

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;**
- 20 **(24)** "Discount in the usual course of business" means price reductions, rebates, refunds,
21 and discounts given by wholesalers to distilled spirits and wine retailers pursuant to
22 an agreement made at the time of the sale of the merchandise involved and are
23 considered a part of the sales transaction, constituting reductions in price pursuant
24 to the terms of the sale, irrespective of whether the quantity discount was:
- 25 (a) Prorated and allowed on each delivery;
- 26 (b) Given in a lump sum after the entire quantity of merchandise purchased had
27 been delivered; or

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

2 ~~(25)~~~~(24)~~ "Distilled spirits" or "spirits" means any product capable of being consumed
3 by a human being which contains alcohol in excess of the amount permitted by
4 KRS Chapter 242 obtained by distilling, mixed with water or other substances in
5 solution, except wine, hard cider, and malt beverages;

6 ~~(26)~~~~(25)~~ "Distiller" means any person who is engaged in the business of manufacturing
7 distilled spirits at any distillery in the state and is registered in the Office of the
8 Collector of Internal Revenue for the United States at Louisville, Kentucky;

9 ~~(27)~~~~(26)~~ "Distillery" means any place or premises where distilled spirits are
10 manufactured for sale, and which are registered in the office of any collector of
11 internal revenue for the United States. It includes any United States government
12 bonded warehouse;

13 ~~(28)~~~~(27)~~ "Distributor" means any person who distributes malt beverages for the
14 purpose of being sold at retail;

15 ~~(29)~~~~(28)~~ "Dry" means a territory in which a majority of the electorate voted to prohibit
16 all forms of retail alcohol sales through a local option election held under KRS
17 Chapter 242;

18 ~~(30)~~~~(29)~~ "Election" means:

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

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

23 ~~(31)~~~~(30)~~ "Horse racetrack" means a facility licensed to conduct a horse race meeting
24 under KRS Chapter 230;

25 ~~(32)~~~~(31)~~ "Hotel" means a hotel, motel, or inn for accommodation of the traveling
26 public, designed primarily to serve transient patrons;

27 ~~(33)~~~~(32)~~ "Investigator" means any employee or agent of the department who is

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

6 ~~(34)~~~~(33)~~ "License" means any license issued pursuant to KRS Chapters 241 to 244;

7 ~~(35)~~~~(34)~~ "Licensee" means any person to whom a license has been issued, pursuant to
8 KRS Chapters 241 to 244;

9 ~~(36)~~~~(35)~~ "Limited restaurant" means:

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

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

23 ~~(37)~~~~(36)~~ "Local administrator" means a city alcoholic beverage administrator, county
24 alcoholic beverage administrator, or urban-county alcoholic beverage control
25 administrator;

26 ~~(38)~~~~(37)~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any
27 name or description, manufactured from malt wholly or in part, or from any

1 substitute for malt, and includes weak cider;

2 ~~(39)~~~~(38)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

3 ~~(40)~~~~(39)~~ "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other
4 person engaged in the production or bottling of alcoholic beverages;

5 ~~(41)~~~~(40)~~ "Minor" means any person who is not twenty-one (21) years of age or older;

6 ~~(42)~~~~(41)~~ "Moist" means a territory in which a majority of the electorate voted to permit
7 limited alcohol sales by any one (1) or a combination of special limited local option
8 elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242,
9 242.1243, 242.1244, or 242.1292;

10 ~~(43)~~~~(42)~~ "Population" means the population figures established by the federal decennial
11 census for a census year or the current yearly population estimates prepared by the
12 Kentucky State Data Center, Urban Studies Center of the University of Louisville,
13 Louisville, Kentucky, for all other years;

14 ~~(44)~~~~(43)~~ "Premises" means the land and building in and upon which any business
15 regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall
16 not include as a single unit two (2) or more separate businesses of one (1) owner on
17 the same lot or tract of land, in the same or in different buildings if physical and
18 permanent separation of the premises is maintained, excluding employee access by
19 keyed entry and emergency exits equipped with crash bars, and each has a separate
20 public entrance accessible directly from the sidewalk or parking lot. Any licensee
21 holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this
22 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
23 of the license;

24 ~~(45)~~~~(44)~~ "Primary source of supply" or "supplier" means the distiller, winery, brewer,
25 producer, owner of the commodity at the time it becomes a marketable product,
26 bottler, or authorized agent of the brand owner. In the case of imported products, the
27 primary source of supply means either the foreign producer, owner, bottler, or agent

1 of the prime importer from, or the exclusive agent in, the United States of the
2 foreign distiller, producer, bottler, or owner;

3 ~~(46)~~~~((45))~~ "Private club" means a nonprofit social, fraternal, military, or political
4 organization, club, or entity maintaining or operating a club room, club rooms, or
5 premises from which the general public is excluded;

6 ~~(47)~~~~((46))~~ "Public nuisance" means a condition that endangers safety or health, is
7 offensive to the senses, or obstructs the free use of property so as to interfere with
8 the comfortable enjoyment of life or property by a community or neighborhood or
9 by any considerable number of persons;

10 ~~(48)~~~~((47))~~ "Qualified historic site" means:

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

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

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

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

21 ~~(49)~~~~((48))~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits
22 or wine by any process other than as provided for on distillery premises, and every
23 person who, without rectifying, purifying, or refining distilled spirits by mixing
24 alcoholic beverages with any materials, manufactures any imitations of or
25 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,
26 spirits, cordials, bitters, or any other name;

27 ~~(50)~~~~((49))~~ "Repackaging" means the placing of alcoholic beverages in any retail

1 container irrespective of the material from which the container is made;

2 ~~(51)~~~~(50)~~ "Restaurant" means a facility where the usual and customary business is the
3 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
4 and that receives at least fifty percent (50%) of its food and alcoholic beverage
5 receipts from the sale of food at the premises;

6 ~~(52)~~~~(51)~~ "Retail container" means any bottle, can, barrel, or other container which,
7 without a separable intermediate container, holds alcoholic beverages and is
8 suitable and destined for sale to a retail outlet, whether it is suitable for delivery to
9 the consumer or not;

10 ~~(53)~~~~(52)~~ "Retail sale" means any sale, **including electronic**, where delivery is made in
11 Kentucky to any consumers, **and shall be deemed to have taken place at the**
12 **licensed premises**;

13 ~~(54)~~~~(53)~~ "Retailer" means any licensee who sells and delivers any alcoholic beverage to
14 consumers, except for producers with limited retail sale privileges;

15 ~~(55)~~~~(54)~~ "Riverboat" means any boat or vessel with a regular place of mooring in this
16 state that is licensed by the United States Coast Guard to carry one hundred (100) or
17 more passengers for hire on navigable waters in or adjacent to this state;

18 ~~(56)~~~~(55)~~ "Sale" means any transfer, exchange, or barter for consideration **of any**
19 **alcoholic beverage**, and includes:

20 **(a)** All sales made by any person, whether principal, proprietor, agent, servant, or
21 employee; **or** ~~[-, of any alcoholic beverage]~~

22 **(b) Electronic sales, which shall be deemed to have taken place at the licensed**
23 **premises**;

24 ~~(57)~~~~(56)~~ "Service bar" means a bar, counter, shelving, or similar structure used for
25 storing or stocking supplies of alcoholic beverages that is a workstation where
26 employees prepare alcoholic beverage drinks to be delivered to customers away
27 from the service bar;

1 ~~(58)~~~~(57)~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep
2 with intent to sell, and the delivery of any alcoholic beverage;

3 ~~(59)~~~~(58)~~ "Small farm winery" means a winery whose wine production is not less than
4 two hundred fifty (250) gallons and not greater than one hundred thousand
5 (100,000) gallons in a calendar year;

6 ~~(60)~~~~(59)~~ "Souvenir package" means a special package of distilled spirits available from
7 a licensed retailer that is:

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

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

12 ~~(61)~~~~(60)~~ "State administrator" or "administrator" means the distilled spirits
13 administrator or the malt beverages administrator, or both, as the context requires;

14 ~~(62)~~~~(61)~~ "State park" means a state park that has a:

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

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

17 ~~(63)~~~~(62)~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used
18 for serving and selling distilled spirits or wine by the drink for consumption on the
19 licensed premises to guests and patrons from additional locations other than the
20 main bar;

21 ~~(64)~~~~(63)~~ "Territory" means a county, city, district, or precinct;

22 ~~(65)~~~~(64)~~ "Urban-county administrator" means an urban-county alcoholic beverage
23 control administrator;

24 ~~(66)~~~~(65)~~ "Vehicle" means any device or animal used to carry, convey, transport, or
25 otherwise move alcoholic beverages or any products, equipment, or appurtenances
26 used to manufacture, bottle, or sell these beverages;

27 ~~(67)~~~~(66)~~ "Vintage distilled spirit" means a package or packages of distilled spirits that:

- 1 (a) Are in their original manufacturer's unopened container;
- 2 (b) Are not owned by a distillery; and
- 3 (c) Are not otherwise available for purchase from a licensed wholesaler within
- 4 the Commonwealth;

5 ~~(68)~~~~((67))~~ "Warehouse" means any place in which alcoholic beverages are housed or

6 stored;

7 ~~(69)~~~~((68))~~ "Weak cider" means any fermented fruit-based beverage containing more than

8 one percent (1%) but less than seven percent (7%) alcohol by volume;

9 ~~(70)~~~~((69))~~ "Wet" means a territory in which a majority of the electorate voted to permit

10 all forms of retail alcohol sales by a local option election under KRS 242.050 or

11 242.125 on the following question: "Are you in favor of the sale of alcoholic

12 beverages in (name of territory)?";

13 ~~(71)~~~~((70))~~ "Wholesale sale" means a sale to any person for the purpose of resale;

14 ~~(72)~~~~((71))~~ "Wholesaler" means any person who distributes alcoholic beverages for the

15 purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer

16 or cooperative of a retail outlet;

17 ~~(73)~~~~((72))~~ "Wine" means the product of the normal alcoholic fermentation of the juices

18 of fruits, with the usual processes of manufacture and normal additions, and

19 includes champagne and sparkling and fortified wine of an alcoholic content not to

20 exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and

21 perry cider and also includes preparations or mixtures vended in retail containers if

22 these preparations or mixtures contain not more than fifteen percent (15%) of

23 alcohol by volume. It does not include weak cider; and

24 ~~(74)~~~~((73))~~ "Winery" means any place or premises in which wine is manufactured from

25 any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials

26 are compounded, except a place or premises that manufactures wine for sacramental

27 purposes exclusively.

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

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

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

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

12 (2) A direct shipper licensee shall:

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

16 (b) Report to the department quarterly the total amount of wine shipped into
17 the state, the amount of wine shipped to each customer, and the name and
18 address of each customer in the preceding calendar quarter;

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

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

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

27 (3) In the event the purchaser requests shipment to an address deemed unlawful, the

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

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

14 (5) The department and licensed transporters shall coordinate to reduce unlicensed
 15 shipments of alcoholic beverages in the Commonwealth.

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

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

20 The licenses and their accompanying fees are as follows:

- 21 (1) Distiller's license:
 - 22 (a) Class A, per annum\$3,090.00
 - 23 (b) Class B (craft distillery), per annum\$1,000.00
- 24 (2) Rectifier's license:
 - 25 (a) Class A, per annum\$2,580.00
 - 26 (b) Class B (craft rectifier), per annum\$825.00
- 27 (3) Winery license, per annum\$1,030.00

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

1	(24) Small farm winery wholesaler's license, per annum	\$110.00
2	(25) Qualified historic site license, per annum	\$1,030.00
3	(26) Nonquota type 1 license, per annum	\$4,120.00
4	(27) Nonquota type 2 license, per annum	\$830.00
5	(28) Nonquota type 3 license, per annum	\$310.00
6	(29) Distilled spirits and wine storage license, per annum	\$620.00
7	(30) Out-of-state distilled spirits and wine supplier's license, per annum	\$1,550.00
8	(31) Limited out-of-state distilled spirits and	
9	wine supplier's license, per annum	\$260.00
10	(32) Authorized public consumption license, per annum.....	\$250.00
11	(33) <u>Wine direct shipper license, per annum.....</u>	<u>\$110.00</u>

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

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

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

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

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

27 (1) A distiller's, rectifier's, or winery license shall authorize the licensee to engage in

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

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

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

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

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

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

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

1 (c) Except as provided in this subsection, sales under this subsection shall be
2 governed by all of the statutes and administrative regulations governing the
3 retail sale of distilled spirits by the drink.

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (3) Employees of distillers, rectifiers, and wineries may sample the products produced
2 by that manufacturer for purposes of education, quality control, and product
3 development.
- 4 (4) Distillers may purchase distilled spirits only from other licensed distillers in this
5 state or in another state or province, but distillers may purchase from rectifiers
6 licensed in Kentucky, distilled spirits which are packaged in retail containers.
- 7 (5) Rectifiers may purchase distilled spirits and wine only from licensed distillers or
8 wineries in Kentucky, or from nonresident distillers or wineries authorized by the
9 law of the state of their residence and by the United States government, if the
10 distillers or wineries are located in the United States, to make the sales.
- 11 (6) Wineries may purchase distilled spirits or wine only from licensed distillers or
12 wineries in Kentucky, or from nonresident distillers or wineries authorized by law
13 of the state of their residence, and by the United States government if located in the
14 United States, to make the sales.
- 15 (7) Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but
16 this subsection does not authorize the owner of a warehouse receipt to accept
17 delivery of any distilled spirits unless the owner is a person who is permitted by law
18 to receive the distilled spirits.
- 19 (8) Nothing in this section shall be construed to:
- 20 (a) Vitate the policy of this Commonwealth supporting an orderly three (3) tier
21 system for the production and sale of alcoholic beverages; or
- 22 (b) Allow delivery or shipment of alcohol into dry or moist territory.
- 23 ➔Section 6. KRS 243.155 is amended to read as follows:
- 24 (1) Any in-state or out-of-state small farm winery may apply for a small farm winery
25 license. In addition to all other licensing requirements, an applicant for a small farm
26 winery license shall submit with its application a copy of the small farm winery's
27 federal basic permit and proof documenting its annual wine production. An out-of-

1 state winery shall submit additional documentation evidencing its resident state. As
2 part of the application process, an out-of-state winery shall publish its notice of
3 intent, as required by KRS 243.360, in the Kentucky newspaper of highest
4 circulation. The board shall promulgate administrative regulations establishing the
5 form the documentation of proof of production shall take.

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

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

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

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

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

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

27 2. Sell by the drink for on-premises consumption or by the package wine

1 produced by it or by another licensed small farm winery, at retail to
2 consumers;

3 (e) Sell by the drink or by the package, at fairs, festivals, and other similar types
4 of events, wine produced by it or by another licensed small farm winery, at
5 retail to consumers if all sales occur in a wet territory;

6 (f) Sell and transport wine produced by it to licensed small farm winery off-
7 premises retail sites, wholesale license holders, and small farm winery license
8 holders;

9 (g) Consume on the premises wine produced by the small farm winery or a
10 licensed small farm winery and purchased by the drink or by the package at
11 the licensed premises, if the small farm winery is located in wet territory; and

12 (h) Deliver or ship packages of wine at retail[;

13 ~~1. To small farm winery visitors of legal drinking age, in quantities not to~~
14 ~~exceed four (4) cases per purchaser per day. A winery shall deliver or~~
15 ~~ship the packages to the purchaser through a licensed common carrier~~
16 ~~that is authorized to deliver or ship wine in the jurisdiction to which the~~
17 ~~products will be delivered or shipped; and~~

18 ~~2. Pursuant to subscription or small farm winery sponsored club programs,~~
19 ~~in quantities not to exceed an aggregate of one (1) case per month per~~
20 ~~calendar year, provided that the enrollment and payment for the~~
21 ~~subscription or club is arranged in person at the small farm winery. At~~
22 ~~the member's request, an order may be delivered or shipped directly to~~
23 ~~the member. All deliveries or shipments shall be made through a~~
24 ~~licensed common carrier authorized to deliver or ship wine in the~~
25 ~~jurisdiction to which the products will be delivered or shipped]~~
26 **pursuant to Section 2 of this Act, without obtaining a separate license.**

27 (3) If the requirements of KRS 242.1241 or 244.290(5) relating to Sunday sales on the

1 licensed premises of a small farm winery are met, a small farm winery within that
2 territory may sell alcoholic beverages on Sunday only in accordance with this
3 section between the hours of 1 p.m. until the prevailing time for that locality.

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

6 (a) The small farm winery is located in wet territory or in a precinct that has
7 authorized alcoholic beverage sales by the small farm winery under KRS
8 242.124; and

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

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

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

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

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

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

26 (1) Except as provided in subsections (2), (3), ~~and (4)~~, **and (5)** of this section, it shall
27 be unlawful for any person in the business of selling alcoholic beverages in another

1 state or country to deliver or ship or cause to be delivered or shipped any alcoholic
 2 beverage directly to any Kentucky resident who does not hold a valid wholesaler or
 3 distributor license issued by the Commonwealth of Kentucky.

4 (2) A winery or small farm winery ***that holds a Kentucky winery or small farm winery***
 5 ***license*** ~~located in another state~~ may deliver or ship wine to a customer in
 6 Kentucky if:

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

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

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

11 ~~(d) Either:~~

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

13 2. ~~The wine is purchased pursuant to subscription, or winery sponsored or small farm~~
 14 ~~winery sponsored club programs, in quantities not to exceed an aggregate of one (1)~~
 15 ~~case of wine per month per calendar year; } ***the wine is purchased and delivered or***~~
 16 ***shipped in accordance with the privileges of Section 2 of this Act,*** and ~~(e) — }~~

17 the wine is delivered or shipped through a licensed transporter or licensed common
 18 carrier authorized to deliver or ship wine in the jurisdiction in which the delivery or
 19 shipment will occur.

20 (3) A distillery located in another state may deliver or ship distilled spirits directly to a
 21 customer in Kentucky if:

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

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

25 (c) The distillery is licensed in Kentucky;

26 (d) Either:

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

1 purchased per day per visit for sales prior to January 1, 2021, and in
2 quantities not to exceed an aggregate of nine (9) liters per purchaser per
3 day for sales on and after January 1, 2021; or

4 2. The distilled spirits are purchased pursuant to subscription or distillery-
5 sponsored club programs, in quantities not to exceed an aggregate of
6 nine (9) liters of distilled spirits per calendar year; and

7 (e) The distilled spirits are delivered or shipped through a licensed transporter or
8 licensed common carrier authorized to deliver or ship distilled spirits in the
9 jurisdiction in which the delivery or shipment will occur.

10 **(4) A winery located in another state may deliver or ship up to twenty-four (24) nine**
11 **(9) liter cases of wine per calendar year directly to each customer in Kentucky if**
12 **licensed under Section 2 of this Act.**

13 ~~(5)~~~~(4)~~ A licensed transporter or common carrier making deliveries or shipments
14 pursuant to this section shall deliver or ship directly to consumers over twenty-one
15 (21) years of age in packages clearly marked "Alcoholic Beverages, adult signature
16 (21 years of age or over) required," and must request adult-signature-only service
17 from the carrier. Deliveries or shipments of alcoholic beverages shall only be made
18 into areas of the state in which alcoholic beverages may be lawfully sold. When the
19 shipper requests adult-signature-only service, it shall be a violation for a common
20 carrier not to inspect government-issued identification for proof of age or to
21 knowingly deliver or ship alcoholic beverages into areas of the state in which
22 alcoholic beverages are not legally sold.

23 ~~(6)~~~~(5)~~ Nothing contained in this section shall exempt a licensed out-of-state
24 alcoholic beverage producer from obeying the laws of its resident state.

25 ~~(7)~~~~(6)~~ Any person who violates subsection (1) of this section shall, for the first
26 offense, be mailed a certified letter by the department ordering that person to cease
27 and desist any deliveries or shipments of alcoholic beverages to Kentucky residents,

1 and for the second and each subsequent offense, be guilty of a Class D felony. **The**
2 **cease and desist letter shall give sufficient notice that any subsequent violations**
3 **will result in a Class D felony charge.**

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

5 (1) A limited restaurant license may be issued to an establishment meeting the
6 definition criteria established in KRS 241.010(36)~~[(35)]~~ as long as the
7 establishment is within:

8 (a) Any wet territory; or

9 (b) Any moist precinct that has authorized the sale of alcoholic beverages under
10 KRS 242.1244.

11 (2) A limited restaurant license shall authorize the licensee to purchase, receive,
12 possess, and sell alcoholic beverages at retail by the drink for consumption on the
13 licensed premises. The licensee shall purchase alcoholic beverages only from
14 licensed wholesalers or distributors. The license shall not authorize the licensee to
15 sell alcoholic beverages by the package.

16 (3) The holder of a limited restaurant license shall maintain at least seventy percent
17 (70%) of its gross receipts from the sale of food and maintain the minimum
18 applicable seating requirement required for the type of limited restaurant license.

19 (4) A limited restaurant as defined by KRS 241.010(36)~~[(35)]~~(a) shall:

20 (a) Only sell alcoholic beverages incidental to the sale of a meal; and

21 (b) Not have an open bar and shall not sell alcoholic beverages to any person who
22 has not purchased or does not purchase a meal.

23 ➔Section 9. KRS 243.0341 is amended to read as follows:

24 (1) Notwithstanding any other provision of law, any city or county that conducted an
25 election under KRS 242.1244(2) prior to January 1, 2016, for by the drink sales of
26 alcoholic beverages in restaurants and dining facilities seating one hundred (100)
27 persons or more or any city with limited sale precincts created pursuant to KRS

1 242.1292 may elect to act under this section.

2 (2) Upon a determination by the legislative body of a city or county that:

3 (a) An economic hardship exists within the city or county; and

4 (b) Expanded sales of alcoholic beverages by the drink could aid in economic
5 growth;

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

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

13 (a) Sales shall only be conducted in restaurants and other dining facilities meeting
14 the requirements of KRS 241.010(36)~~[(35)]~~(a); and

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

17 (4) A city or county acting under this section may allow limited restaurant sales as
18 defined in KRS 241.010(36)~~[(35)]~~.

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

20 (a) Modify the city's or county's ability to issue a limited restaurant license to
21 restaurants or other dining facilities meeting the requirements of KRS
22 241.010(36)~~[(35)]~~(b); or

23 (b) Affect, alter, or otherwise impair any license previously issued to a restaurant
24 or dining facility meeting the requirements of KRS 241.010(36)~~[(35)]~~(b).

25 ➔Section 10. If any provision of this Act or the application thereof to any person
26 or circumstance is held invalid, the invalidity shall not affect other provisions or
27 applications of the Act that can be given effect without the invalid provision or

1 application, and to this end the provisions of this Act are severable.