

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2021 REGULAR SESSION
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Amend printed copy of **HB 415**

On page 20, after line 20, insert the following:

"➔Section 16. KRS 241.010 is amended to read as follows:

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

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced;
- (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
 - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 - (b) Patented, patent, and proprietary medicines;
 - (c) Toilet, medicinal, and antiseptic preparations and solutions;
 - (d) Flavoring extracts and syrups;
 - (e) Denatured alcohol or denatured rum;
 - (f) Vinegar and preserved sweet cider;

Amendment No. _____

Rep. _____

Committee Amendment _____

Floor Amendment _____

Adopted: _____

Rejected: _____

Signed: _____

LRC Drafter: _____

Date: _____

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- (g) Wine for sacramental purposes; and
- (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use;
- (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;
- (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;
- (4) "Automobile race track" means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;
- (5) "Bed and breakfast" means a one (1) family dwelling unit that:
 - (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are occupied for sleeping purposes by persons not members of the single-family unit;
 - (b) Holds a permit under KRS Chapter 219; and
 - (c) Has an innkeeper who resides on the premises or property adjacent to the premises during periods of occupancy;
- (6) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030;
- (7) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- (8) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;
- (9) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and

storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;

- (10) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;
- (11) "Caterer" means a person operating a food service business that prepares food in a licensed and inspected commissary, transports the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to an agreed location, and serves the food and alcoholic beverages pursuant to an agreement with another person;
- (12) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;
- (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;
- (14) "City administrator" means city alcoholic beverage control administrator;
- (15) "Commercial airport" means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;
- (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10) pairs of fully operative pedals for propulsion by means of human muscular power exclusively and

which:

- (a) Has four (4) wheels;
 - (b) Is operated in a manner similar to that of a bicycle;
 - (c) Is equipped with a minimum of thirteen (13) seats for passengers;
 - (d) Has a unibody design;
 - (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
 - (f) Is used for commercial tour purposes; and
 - (g) Is operated by the vehicle owner or an employee of the owner;
- (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;
- (18) "Consumer" means a person who purchases alcoholic beverages and who:
- (a) Does not hold a license or permit issued by the department;
 - (b) Purchases the alcoholic beverages for personal consumption only and not for resale;
 - (c) Is of lawful drinking age;
 - (d) Receives the alcoholic beverages at a location other than a licensed premises; and
 - (e) Receives the alcoholic beverages in territory where the alcoholic beverages may be lawfully sold or received;
- (19) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;
- (20) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;

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- (21) "County administrator" means county alcoholic beverage control administrator;
- (22) "Department" means the Department of Alcoholic Beverage Control;
- (23) "Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;
- (24) "Discount in the usual course of business" means price reductions, rebates, refunds, and discounts given by wholesalers to distilled spirits and wine retailers pursuant to an agreement made at the time of the sale of the merchandise involved and are considered a part of the sales transaction, constituting reductions in price pursuant to the terms of the sale, irrespective of whether the quantity discount was:
- (a) Prorated and allowed on each delivery;
 - (b) Given in a lump sum after the entire quantity of merchandise purchased had been delivered; or
 - (c) Based on dollar volume or on the quantity of merchandise purchased;
- (25) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;
- (26) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;
- (27) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;
- (28) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail;

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- (29) "Dry" means a territory in which a majority of the electorate voted to prohibit all forms of retail alcohol sales through a local option election held under KRS Chapter 242;
- (30) "Election" means:
- (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
 - (b) Any other election not pertaining to alcohol;
- (31) "Horse racetrack" means a facility licensed to conduct a horse race meeting under KRS Chapter 230;
- (32) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;
- (33) "Investigator" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting licensees, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;
- (34) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- (35) "Licensee" means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;
- (36) "Limited restaurant" means:
- (a) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS

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242.1244; or

- (b) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons of dining, and which is located in a wet or moist territory under KRS 242.1244;
- (37) "Local administrator" means a city alcoholic beverage administrator, county alcoholic beverage administrator, or urban-county alcoholic beverage control administrator;
- (38) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider;
- (39) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- (40) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
- (41) "Minor" means any person who is not twenty-one (21) years of age or older;
- (42) "Moist" means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections authorized by KRS Chapter 242;
- (43) "Population" means the population figures established by the federal decennial census for a census year or the current yearly population estimates prepared by the Kentucky State Data Center, Urban Studies Center of the University of Louisville, Louisville, Kentucky, for all other years;
- (44) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of

land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;

- (45) "Primary source of supply" or "supplier" means the distiller, winery, brewer, producer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the United States of the foreign distiller, producer, bottler, or owner;
- (46) "Private club" means a nonprofit social, fraternal, military, or political organization, club, or nonprofit or for-profit entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;
- (47) "Public nuisance" means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;
- (48) "Qualified historic site" means:
- (a) A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places;
 - (b) A site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served;

- (c) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; or
- (d) A not-for-profit or nonprofit facility listed on the National Register of Historic Places;
- (49) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits, malt, or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;
- (50) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;
- (51) "Restaurant" means a facility where the usual and customary business is the preparation and serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and alcoholic beverage receipts from the sale of food at the premises;
- (52) "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery or shipment to the consumer or not;
- (53) "Retail sale" means any sale of alcoholic beverages to a consumer, including those transactions taking place in person, electronically, online, by mail, or by telephone;
- (54) "Retailer" means any licensee who sells and delivers any alcoholic beverage to consumers, except for manufacturers with limited retail sale privileges and direct shipper licensees;
- (55) "Riverboat" means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry one hundred (100) or more passengers for hire on navigable waters in or adjacent to this state;

- (56) "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;
- (57) "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar;
- (58) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage;
- (59) "Small farm winery" means a winery whose wine production is not less than two hundred fifty (250) gallons and not greater than five hundred thousand (500,000) gallons in a calendar year;
- (60) "Souvenir package" means a special package of distilled spirits available from a licensed retailer that is:
- (a) Available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled; or
 - (b) Available for retail sale at a licensed Kentucky distillery but produced or bottled at another of that distiller's licensed distilleries in Kentucky;
- (61) "State administrator" or "administrator" means the distilled spirits administrator or the malt beverages administrator, or both, as the context requires;
- (62) "State park" means a state park that has a:
- (a) Nine (9) or eighteen (18) hole golf course; or
 - (b) Full-service lodge and dining room;
- (63) "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar;

- (64) "Territory" means a county, city, district, or precinct;
- (65) "Urban-county administrator" means an urban-county alcoholic beverage control administrator;
- (66) "Valid identification document" means an unexpired, government-issued form of identification that contains the photograph and date of birth of the individual to whom it is issued;
- (67) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages;
- (68) "Vintage distilled spirit" means a package or packages of distilled spirits that:
- (a) Are in their original manufacturer's unopened container;
 - (b) Are not owned by a distillery; and
 - (c) Are not otherwise available for purchase from a licensed wholesaler within the Commonwealth;
- (69) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- (70) "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;
- (71) "Wet" means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050 or 242.125 on the following question: "Are you in favor of the sale of alcoholic beverages in (name of territory)?";
- (72) "Wholesale sale" means a sale to any person for the purpose of resale;
- (73) "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;

- (74) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It does not include weak cider; and
- (75) "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

➔Section 17. KRS 243.120 is amended to read as follows:

- (1) A distiller's, rectifier's, or winery license shall authorize the licensee to engage in the business of distiller, rectifier, or winery at the premises specifically designated in the license, to maintain aging warehouses, and to transport for himself or herself only any alcoholic beverage which he or she is authorized under the license to manufacture or sell. The licensee shall transport alcoholic beverages only by a vehicle operated by himself or herself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. ~~[No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of the truck or vehicle holds a distributor's license.]~~
- (2) (a) The manufacture of distilled spirits at the distillery shall not be less than six hundred (600) gallons in one (1) year.
- (b) Distillers that produce more than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class A.

- (c) Distillers that produce fifty thousand (50,000) gallons or less of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class B (craft distillery).
 - (3) (a) Rectifiers that rectify more than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises shall obtain a rectifier's license, Class A.
(b) Rectifiers that rectify fifty thousand (50,000) gallons or less of distilled spirits per calendar year at the premises shall obtain a rectifier's license, Class B (craft rectifier).
 - (4) (a) A distiller that is located in wet territory, or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under KRS 242.1243, may sell distilled spirits by the drink or by the package at retail to consumers in accordance with KRS 243.0305.
(b) Any distilled spirits sold under this subsection shall be taxed and distributed in the same manner as sales under KRS 243.0305(2).
(c) Except as provided in this subsection, sales under this subsection shall be governed by all of the statutes and administrative regulations governing the retail sale of distilled spirits by the drink.
 - (5) Nothing in this section shall be construed to:
 - (a) Vitate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages; or
 - (b) Allow delivery or shipment of alcohol into dry or moist territory.
- ➔Section 18. KRS 243.130 is amended to read as follows:
- (1) Sales and deliveries of distilled spirits and wine may be made at wholesale, and from the licensed premises only:
 - (a) By distillers to rectifiers, wineries, holders of special nonbeverage alcohol licenses so far as they may make the purchases, or other distillers;
 - (b) By rectifiers to wineries or to distillers if distilled spirits sold to distillers are

- packaged in retail containers;
- (c) By wineries to rectifiers or other wineries, or to the holders of special nonbeverage alcohol licenses;
 - (d) By distillers, rectifiers, or wineries to wholesalers; or
 - (e) By distillers, rectifiers, or wineries for export out of the state.
- (2) No distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any alcoholic beverages to any person who is not authorized by the law of the state of the person's residence, and of the United States government if located in the United States, to receive and possess those alcoholic beverages. Except as provided in KRS 243.027 to 243.029 and KRS 243.0305, no distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any of its products to any retailer or consumer in Kentucky.
- (3) Employees of distillers, rectifiers, and wineries may sample the products produced by that manufacturer for purposes of education, quality control, and product development.
- (4) Distillers may purchase distilled spirits only from other licensed distillers in this state or in another state or province, but distillers may purchase from rectifiers licensed in Kentucky, distilled spirits which are packaged in retail containers.
- (5) Rectifiers may purchase malt, distilled spirits and wine only from licensed brewers, distillers or wineries in Kentucky, or from nonresident brewers, distillers or wineries authorized by the law of the state of their residence and by the United States government, if the brewers, distillers or wineries are located in or outside the United States, to make the sales.
- (6) Wineries may purchase distilled spirits or wine only from licensed distillers or wineries in Kentucky, or from nonresident distillers or wineries authorized by law of the state of their residence, and by the United States government if located in the United States, to make the sales.

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- (7) Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but this subsection does not authorize the owner of a warehouse receipt to accept delivery of any distilled spirits unless the owner is a person who is permitted by law to receive the distilled spirits.
- (8) Nothing in this section shall be construed to:
- (a) Vitate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages; or
 - (b) Allow delivery or shipment of alcohol into dry or moist territory."; and
- Renumber remaining sections accordingly.