

1 AN ACT relating to direct shipment of wine to consumers.

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

3 ➔Section 1. KRS 241.010 is amended to read as follows:

4 As used in KRS Chapters 241 to 244, unless the context requires otherwise:

5 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
6 whatever source or by whatever process it is produced;

7 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether
8 patented or not, containing alcohol in an amount in excess of more than one percent
9 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every
10 spurious or imitation liquor sold as, or under any name commonly used for,
11 alcoholic beverages, whether containing any alcohol or not. It does not include the
12 following products:

13 (a) Medicinal preparations manufactured in accordance with formulas prescribed
14 by the United States Pharmacopoeia, National Formulary, or the American
15 Institute of Homeopathy;

16 (b) Patented, patent, and proprietary medicines;

17 (c) Toilet, medicinal, and antiseptic preparations and solutions;

18 (d) Flavoring extracts and syrups;

19 (e) Denatured alcohol or denatured rum;

20 (f) Vinegar and preserved sweet cider;

21 (g) Wine for sacramental purposes; and

22 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
23 use;

24 (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,
25 or process that mixes liquor, spirits, or any other alcohol product with pure
26 oxygen or by any other means produces a vaporized alcoholic product used for
27 human consumption;

- 1 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,
2 nebulizer, atomizer, or other device that is designed and intended by the
3 manufacturer to dispense a prescribed or over-the-counter medication or a
4 device installed and used by a licensee under this chapter to demonstrate the
5 aroma of an alcoholic beverage;
- 6 (4) "Automobile race track" means a facility primarily used for vehicle racing that has a
7 seating capacity of at least thirty thousand (30,000) people;
- 8 (5) "Bed and breakfast" means a one (1) family dwelling unit that:
- 9 (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are
10 occupied for sleeping purposes by persons not members of the single-family
11 unit;
- 12 (b) Holds a permit under KRS Chapter 219; and
- 13 (c) Has an innkeeper who resides on the premises or property adjacent to the
14 premises during periods of occupancy;
- 15 (6) "Board" means the State Alcoholic Beverage Control Board created by KRS
16 241.030;
- 17 (7) "Bottle" means any container which is used for holding alcoholic beverages for the
18 use and sale of alcoholic beverages at retail;
- 19 (8) "Brewer" means any person who manufactures malt beverages or owns, occupies,
20 carries on, works, or conducts any brewery, either alone or through an agent;
- 21 (9) "Brewery" means any place or premises where malt beverages are manufactured for
22 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
23 and storerooms connected with the premises; or where any part of the process of the
24 manufacture of malt beverages is carried on; or where any apparatus connected with
25 manufacture is kept or used; or where any of the products of brewing or
26 fermentation are stored or kept;
- 27 (10) "Building containing licensed premises" means the licensed premises themselves

1 and includes the land, tract of land, or parking lot in which the premises are
2 contained, and any part of any building connected by direct access or by an entrance
3 which is under the ownership or control of the licensee by lease holdings or
4 ownership;

5 (11) "Caterer" means a person operating a food service business that prepares food in a
6 licensed and inspected commissary, transports the food and alcoholic beverages to
7 the caterer's designated and inspected banquet hall or to an agreed location, and
8 serves the food and alcoholic beverages pursuant to an agreement with another
9 person;

10 (12) "Charitable organization" means a nonprofit entity recognized as exempt from
11 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.
12 501(c)) or any organization having been established and continuously operating
13 within the Commonwealth of Kentucky for charitable purposes for three (3) years
14 and which expends at least sixty percent (60%) of its gross revenue exclusively for
15 religious, educational, literary, civic, fraternal, or patriotic purposes;

16 (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or
17 more alcohol by volume and includes hard cider and perry cider;

18 (14) "City administrator" means city alcoholic beverage control administrator;

19 (15) "Commercial airport" means an airport through which more than five hundred
20 thousand (500,000) passengers arrive or depart annually;

21 (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10)
22 pairs of fully operative pedals for propulsion by means of human muscular power
23 exclusively and which:

24 (a) Has four (4) wheels;

25 (b) Is operated in a manner similar to that of a bicycle;

26 (c) Is equipped with a minimum of thirteen (13) seats for passengers;

27 (d) Has a unibody design;

- 1 (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
- 2 (f) Is used for commercial tour purposes; and
- 3 (g) Is operated by the vehicle owner or an employee of the owner;
- 4 (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage
5 Control;
- 6 (18) "Convention center" means any facility which, in its usual and customary business,
7 provides seating for a minimum of one thousand (1,000) people and offers
8 convention facilities and related services for seminars, training and educational
9 purposes, trade association meetings, conventions, or civic and community events
10 or for plays, theatrical productions, or cultural exhibitions;
- 11 (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
12 guilty, the decision of a court, or the finding of a jury, irrespective of a
13 pronouncement of judgment or the suspension of the judgment;
- 14 (20) "County administrator" means county alcoholic beverage control administrator;
- 15 (21) "Department" means the Department of Alcoholic Beverage Control;
- 16 (22) "Dining car" means a railroad passenger car that serves meals to consumers on any
17 railroad or Pullman car company;
- 18 (23) **"Direct shipper" means a properly licensed out-of-state winery that has obtained**
19 **a direct shipper license in Kentucky to ship up to twenty-four (24) nine (9) liter**
20 **cases of wine directly to consumers in Kentucky for personal consumption and**
21 **not for resale;**
- 22 **(24)** "Discount in the usual course of business" means price reductions, rebates, refunds,
23 and discounts given by wholesalers to distilled spirits and wine retailers pursuant to
24 an agreement made at the time of the sale of the merchandise involved and are
25 considered a part of the sales transaction, constituting reductions in price pursuant
26 to the terms of the sale, irrespective of whether the quantity discount was:
- 27 (a) Prorated and allowed on each delivery;

1 (b) Given in a lump sum after the entire quantity of merchandise purchased had
2 been delivered; or

3 (c) Based on dollar volume or on the quantity of merchandise purchased;

4 ~~(25)~~~~(24)~~ "Distilled spirits" or "spirits" means any product capable of being consumed
5 by a human being which contains alcohol in excess of the amount permitted by
6 KRS Chapter 242 obtained by distilling, mixed with water or other substances in
7 solution, except wine, hard cider, and malt beverages;

8 ~~(26)~~~~(25)~~ "Distiller" means any person who is engaged in the business of manufacturing
9 distilled spirits at any distillery in the state and is registered in the Office of the
10 Collector of Internal Revenue for the United States at Louisville, Kentucky;

11 ~~(27)~~~~(26)~~ "Distillery" means any place or premises where distilled spirits are
12 manufactured for sale, and which are registered in the office of any collector of
13 internal revenue for the United States. It includes any United States government
14 bonded warehouse;

15 ~~(28)~~~~(27)~~ "Distributor" means any person who distributes malt beverages for the
16 purpose of being sold at retail;

17 ~~(29)~~~~(28)~~ "Dry" means a territory in which a majority of the electorate voted to prohibit
18 all forms of retail alcohol sales through a local option election held under KRS
19 Chapter 242;

20 ~~(30)~~~~(29)~~ "Election" means:

21 (a) An election held for the purpose of taking the sense of the people as to the
22 application or discontinuance of alcoholic beverage sales under KRS Chapter
23 242; or

24 (b) Any other election not pertaining to alcohol;

25 ~~(31)~~~~(30)~~ "Horse racetrack" means a facility licensed to conduct a horse race meeting
26 under KRS Chapter 230;

27 ~~(32)~~~~(31)~~ "Hotel" means a hotel, motel, or inn for accommodation of the traveling

1 public, designed primarily to serve transient patrons;

2 ~~(33)~~~~(32)~~ "Investigator" means any employee or agent of the department who is
3 regularly employed and whose primary function is to travel from place to place for
4 the purpose of visiting licensees, and any employee or agent of the department who
5 is assigned, temporarily or permanently, by the commissioner to duty outside the
6 main office of the department at Frankfort, in connection with the administration of
7 alcoholic beverage statutes;

8 ~~(34)~~~~(33)~~ "License" means any license issued pursuant to KRS Chapters 241 to 244;

9 ~~(35)~~~~(34)~~ "Licensee" means any person to whom a license has been issued, pursuant to
10 KRS Chapters 241 to 244;

11 ~~(36)~~~~(35)~~ "Limited restaurant" means:

12 (a) A facility where the usual and customary business is the preparation and
13 serving of meals to consumers, which has a bona fide kitchen facility, which
14 receives at least seventy percent (70%) of its food and alcoholic beverage
15 receipts from the sale of food, which maintains a minimum seating capacity of
16 fifty (50) persons for dining, which has no open bar, which requires that
17 alcoholic beverages be sold in conjunction with the sale of a meal, and which
18 is located in a wet or moist territory under KRS 242.1244; or

19 (b) A facility where the usual and customary business is the preparation and
20 serving of meals to consumers, which has a bona fide kitchen facility, which
21 receives at least seventy percent (70%) of its food and alcoholic beverage
22 receipts from the sale of food, which maintains a minimum seating capacity of
23 one hundred (100) persons of dining, and which is located in a wet or moist
24 territory under KRS 242.1244;

25 ~~(37)~~~~(36)~~ "Local administrator" means a city alcoholic beverage administrator, county
26 alcoholic beverage administrator, or urban-county alcoholic beverage control
27 administrator;

1 ~~(38)~~~~(37)~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any
2 name or description, manufactured from malt wholly or in part, or from any
3 substitute for malt, and includes weak cider;

4 ~~(39)~~~~(38)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

5 ~~(40)~~~~(39)~~ "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other
6 person engaged in the production or bottling of alcoholic beverages;

7 ~~(41)~~~~(40)~~ "Minor" means any person who is not twenty-one (21) years of age or older;

8 ~~(42)~~~~(41)~~ "Moist" means a territory in which a majority of the electorate voted to permit
9 limited alcohol sales by any one (1) or a combination of special limited local option
10 elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242,
11 242.1243, 242.1244, or 242.1292;

12 ~~(43)~~~~(42)~~ "Population" means the population figures established by the federal decennial
13 census for a census year or the current yearly population estimates prepared by the
14 Kentucky State Data Center, Urban Studies Center of the University of Louisville,
15 Louisville, Kentucky, for all other years;

16 ~~(44)~~~~(43)~~ "Premises" means the land and building in and upon which any business
17 regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall
18 not include as a single unit two (2) or more separate businesses of one (1) owner on
19 the same lot or tract of land, in the same or in different buildings if physical and
20 permanent separation of the premises is maintained, excluding employee access by
21 keyed entry and emergency exits equipped with crash bars, and each has a separate
22 public entrance accessible directly from the sidewalk or parking lot. Any licensee
23 holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this
24 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
25 of the license;

26 ~~(45)~~~~(44)~~ "Primary source of supply" or "supplier" means the distiller, winery, brewer,
27 producer, owner of the commodity at the time it becomes a marketable product,

1 bottler, or authorized agent of the brand owner. In the case of imported products, the
2 primary source of supply means either the foreign producer, owner, bottler, or agent
3 of the prime importer from, or the exclusive agent in, the United States of the
4 foreign distiller, producer, bottler, or owner;

5 (46)~~((45))~~ "Private club" means a nonprofit social, fraternal, military, or political
6 organization, club, or entity maintaining or operating a club room, club rooms, or
7 premises from which the general public is excluded;

8 (47)~~((46))~~ "Public nuisance" means a condition that endangers safety or health, is
9 offensive to the senses, or obstructs the free use of property so as to interfere with
10 the comfortable enjoyment of life or property by a community or neighborhood or
11 by any considerable number of persons;

12 (48)~~((47))~~ "Qualified historic site" means:

13 (a) A contributing property with dining facilities for at least fifty (50) persons at
14 tables, booths, or bars where food may be served within a commercial district
15 listed in the National Register of Historic Places;

16 (b) A site that is listed as a National Historic Landmark or in the National
17 Register of Historic Places with dining facilities for at least fifty (50) persons
18 at tables, booths, or bars where food may be served;

19 (c) A distillery which is listed as a National Historic Landmark and which
20 conducts souvenir retail package sales under KRS 243.0305; or

21 (d) A not-for-profit or nonprofit facility listed on the National Register of Historic
22 Places;

23 (49)~~((48))~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits
24 or wine by any process other than as provided for on distillery premises, and every
25 person who, without rectifying, purifying, or refining distilled spirits by mixing
26 alcoholic beverages with any materials, manufactures any imitations of or
27 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,

1 spirits, cordials, bitters, or any other name;

2 ~~(50)~~~~(49)~~ "Repackaging" means the placing of alcoholic beverages in any retail
3 container irrespective of the material from which the container is made;

4 ~~(51)~~~~(50)~~ "Restaurant" means a facility where the usual and customary business is the
5 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
6 and that receives at least fifty percent (50%) of its food and alcoholic beverage
7 receipts from the sale of food at the premises;

8 ~~(52)~~~~(51)~~ "Retail container" means any bottle, can, barrel, or other container which,
9 without a separable intermediate container, holds alcoholic beverages and is
10 suitable and destined for sale to a retail outlet, whether it is suitable for delivery to
11 the consumer or not;

12 ~~(53)~~~~(52)~~ "Retail sale" means any sale, including electronic, where delivery is made in
13 Kentucky to any consumers, and shall be deemed to have taken place at the
14 licensed premises;

15 ~~(54)~~~~(53)~~ "Retailer" means any licensee who sells and delivers any alcoholic beverage to
16 consumers, except for producers with limited retail sale privileges;

17 ~~(55)~~~~(54)~~ "Riverboat" means any boat or vessel with a regular place of mooring in this
18 state that is licensed by the United States Coast Guard to carry one hundred (100) or
19 more passengers for hire on navigable waters in or adjacent to this state;

20 ~~(56)~~~~(55)~~ "Sale" means any transfer, exchange, or barter for consideration of any
21 alcoholic beverage, and includes:

22 (a) All sales made by any person, whether principal, proprietor, agent, servant, or
23 employee; or ~~of any alcoholic beverage~~

24 (b) Electronic sales, which shall be deemed to have taken place at the licensed
25 premises;

26 ~~(57)~~~~(56)~~ "Service bar" means a bar, counter, shelving, or similar structure used for
27 storing or stocking supplies of alcoholic beverages that is a workstation where

1 employees prepare alcoholic beverage drinks to be delivered to customers away
2 from the service bar;

3 ~~(58)~~~~(57)~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep
4 with intent to sell, and the delivery of any alcoholic beverage;

5 ~~(59)~~~~(58)~~ "Small farm winery" means a winery whose wine production is not less than
6 two hundred fifty (250) gallons and not greater than one hundred thousand
7 (100,000) gallons in a calendar year;

8 ~~(60)~~~~(59)~~ "Souvenir package" means a special package of distilled spirits available from
9 a licensed retailer that is:

10 (a) Available for retail sale at a licensed Kentucky distillery where the distilled
11 spirits were produced or bottled; or

12 (b) Available for retail sale at a licensed Kentucky distillery but produced or
13 bottled at another of that distiller's licensed distilleries in Kentucky;

14 ~~(61)~~~~(60)~~ "State administrator" or "administrator" means the distilled spirits
15 administrator or the malt beverages administrator, or both, as the context requires;

16 ~~(62)~~~~(61)~~ "State park" means a state park that has a:

17 (a) Nine (9) or eighteen (18) hole golf course; or

18 (b) Full-service lodge and dining room;

19 ~~(63)~~~~(62)~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used
20 for serving and selling distilled spirits or wine by the drink for consumption on the
21 licensed premises to guests and patrons from additional locations other than the
22 main bar;

23 ~~(64)~~~~(63)~~ "Territory" means a county, city, district, or precinct;

24 ~~(65)~~~~(64)~~ "Urban-county administrator" means an urban-county alcoholic beverage
25 control administrator;

26 ~~(66)~~~~(65)~~ "Vehicle" means any device or animal used to carry, convey, transport, or
27 otherwise move alcoholic beverages or any products, equipment, or appurtenances

1 used to manufacture, bottle, or sell these beverages;

2 ~~(67)~~~~((66))~~ "Vintage distilled spirit" means a package or packages of distilled spirits that:

3 (a) Are in their original manufacturer's unopened container;

4 (b) Are not owned by a distillery; and

5 (c) Are not otherwise available for purchase from a licensed wholesaler within
6 the Commonwealth;

7 ~~(68)~~~~((67))~~ "Warehouse" means any place in which alcoholic beverages are housed or
8 stored;

9 ~~(69)~~~~((68))~~ "Weak cider" means any fermented fruit-based beverage containing more than
10 one percent (1%) but less than seven percent (7%) alcohol by volume;

11 ~~(70)~~~~((69))~~ "Wet" means a territory in which a majority of the electorate voted to permit
12 all forms of retail alcohol sales by a local option election under KRS 242.050 or
13 242.125 on the following question: "Are you in favor of the sale of alcoholic
14 beverages in (name of territory)?";

15 ~~(71)~~~~((70))~~ "Wholesale sale" means a sale to any person for the purpose of resale;

16 ~~(72)~~~~((71))~~ "Wholesaler" means any person who distributes alcoholic beverages for the
17 purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer
18 or cooperative of a retail outlet;

19 ~~(73)~~~~((72))~~ "Wine" means the product of the normal alcoholic fermentation of the juices
20 of fruits, with the usual processes of manufacture and normal additions, and
21 includes champagne and sparkling and fortified wine of an alcoholic content not to
22 exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and
23 perry cider and also includes preparations or mixtures vended in retail containers if
24 these preparations or mixtures contain not more than fifteen percent (15%) of
25 alcohol by volume. It does not include weak cider; and

26 ~~(74)~~~~((73))~~ "Winery" means any place or premises in which wine is manufactured from
27 any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials

1 are compounded, except a place or premises that manufactures wine for sacramental
2 purposes exclusively.

3 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) A properly licensed winery located in another state may obtain a direct shipper
6 license from the department, subject to the following:

7 (a) A licensee may annually ship up to twenty-four (24) nine (9) liter cases of
8 wine to each customer. A customer shall be at least twenty-one (21) years
9 old, and shall only buy the wine for personal consumption and not for
10 resale; and

11 (b) An applicant shall apply to the department and provide to the department a
12 true copy of its current winery license. A licensee shall present an updated
13 copy of its license every year upon license renewal.

14 (2) A direct shipper licensee shall:

15 (a) Ensure that all containers or packages of wine shipped directly to a resident
16 in Kentucky are conspicuously labeled with the words: "Alcoholic
17 Beverages, adult signature (21 years of age or over) required";

18 (b) Report to the department annually the total amount of wine shipped into the
19 state in the preceding calendar year;

20 (c) Pay to the Department of Revenue all sales taxes and excise taxes due on
21 sales to residents of Kentucky. The amount of taxes shall be calculated in
22 accordance with KRS 243.720 and 243.884;

23 (d) Permit the department or the Department of Revenue to perform an audit of
24 the direct shipper licensee's records upon request; and

25 (e) Be deemed to have consented to the jurisdiction of the department or any
26 other state agency and the state courts concerning enforcement of this
27 section and any related laws or administrative regulations.

1 **(3) In the event the purchaser requests shipment to an address deemed unlawful, the**
 2 **purchaser shall be held accountable, and the winery and transporter or common**
 3 **carrier shall be held harmless. A customer who violates this section shall, for the**
 4 **first offense, be guilty of a violation punishable by a fine of two hundred fifty**
 5 **dollars (\$250), and for each subsequent offense, be guilty of a Class B**
 6 **misdemeanor.**

7 **(4) Shipment of wine directly to consumers in Kentucky from a winery that does not**
 8 **hold a valid direct shipper license is prohibited. Any winery that knowingly sends**
 9 **a wine shipment without a direct shipper license commits a violation. A winery**
 10 **that violates this section, shall for the first offense, be mailed a certified letter by**
 11 **the department ordering that winery to cease and desist any deliveries or**
 12 **shipments of wine to Kentucky residents, and for each subsequent offense, be**
 13 **guilty of a Class B misdemeanor.**

14 ➔Section 3. KRS 243.030 is amended to read as follows:

15 The following licenses that authorize traffic in distilled spirits and wine may be issued by
 16 the distilled spirits administrator. Licenses that authorize traffic in all alcoholic beverages
 17 may be issued by both the distilled spirits administrator and malt beverages administrator.

18 The licenses and their accompanying fees are as follows:

- 19 (1) Distiller's license:
- 20 (a) Class A, per annum\$3,090.00
- 21 (b) Class B (craft distillery), per annum\$1,000.00
- 22 (2) Rectifier's license:
- 23 (a) Class A, per annum\$2,580.00
- 24 (b) Class B (craft rectifier), per annum\$825.00
- 25 (3) Winery license, per annum\$1,030.00
- 26 (4) Small farm winery license, per annum\$110.00
- 27 (a) Small farm winery off-premises retail license, per annum\$30.00

1	(5) Wholesaler's license, per annum	\$2,060.00
2	(6) Quota retail package license, per annum.....	\$570.00
3	(7) Quota retail drink license, per annum	\$620.00
4	(8) Transporter's license, per annum	\$210.00
5	(9) Special nonbeverage alcohol license, per annum	\$60.00
6	(10) Special agent's or solicitor's license, per annum	\$30.00
7	(11) Bottling house or bottling house storage license,	
8	per annum	\$1,030.00
9	(12) Special temporary license, per event	\$100.00
10	(13) Special Sunday retail drink license, per annum	\$520.00
11	(14) Caterer's license, per annum	\$830.00
12	(15) Special temporary alcoholic beverage	
13	auction license, per event	\$100.00
14	(16) Extended hours supplemental license, per annum	\$2,060.00
15	(17) Hotel in-room license, per annum	\$210.00
16	(18) Air transporter license, per annum	\$520.00
17	(19) Sampling license, per annum	\$110.00
18	(20) Replacement or duplicate license	\$25.00
19	(21) Entertainment destination center license:	
20	(a) When the licensee is a city, county, urban-county government, consolidated	
21	local government, charter county government, or unified	
22	local government, per annum	\$2,577.00
23	(b) All other licensees, per annum	\$7,730.00
24	(22) Limited restaurant license, per annum	\$780.00
25	(23) Limited golf course license, per annum	\$720.00
26	(24) Small farm winery wholesaler's license, per annum	\$110.00
27	(25) Qualified historic site license, per annum	\$1,030.00

1	(26) Nonquota type 1 license, per annum	\$4,120.00
2	(27) Nonquota type 2 license, per annum	\$830.00
3	(28) Nonquota type 3 license, per annum	\$310.00
4	(29) Distilled spirits and wine storage license, per annum	\$620.00
5	(30) Out-of-state distilled spirits and wine supplier's license, per annum	\$1,550.00
6	(31) Limited out-of-state distilled spirits and	
7	wine supplier's license, per annum	\$260.00
8	(32) Authorized public consumption license, per annum.....	\$250.00
9	(33) <u><i>Wine direct shipper license, per annum.....</i></u>	<u><i>\$110.00</i></u>

10 **(34)** A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new
 11 transitional license pursuant to KRS 243.045.

12 ~~(35)~~~~(34)~~ Other special licenses the board finds necessary for the proper regulation and
 13 control of the traffic in distilled spirits and wine and provides for by administrative
 14 regulation. In establishing the amount of license taxes that are required to be fixed
 15 by the board, it shall have regard for the value of the privilege granted.

16 ~~(36)~~~~(35)~~ The fee for each of the first five (5) supplemental bar licenses shall be the
 17 same as the fee for the primary retail drink license. There shall be no charge for
 18 each supplemental license issued in excess of five (5) to the same licensee at the
 19 same premises.

20 A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each
 21 new application under this section, except for subsections (4), (8), (9), (10), (12), (15),
 22 (19), and (20) of this section. The application fee shall be applied to the licensing fee if
 23 the license is issued; otherwise it shall be retained by the department.

24 ➔Section 4. KRS 243.120 is amended to read as follows:

25 (1) A distiller's, rectifier's, or winery license shall authorize the licensee to engage in
 26 the business of distiller, rectifier, or winery at the premises specifically designated
 27 in the license, to maintain aging warehouses, and to transport for himself or herself

1 only any alcoholic beverage which he or she is authorized under the license to
2 manufacture or sell. The licensee shall transport alcoholic beverages only by a
3 vehicle operated by himself or herself, which has affixed to its sides at all times a
4 sign of form and size prescribed by the state board, containing among other things
5 the name and license number of the licensee. No distilled spirits or wine shall be
6 transported on the same truck or vehicle with malt beverages, except by a common
7 carrier, unless the owner of the truck or vehicle holds a distributor's license.

8 (2) (a) Distillers that produce more than fifty thousand (50,000) gallons of distilled
9 spirits per calendar year at the premises shall obtain a distiller's license, Class
10 A.

11 (b) Distillers that produce fifty thousand (50,000) gallons or less of distilled
12 spirits per calendar year at the premises shall obtain a distiller's license, Class
13 B (craft distillery).

14 (3) (a) Rectifiers that rectify more than fifty thousand (50,000) gallons of distilled
15 spirits per calendar year at the premises shall obtain a rectifier's license, Class
16 A.

17 (b) Rectifiers that rectify fifty thousand (50,000) gallons or less of distilled spirits
18 per calendar year at the premises shall obtain a rectifier's license, Class B
19 (craft rectifier).

20 (4) (a) A distiller that is located in wet territory, or in any precinct that has authorized
21 the limited sale of alcoholic beverages at distilleries under KRS 242.1243,
22 may sell distilled spirits by the drink or by the package at retail to consumers
23 in accordance with KRS 243.0305.

24 (b) Any distilled spirits sold under this subsection shall be taxed and distributed
25 in the same manner as sales under KRS 243.0305(2).

26 (c) Except as provided in this subsection, sales under this subsection shall be
27 governed by all of the statutes and administrative regulations governing the

1 retail sale of distilled spirits by the drink.

2 (5) *A winery may deliver or ship packages of wine at retail pursuant to Section 2 of*
3 *this Act, without obtaining a separate license.*

4 (6) Nothing in this section shall be construed to:

5 (a) Vitate the policy of this Commonwealth supporting an orderly three (3) tier
6 system for the production and sale of alcoholic beverages; or

7 (b) Allow delivery or shipment of alcohol into dry or moist territory.

8 ➔Section 5. KRS 243.130 is amended to read as follows:

9 (1) Sales and deliveries of distilled spirits and wine may be made at wholesale, and
10 from the licensed premises only:

11 (a) By distillers to rectifiers, wineries, holders of special nonbeverage alcohol
12 licenses so far as they may make the purchases, or other distillers;

13 (b) By rectifiers to wineries or to distillers if distilled spirits sold to distillers are
14 packaged in retail containers;

15 (c) By wineries to rectifiers or other wineries, or to the holders of special
16 nonbeverage alcohol licenses;

17 (d) By distillers, rectifiers, or wineries to wholesalers; or

18 (e) By distillers, rectifiers, or wineries for export out of the state.

19 (2) No distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver
20 any alcoholic beverages to any person who is not authorized by the law of the state
21 of the person's residence, and of the United States government if located in the
22 United States, to receive and possess those alcoholic beverages. Except as provided
23 in *Section 2 of this Act and* KRS 243.0305, no distiller, rectifier, or winery shall
24 sell or contract to sell, give away, or deliver any of its products to any retailer or
25 consumer in Kentucky.

26 (3) Employees of distillers, rectifiers, and wineries may sample the products produced
27 by that manufacturer for purposes of education, quality control, and product

1 development.

2 (4) Distillers may purchase distilled spirits only from other licensed distillers in this
3 state or in another state or province, but distillers may purchase from rectifiers
4 licensed in Kentucky, distilled spirits which are packaged in retail containers.

5 (5) Rectifiers may purchase distilled spirits and wine only from licensed distillers or
6 wineries in Kentucky, or from nonresident distillers or wineries authorized by the
7 law of the state of their residence and by the United States government, if the
8 distillers or wineries are located in the United States, to make the sales.

9 (6) Wineries may purchase distilled spirits or wine only from licensed distillers or
10 wineries in Kentucky, or from nonresident distillers or wineries authorized by law
11 of the state of their residence, and by the United States government if located in the
12 United States, to make the sales.

13 (7) Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but
14 this subsection does not authorize the owner of a warehouse receipt to accept
15 delivery of any distilled spirits unless the owner is a person who is permitted by law
16 to receive the distilled spirits.

17 (8) Nothing in this section shall be construed to:

18 (a) Vitate the policy of this Commonwealth supporting an orderly three (3) tier
19 system for the production and sale of alcoholic beverages; or

20 (b) Allow delivery or shipment of alcohol into dry or moist territory.

21 ➔Section 6. KRS 243.155 is amended to read as follows:

22 (1) Any in-state or out-of-state small farm winery may apply for a small farm winery
23 license. In addition to all other licensing requirements, an applicant for a small farm
24 winery license shall submit with its application a copy of the small farm winery's
25 federal basic permit and proof documenting its annual wine production. An out-of-
26 state winery shall submit additional documentation evidencing its resident state. As
27 part of the application process, an out-of-state winery shall publish its notice of

1 intent, as required by KRS 243.360, in the Kentucky newspaper of highest
2 circulation. The board shall promulgate administrative regulations establishing the
3 form the documentation of proof of production shall take.

4 (2) A small farm winery license shall authorize the licensee to perform the following
5 functions without having to obtain separate licenses, except that each small farm
6 winery off-premises retail site shall be separately licensed:

7 (a) Engage in the business of a winery under the terms and conditions of KRS
8 243.120 and 243.130. The manufacture of wine at the small farm winery shall
9 not be less than two hundred fifty (250) gallons, and shall not exceed one
10 hundred thousand (100,000) gallons, in one (1) year;

11 (b) Bottle wines produced by that small farm winery and other licensed small
12 farm wineries;

13 (c) Enter into an agreement with another licensed small farm winery under which
14 it crushes, processes, ferments, bottles, or any combination of these services,
15 the grapes, fruits, or other agricultural products of the other small farm winery
16 for a production year. The resulting wine shall be considered the product of
17 the small farm winery that provides the fruit. The small farm winery providing
18 the custom crushing services may exclude the wine produced under this
19 paragraph from its annual production gallonage;

20 (d) If the licensed small farm winery or off-premises retail site premises is located
21 in wet territory or in a precinct that has authorized alcoholic beverage sales by
22 the small farm winery under KRS 242.124:

23 1. Serve complimentary samples of wine produced by it in amounts not to
24 exceed six (6) ounces per patron per day; and

25 2. Sell by the drink for on-premises consumption or by the package wine
26 produced by it or by another licensed small farm winery, at retail to
27 consumers;

- 1 (e) Sell by the drink or by the package, at fairs, festivals, and other similar types
 2 of events, wine produced by it or by another licensed small farm winery, at
 3 retail to consumers if all sales occur in a wet territory;
- 4 (f) Sell and transport wine produced by it to licensed small farm winery off-
 5 premises retail sites, wholesale license holders, and small farm winery license
 6 holders;
- 7 (g) Consume on the premises wine produced by the small farm winery or a
 8 licensed small farm winery and purchased by the drink or by the package at
 9 the licensed premises, if the small farm winery is located in wet territory; and
- 10 (h) Deliver or ship packages of wine at retail[
 11 ~~1. To small farm winery visitors of legal drinking age, in quantities not to~~
 12 ~~exceed four (4) cases per purchaser per day. A winery shall deliver or~~
 13 ~~ship the packages to the purchaser through a licensed common carrier~~
 14 ~~that is authorized to deliver or ship wine in the jurisdiction to which the~~
 15 ~~products will be delivered or shipped; and~~
 16 ~~2. Pursuant to subscription or small farm winery sponsored club programs,~~
 17 ~~in quantities not to exceed an aggregate of one (1) case per month per~~
 18 ~~calendar year, provided that the enrollment and payment for the~~
 19 ~~subscription or club is arranged in person at the small farm winery. At~~
 20 ~~the member's request, an order may be delivered or shipped directly to~~
 21 ~~the member. All deliveries or shipments shall be made through a~~
 22 ~~licensed common carrier authorized to deliver or ship wine in the~~
 23 ~~jurisdiction to which the products will be delivered or shipped]~~
 24 **pursuant to Section 2 of this Act, without obtaining a separate license.**
- 25 (3) If the requirements of KRS 242.1241 or 244.290(5) relating to Sunday sales on the
 26 licensed premises of a small farm winery are met, a small farm winery within that
 27 territory may sell alcoholic beverages on Sunday only in accordance with this

1 section between the hours of 1 p.m. until the prevailing time for that locality.

2 (4) A small farm winery license holder may also hold an NQ2 retail drink license or an
3 NQ4 retail malt beverage drink license if:

4 (a) The small farm winery is located in wet territory or in a precinct that has
5 authorized alcoholic beverage sales by the small farm winery under KRS
6 242.124; and

7 (b) The issuance of these licenses is in connection with the establishment and
8 operation of a restaurant, hotel, inn, bed and breakfast, conference center, or
9 any similar business enterprise designed to promote viticulture, enology, and
10 tourism.

11 (5) This section shall not exempt the holder of a small farm winery license from the
12 provisions of KRS Chapters 241 to 244, nor from the administrative regulations of
13 the board, nor from regulation by the board at all premises licensed by the small
14 farm winery, except as expressly stated in this section.

15 (6) Nothing contained in this section shall exempt a licensed out-of-state winery from
16 obeying the laws of its resident state.

17 (7) Upon the approval of the department, a small farm winery license may be renewed
18 after the licensee submits to the department the winery's federal basic permit and
19 proof of its annual wine production.

20 (8) An employee of a small farm winery may sample the products produced by that
21 small farm winery for purposes of education, quality control, and product
22 development.

23 ➔Section 7. KRS 244.165 is amended to read as follows:

24 (1) Except as provided in subsections (2), (3), ~~and (4)~~, **and (5)** of this section, it shall
25 be unlawful for any person in the business of selling alcoholic beverages in another
26 state or country to deliver or ship or cause to be delivered or shipped any alcoholic
27 beverage directly to any Kentucky resident who does not hold a valid wholesaler or

1 distributor license issued by the Commonwealth of Kentucky.

2 (2) A winery or small farm winery **that holds a Kentucky winery or small farm winery**

3 **license** ~~located in another state~~ may deliver or ship wine to a customer in

4 Kentucky if:

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

7 (b) ~~The Kentucky purchaser is of legal age;~~

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

9 (d) ~~Either:~~

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

11 2. ~~The wine is purchased pursuant to subscription, or winery sponsored or small farm~~

12 ~~winery sponsored club programs, in quantities not to exceed an aggregate of one (1)~~

13 ~~case of wine per month per calendar year;]~~ **the wine is purchased and delivered or**

14 **shipped in accordance with the privileges of Section 2 of this Act,** and ~~(e) —]~~

15 the wine is delivered or shipped through a licensed transporter or licensed common

16 carrier authorized to deliver or ship wine in the jurisdiction in which the delivery or

17 shipment will occur.

18 (3) A distillery located in another state may deliver or ship distilled spirits directly to a

19 customer in Kentucky if:

20 (a) The distilled spirits, subscription, or club program membership is purchased
21 by the customer in person at the distillery;

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

23 (c) The distillery is licensed in Kentucky;

24 (d) Either:

25 1. No more than four and one-half (4 1/2) liters of distilled spirits are

26 purchased per day per visit for sales prior to January 1, 2021, and in

27 quantities not to exceed an aggregate of nine (9) liters per purchaser per

- 1 day for sales on and after January 1, 2021; or
- 2 2. The distilled spirits are purchased pursuant to subscription or distillery-
- 3 sponsored club programs, in quantities not to exceed an aggregate of
- 4 nine (9) liters of distilled spirits per calendar year; and
- 5 (e) The distilled spirits are delivered or shipped through a licensed transporter or
- 6 licensed common carrier authorized to deliver or ship distilled spirits in the
- 7 jurisdiction in which the delivery or shipment will occur.

8 **(4) A winery located in another state may deliver or ship up to twenty-four (24) nine**

9 **(9) liter cases of wine directly to a consumer in Kentucky if licensed under**

10 **Section 2 of this Act.**

11 ~~(5)~~~~(4)~~ A licensed transporter or common carrier making deliveries or shipments

12 pursuant to this section shall deliver or ship directly to consumers over twenty-one

13 (21) years of age in packages clearly marked "Alcoholic Beverages, adult signature

14 (21 years of age or over) required," and must request adult-signature-only service

15 from the carrier. Deliveries or shipments of alcoholic beverages shall only be made

16 into areas of the state in which alcoholic beverages may be lawfully sold. When the

17 shipper requests adult-signature-only service, it shall be a violation for a common

18 carrier not to inspect government-issued identification for proof of age or to

19 knowingly deliver or ship alcoholic beverages into areas of the state in which

20 alcoholic beverages are not legally sold.

21 ~~(6)~~~~(5)~~ Nothing contained in this section shall exempt a licensed out-of-state

22 alcoholic beverage producer from obeying the laws of its resident state.

23 ~~(7)~~~~(6)~~ Any person who violates subsection (1) of this section shall, for the first

24 offense, be mailed a certified letter by the department ordering that person to cease

25 and desist any deliveries or shipments of alcoholic beverages to Kentucky residents,

26 and for the second and each subsequent offense, be guilty of a Class D felony.

27 ➔Section 8. KRS 243.034 is amended to read as follows:

- 1 (1) A limited restaurant license may be issued to an establishment meeting the
2 definition criteria established in KRS 241.010~~[(35)]~~ as long as the establishment is
3 within:
- 4 (a) Any wet territory; or
5 (b) Any moist precinct that has authorized the sale of alcoholic beverages under
6 KRS 242.1244.
- 7 (2) A limited restaurant license shall authorize the licensee to purchase, receive,
8 possess, and sell alcoholic beverages at retail by the drink for consumption on the
9 licensed premises. The licensee shall purchase alcoholic beverages only from
10 licensed wholesalers or distributors. The license shall not authorize the licensee to
11 sell alcoholic beverages by the package.
- 12 (3) The holder of a limited restaurant license shall maintain at least seventy percent
13 (70%) of its gross receipts from the sale of food and maintain the minimum
14 applicable seating requirement required for the type of limited restaurant license.
- 15 (4) A limited restaurant as defined by KRS 241.010~~[(35)(a)]~~ shall:
- 16 (a) Only sell alcoholic beverages incidental to the sale of a meal; and
17 (b) Not have an open bar and shall not sell alcoholic beverages to any person who
18 has not purchased or does not purchase a meal.
- 19 ➔Section 9. KRS 243.0341 is amended to read as follows:
- 20 (1) Notwithstanding any other provision of law, any city or county that conducted an
21 election under KRS 242.1244(2) prior to January 1, 2016, for by the drink sales of
22 alcoholic beverages in restaurants and dining facilities seating one hundred (100)
23 persons or more or any city with limited sale precincts created pursuant to KRS
24 242.1292 may elect to act under this section.
- 25 (2) Upon a determination by the legislative body of a city or county that:
- 26 (a) An economic hardship exists within the city or county; and
27 (b) Expanded sales of alcoholic beverages by the drink could aid in economic

1 growth;

2 the city or county may, after conducting a public hearing that is noticed to the public
3 in accordance with the KRS Chapter 424, adopt an ordinance authorizing by the
4 drink sales of alcoholic beverages in restaurants and dining facilities containing
5 seating for at least fifty (50) persons and meeting the requirements of subsection (3)
6 of this section.

7 (3) The ordinance enacted by a city or county pursuant to subsection (2) of this section
8 shall authorize the sale of alcoholic beverages under the following limitations:

9 (a) Sales shall only be conducted in restaurants and other dining facilities meeting
10 the requirements of KRS 241.010~~[(35)(a)]~~; and

11 (b) The provisions of KRS 243.034 shall apply to any restaurant or dining facility
12 operating under a license issued pursuant to this section.

13 (4) A city or county acting under this section may allow limited restaurant sales as
14 defined in KRS 241.010~~[(35)]~~.

15 (5) The enactment of an ordinance under this section shall not:

16 (a) Modify the city's or county's ability to issue a limited restaurant license to
17 restaurants or other dining facilities meeting the requirements of KRS
18 241.010~~[(35)(b)]~~; or

19 (b) Affect, alter, or otherwise impair any license previously issued to a restaurant
20 or dining facility meeting the requirements of KRS 241.010~~[(35)(b)]~~.

21 ➔Section 10. If any provision of this Act or the application thereof to any person
22 or circumstance is held invalid, the invalidity shall not affect other provisions or
23 applications of the Act that can be given effect without the invalid provision or
24 application, and to this end the provisions of this Act are severable.