to knowingly~~
 26 ~~deliver or ship alcoholic beverages into areas of the state in which alcoholic~~
 27 ~~beverages are not legally sold]~~. **No properly licensed common carrier or any of its**

1 employees acting on behalf of a consignor shall be liable for a violation of any
 2 provision of KRS 242.250, 242.260, or 242.270 that prohibits the delivery or
 3 shipment of alcoholic beverages into areas of the state in which alcoholic
 4 beverages are not lawfully sold.

5 (5) A manufacturer located in another state who delivers or ships into Kentucky
 6 pursuant to this section shall:

7 (a) Provide to the department a copy of its current alcoholic beverage license
 8 issued in any other state;

9 (b) Report annually to the department the total amount of alcohol delivered or
 10 shipped into Kentucky;

11 (c) Maintain shipping and delivery records for three (3) years and permit the
 12 department and the Department of Revenue to perform an audit upon
 13 request;

14 (d) Consent to the jurisdiction of the department or any state agency and the
 15 state courts concerning enforcement of this section and any related laws or
 16 administrative regulations; and

17 (e) Only sell alcoholic beverages to a consumer for personal use and not for
 18 resale.

19 (6) Nothing contained in this section shall exempt a licensed out-of-state alcoholic
 20 beverage producer from obeying the laws of its resident state.

21 ~~(7)~~ Any person who violates subsection (1) of this section shall, for the first
 22 offense, be mailed a certified letter by the department ordering that person to cease
 23 and desist any deliveries or shipments of alcoholic beverages to Kentucky residents,
 24 and for the second and each subsequent offense, be guilty of a Class D felony. The
 25 cease and desist letter shall give sufficient notice that any subsequent violations
 26 will result in a Class D felony charge.

27 ➔Section 7. If any provision of this Act or the application thereof to any person or

1 circumstance is held invalid, the invalidity shall not affect other provisions or
2 applications of the Act that can be given effect without the invalid provision or
3 application, and to this end the provisions of this Act are severable.

4 ➔Section 8. Nothing in this Act shall be construed as altering or affecting the
5 rights or privileges of any licensee under KRS Chapter 243 not expressly mentioned
6 herein.