

1 AN ACT relating to alcoholic beverages and declaring an emergency.

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

3 ➔Section 1. KRS 243.027 is amended to read as follows:

4 (1) KRS 243.027 to 243.029 shall supersede any conflicting statute in KRS Chapters
5 241 to 244.

6 (2) A direct shipper license shall authorize the holder to ship alcoholic beverages to
7 consumers. The department shall issue a direct shipper license to a successful
8 applicant that:

9 (a) **Pays an annual license fee of one hundred dollars (\$100);**

10 (b) Is a manufacturer located in this state or any other state or an alcoholic
11 beverage supplier licensed under KRS 243.212 or 243.215; **and**

12 (c) **Holds a current license, permit, or other authorization to manufacture or**
13 **supply alcoholic beverages in the state where the applicant is located. If an**
14 **applicant is located outside of Kentucky, proof of its current license, permit,**
15 **or other authorization as issued by its home state shall be sufficient proof of**
16 **its eligibility to hold a direct shipper license in Kentucky.** ~~[- A manufacturer~~

17 applicant shall:

18 ~~1.—Hold a current license, permit, or other authorization to manufacture alcoholic~~
19 ~~beverages in the state where the manufacturer is located; and~~

20 ~~2.—Only ship alcoholic beverages that are sold under a brand name owned or~~
21 ~~exclusively licensed to the manufacturer and the alcoholic beverages were:~~

22 ~~a.—Produced by the manufacturer;~~

23 ~~b.—Produced for or by the manufacturer under an existing written contract with~~
24 ~~another manufacturer; or~~

25 ~~c.—Produced and bottled for the manufacturer;~~

26 ~~(b)—Pays an annual license fee of one hundred dollars (\$100); and~~

27 ~~(c)—If a manufacturer applicant is located outside this state, proves that it has~~

1 completed the same registration necessary for a manufacturer located in this
 2 state with respect to payment of any applicable excise tax, state or local sales
 3 or use tax, or other tax owed under the law of this state in connection with the
 4 direct shipment of alcoholic beverages to consumers in this state.]

5 (3) (a) A manufacturer applicant shall only be authorized to ship alcoholic
 6 beverages that are sold under a brand name owned or exclusively licensed
 7 to the manufacturer, provided the alcoholic beverages were:

8 1. Produced by the manufacturer;

9 2. Produced for the manufacturer under a written contract with another
 10 manufacturer; or

11 3. Bottled for or by the manufacturer.

12 (b) An applicant licensed under KRS 243.212 or 243.215 shall only be
 13 authorized to ship alcoholic beverages for which it is the primary source of
 14 supply.

15 (4) The department shall establish[set the requirements and] the form for a direct
 16 shipper license application through the promulgation of an administrative
 17 regulation. These requirements shall include only the following:

18 (a) The address of[and a description of the premises from which] the
 19 manufacturer or supplier[will ship alcoholic beverages to consumers]; and

20 (b) If the applicant is located outside this state, a copy of the applicant's current
 21 license, permit, or other authorization to manufacture, store, or supply
 22 alcoholic beverages in the state where the applicant is located[; and

23 (c) ~~Any other information the department determines to be necessary to~~
 24 ~~implement and administer the direct shipper licensing program].~~

25 (5)[(4)] For purposes of this section, the holder of a direct shipper license may
 26 utilize the services of a third party to fulfill shipments, subject to the following:

27 (a) The third party shall not be required to hold any alcoholic beverage license,

1 but no licensed entity shall serve as a third party to fulfill shipments other
 2 than the holder of a storage license or transporter's license;

3 (b) The third party may operate from the premises of the direct shipper licensee
 4 or from another business location; and

5 (c) The direct shipper licensee shall be liable for any violation of KRS 242.250,
 6 242.260, 242.270, or 244.080 that may occur by the third party~~[In~~

7 ~~considering an application from an out-of-state applicant, the department shall~~
 8 ~~use the same standards relating to causes for license denial, suspension, or~~
 9 ~~revocation under KRS 243.100 and 243.500 as those it uses for similarly~~
 10 ~~situated in-state applications].~~

11 ~~(6)~~~~(5)~~ A direct shipper licensee shall:

12 (a) Agree that the Secretary of State shall serve as its registered agent for
 13 service of process~~[Appoint and continuously maintain an agent for service of~~

14 ~~process that need not be a resident of this state, and agree that the Secretary of~~
 15 ~~State shall serve as its agent if it fails to maintain a current agent for service of~~
 16 ~~process]. The licensee shall agree that legal service on the agent constitutes~~

17 ~~legal service on the direct shipper licensee;~~

18 (b) Maintain the records required under KRS 243.027 to 243.029 and provide the
 19 department and the Department of Revenue access to or copies of these
 20 records;

21 (c) Allow the department or the Department of Revenue to perform an audit of
 22 the direct shipper licensee's records or an inspection of the direct shipper
 23 licensee's licensed premises upon request. If an audit or inspection reveals a
 24 violation, the department or the Department of Revenue may recover
 25 reasonable expenses from the licensee for the cost of the audit or inspection;

26 (d) Register with the Department of Revenue, and file all reports and pay all
 27 taxes required under KRS 243.027 to 243.029; and

- 1 (e) Submit to the jurisdiction of the Commonwealth of Kentucky for any
 2 violation of KRS 242.250, 242.260, 242.270, 244.080 or for nonpayment of
 3 any taxes owed~~[department and the Department of Revenue, the courts, and~~
 4 ~~all other enforcement authority of this state, including any related laws or~~
 5 ~~administrative regulations, with respect to enforcement against the applicant;~~
- 6 ~~(f) Hold the license contingent on obeying all laws and administrative regulations~~
 7 ~~of both the origin state and the destination state, including those relating to the~~
 8 ~~times, days, or other circumstances when alcoholic beverages may be sold or~~
 9 ~~shipped;~~
- 10 ~~(g) Be subject to potential fines, penalties, license suspension, or license~~
 11 ~~revocation for a violation of the duties or obligations to hold a direct shipper~~
 12 ~~license;~~
- 13 ~~(h) Meet any reciprocal license requirements, if applicable; and~~
- 14 ~~(i) Comply with all applicable federal and state labeling, licensing, and brand~~
 15 ~~registration requirements].~~
- 16 ~~(Z)[(6)] (a) [The department shall promulgate administrative regulations designed to~~
 17 ~~reduce unlicensed deliveries and shipments of alcoholic beverages in the~~
 18 ~~Commonwealth.]~~ Each direct shipper licensee shall submit to the department
 19 and the Department of Revenue a quarterly report for that direct shipper
 20 license showing:
- 21 1. The total amount of alcoholic beverages shipped into the state per
 22 consumer;
- 23 2. The name and address of each consumer;
- 24 3. The purchase price of the alcoholic beverages shipped and the amount of
 25 taxes charged to the consumer for the alcoholic beverages shipped; and
- 26 4. The name and address of each common carrier.
- 27 (b) The Department of Revenue shall create a form through the promulgation of

1 an administrative regulation for reporting under paragraph (a) of this
2 subsection.

3 (c) The department shall provide a list of all active direct shipper licensees to
4 licensed common carriers on a quarterly basis to reduce the number of
5 unlicensed shipments in the Commonwealth.

6 **(8) A direct shipper licensee shall submit a current copy of its alcoholic beverage**
7 **license from its home state along with the one hundred dollar (\$100) license fee**
8 **every year upon renewal of its direct shipper license.**

9 **(9) Notwithstanding any provision of this section to the contrary, a manufacturer**
10 **located and licensed in Kentucky may ship by a common carrier holding a**
11 **Kentucky transporter's license samples of alcoholic beverages produced by the**
12 **manufacturer in quantities not to exceed one (1) liter of any particular product in**
13 **one (1) calendar year of distilled spirits or wine, or ninety-six (96) ounces of any**
14 **particular product in one (1) calendar year of malt beverages, to the following:**

15 **(a) Marketing or media representatives twenty-one (21) years of age or older;**

16 **(b) Distilled spirits, wine, or malt beverage competitions or contests;**

17 **(c) Wholesalers or distributors located outside of Kentucky;**

18 **(d) Federal, state, or other regulatory testing labs; and**

19 **(e) Third-party product formulation and development partners.**

20 **Such samples shall be marked by affixing across the product label, a not readily**
21 **removed disclaimer with the words "Sample-Not for Sale" and the name of the**
22 **manufacturer.**

23 ➔Section 2. KRS 243.028 is amended to read as follows:

24 (1) A direct shipper licensee may sell or ship to a consumer all types of alcoholic
25 beverages that the licensee is authorized to sell, with the following aggregate limits:

26 (a) Distilled spirits, in quantities not to exceed ten (10) liters per consumer per
27 month;

- 1 (b) Wine, in quantities not to exceed ten (10) cases per consumer per month; and
2 (c) Malt beverages, in quantities not to exceed ten (10) cases per consumer per
3 month.
- 4 (2) The direct shipper licensee shall notify the consumer placing the order that the
5 shipment shall not be left unless the recipient of the shipment provides a valid
6 identification document at the time verifying that the recipient is at least twenty-one
7 (21) years of age. All alcoholic beverage containers shipped to the consumer shall
8 be conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE
9 OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".
- 10 (3) At the time of delivery, the recipient of the shipment shall present to the individual
11 delivering the package a valid identification document. Prior to transferring
12 possession of the package, the individual delivering the package shall visually
13 inspect the document and verify the identity of the recipient and, by visual
14 examination or by using age verification technology, that the recipient is at least
15 twenty-one (21) years of age.
- 16 (4) Before transferring possession of the package, the individual delivering the package
17 shall obtain the signature of the recipient of the shipment. The individual who
18 receives and signs for the alcoholic beverages is not required to be the consumer
19 who purchased the alcoholic beverages.
- 20 (5) A consumer who intentionally causes shipment to an address deemed unlawful
21 shall, for the first offense, be guilty of a violation punishable by a fine of two
22 hundred fifty dollars (\$250), and for each subsequent offense, be guilty of a
23 violation punishable by a fine of five hundred dollars (\$500). In this instance, the
24 direct shipper licensee and the common carrier shall be held harmless.
- 25 (6) A direct shipper licensee may not sell or ship alcoholic beverages to a consumer
26 from its licensed premises if the consumer's address is located in an area in which
27 alcoholic beverages may not be sold or received.

1 (7) **Shipments made pursuant to this section shall be made**~~[A direct shipper licensee~~
 2 ~~shall only conduct the shipment of alcoholic beverages to a consumer]~~ through a
 3 common carrier.

4 (8) ~~[A direct shipper licensee may ship alcoholic beverages to a consumer only from~~
 5 ~~the licensed premises described in its direct shipper license application.~~

6 ~~(9)~~ If a common carrier is unable to complete delivery, then the alcoholic beverages
 7 shall be returned to the consignor.

8 ➔Section 3. KRS 241.060 is amended to read as follows:

9 The board shall have the following functions, powers, and duties:

10 (1) To promulgate reasonable administrative regulations governing procedures relative
 11 to the applications for and revocations of licenses, the supervision and control of the
 12 use, manufacture, sale, transportation, storage, advertising, and trafficking of
 13 alcoholic beverages, and all other matters over which the board has jurisdiction.

14 **The only administrative regulation that shall be promulgated in relation to the**
 15 **direct shipper license is to establish the license application, as set forth in**
 16 **subsection (4) of Section 1 of this Act. To the extent any administrative regulation**
 17 **previously promulgated is contrary to the provisions of KRS 13A.120(2), the**
 18 **board shall repeal or amend the administrative regulation as necessary by**
 19 **January 1, 2022.** Administrative regulations need not be uniform in their
 20 application but may vary in accordance with reasonable classifications;

21 (2) To limit in its sound discretion the number of licenses of each kind or class to be
 22 issued in this state or any political subdivision, and restrict the locations of licensed
 23 premises. To this end, the board may make reasonable division and subdivision of
 24 the state or any political subdivision into districts. Administrative regulations
 25 relating to the approval, denial, and revocation of licenses may be different within
 26 the several divisions or subdivisions;

27 (3) To hold hearings in accordance with the provisions of KRS Chapter 13B. The

- 1 department may pay witnesses the per diem and mileage provided in KRS 421.015;
- 2 (4) To conduct hearings and appeals under KRS 241.150, 241.200, 241.260, 243.470,
3 and 243.520 and render final orders upon the subjects of the hearings and appeals;
- 4 (5) To order the destruction of evidence in the department's possession after all
5 administrative and judicial proceedings are conducted;
- 6 (6) To suspend, revoke, or cancel for cause, after a hearing in accordance with KRS
7 Chapter 13B, any license; and
- 8 (7) To prohibit the issuance of a license for the premises until the expiration of two (2)
9 years from the time the offense was committed if a violation of KRS Chapters 241
10 to 244 has taken place on the premises which the owner knew of or should have
11 known of, or was committed or permitted in or on the premises owned by the
12 licensee.

13 ➔Section 4. KRS 243.020 is amended to read as follows:

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

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

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

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

8 ➔Section 5. KRS 243.029 is amended to read as follows:

9 (1) For purposes of this section, "taxes" associated with the purchase of alcoholic
10 beverages includes any applicable:

11 (a) Sales tax;

12 (b) Use tax;

13 (c) Excise tax;

14 (d) Wholesale tax as established~~[equivalent at the rate set out] in KRS 243.884[.~~
15 ~~If a wholesale price is not readily available, the direct shipper licensee shall~~
16 ~~calculate the wholesale cost to be seventy percent (70%) of the retail price of~~
17 ~~the alcoholic beverages];~~

18 (e) Regulatory license fees; and

19 (f) Other assessments.

20 (2) For purposes of this section and for other tax purposes, each sale and delivery of
21 alcoholic beverages under a direct shipper license is a sale occurring at the address
22 of the consumer. For each tax remittance or collected group of tax remittances, the
23 direct shipper licensee shall include its federal tax identification number.

24 (3) A direct shipper licensee that sells alcoholic beverages under its direct shipper
25 license for shipment to a consumer shall charge the consumer all applicable taxes
26 and shall sell the alcoholic beverages with all applicable taxes included in the
27 selling price. The applicable taxes shall be separately identified on the consumer's

1 invoice. The taxes shall be collected by the direct shipper licensee from the
2 consumer.

3 (4) The amount of the taxes to be paid by the direct shipper licensee under this section
4 shall be calculated based on the sale of the alcoholic beverages occurring at the
5 location identified as the consumer's address on the shipping label.

6 (5) For taxes owed by a direct shipper licensee under this section, the direct shipper
7 licensee shall meet the standards of the destination state, including filing a return
8 that contains its license number and federal tax identification number.

9 ➔Section 6. KRS 243.110 is amended to read as follows:

10 (1) Except as provided in subsection (3) of this section, each kind of license listed in
11 KRS 243.030 shall be incompatible with every other kind listed in that section and
12 no person or entity holding a license of any of those kinds shall apply for or hold a
13 license of another kind listed in KRS 243.030.

14 (2) (a) Each kind of license listed in KRS 243.040(1), (3), or (4) shall be
15 incompatible with every other kind listed in KRS 243.040(1), (3), or (4), and
16 no person holding a license of any of those kinds shall apply for or hold a
17 license of any other kind listed in KRS 243.040(1), (3), or (4).

18 (b) A brewery holding a license listed in KRS 243.040(5) or (8) shall not apply
19 for or hold a license listed in KRS 243.040(3) or (4).

20 (3) (a) The holder of a quota retail package license may also hold a quota retail drink
21 license, an NQ1 retail drink license, an NQ2 retail drink license, an NQ3 retail
22 drink license, or a special nonbeverage alcohol license.

23 (b) The holder of a transporter's license may also hold a distilled spirits and wine
24 storage license.

25 (c) The holder of a distiller's license may also hold a rectifier's license, a special
26 nonbeverage alcohol license, a winery license, or a small farm winery license.

27 (d) A commercial airline system or charter flight system retail license, a

1 commercial airline system or charter flight system transporter's license, and a
 2 retail drink license if held by a commercial airline or charter flight system may
 3 be held by the same licensee.

4 (e) A Sunday retail drink license and supplemental license may be held by the
 5 holder of a primary license.

6 (f) The holder of a distiller's, winery, ~~or~~ small farm winery, brewer,
 7 microbrewery, distilled spirits and wine supplier's, or malt beverage
 8 supplier's license may also hold a direct shipper license.

9 (4) Any person may hold two (2) or more licenses of the same kind.

10 (5) A person or entity shall not evade the prohibition against applying for or holding
 11 licenses of two (2) kinds by applying for a second license through or under the name
 12 of a different person or entity. The state administrator shall examine the ownership,
 13 membership, and management of applicants, and shall deny the application for a
 14 license if the applicant is substantially interested in a person or entity that holds an
 15 incompatible license.

16 ➔Section 7. KRS 243.220 is amended to read as follows:

17 No license shall be issued for any premises unless the applicant for the license is the
 18 owner of the premises or is in possession of the premises under a written agreement or a
 19 permit for a term of not less than the license period. **A direct shipper license applicant**
 20 **shall be exempt from the requirements of this section, and shall instead follow the**
 21 **requirements as set forth in Section 1 of this Act.**

22 ➔Section 8. KRS 243.380 is amended to read as follows:

23 (1) Applications for distilled spirit and wine licenses shall be made to the distilled
 24 spirits administrator. Applications for malt beverage licenses shall be made to the
 25 malt beverages administrator. Applications for distilled spirits, wine, and malt
 26 beverage licenses shall be made to the distilled spirits administrator and to the malt
 27 beverages administrator.

1 (2) All applications shall be on forms furnished by the department. They shall be
2 verified and shall set forth in detail all information concerning the applicant and the
3 premises submitted for licensing as the board requires through the promulgation of
4 an administrative regulation. Each application shall be accompanied by payment.
5 Payment of the license fee may be by certified check, a postal or express money
6 order, or any other method of payment approved in writing by both the Finance and
7 Administration Cabinet and the Office of the State Treasurer. Promptly upon receipt
8 of the payment the board shall pay it into the State Treasury, giving the Department
9 of Revenue copies of the pay-in vouchers and any other supporting data as the
10 Department of Revenue requires for revenue control purposes.

11 (3) (a) A business entity that owns more than two (2) licensed premises may initially
12 submit common information about ownership, officers, directors, managerial
13 employees, and shall provide current criminal background checks once for all
14 separately licensed premises in one (1) master file.

15 (b) Any business qualifying under this subsection shall only be required to amend
16 its master file information for material changes under KRS 243.390(2) or
17 ownership transfers under KRS 243.630.

18 (c) *A direct shipper license applicant shall be exempt from the requirements of*
19 *this subsection and shall instead meet the requirements for its license type*
20 *as set forth in Section 1 of this Act.*

21 ➔Section 9. KRS 243.390 is amended to read as follows:

22 (1) The board may require through the promulgation of an administrative regulation
23 that license applications contain the following information, given under oath:

24 (a) The name, age, Social Security number, address, residence, and citizenship of
25 each applicant;

26 (b) If the applicant is a partner, the name, age, Social Security number, address,
27 residence, and citizenship of each partner and the name and address of the

1 partnership;

2 (c) The name, age, Social Security number, address, residence, and citizenship of
3 each individual or partner interested in the business for which the license is
4 sought, together with the nature of that interest, and, if the applicant is a
5 corporation, limited partnership company, limited liability company, or other
6 business entity recognized by law, the name, age, Social Security number, and
7 address of each principal owner, member, officer, and director of the
8 applicant. The department may require the names of all owners and the
9 ownership percentage held by each;

10 (d) The premises to be licensed, stating the street and number, if the premises has
11 a street number, and a description that will reasonably indicate the location of
12 the premises;

13 (e) 1. A statement that neither the applicant nor any other person referred to in
14 this section has been convicted of:

15 a. Any misdemeanor directly or indirectly attributable to alcoholic
16 beverages;

17 b. Any violation involving a controlled substance that is described in
18 or classified pursuant to KRS Chapter 218A within the two (2)
19 years immediately preceding the application;

20 c. Any felony, within five (5) years from the later of the date of
21 parole or the date of conviction; or

22 d. Providing false information to the department preceding the
23 application; and

24 2. A statement that the applicant or any other person referred to in this
25 section has not had any license that has been issued under any alcoholic
26 beverage statute revoked for cause within two (2) years prior to the date
27 of the application;

- 1 (f) A statement that the applicant will in good faith abide by every state and local
2 statute, regulation, and ordinance relating to the manufacture, sale, use of, and
3 trafficking in alcoholic beverages; and
- 4 (g) Any other information necessary for the department to administer KRS
5 Chapters 241 to 244.
- 6 (2) If, after a license has been issued, there is a change in any of the facts required to be
7 set forth in the application, a verified supplemental statement in writing giving
8 notice of the change shall be filed with the department within ten (10) days after the
9 change.
- 10 (3) In giving any notice or taking any action in reference to a license, the department
11 may rely upon the information furnished in the application or in the supplemental
12 statement connected with the application. This information, as against the licensee
13 or applicant, shall be conclusively presumed to be correct. The information required
14 to be furnished in the application or supplemental statement shall be deemed
15 material in any prosecution for perjury.
- 16 **(4) A direct shipper license applicant shall be exempt from the requirements of this**
17 **section and shall instead meet the requirements for its license type as set forth in**
18 **Section 1 of this Act.**
- 19 ➔Section 10. KRS 243.450 is amended to read as follows:
- 20 (1) A license shall be denied:
- 21 (a) If the applicant or the premises for which the license is sought does not
22 comply fully with all alcoholic beverage control statutes and the
23 administrative regulations of the board;
- 24 (b) If the applicant has not obtained approval from the local ABC administrator
25 for a county or city license required at the proposed premises;
- 26 (c) If the applicant has done any act for which a revocation of license would be
27 authorized; or

- 1 (d) If the applicant has made any false material statement in its application.
- 2 (2) A license may be denied by a state administrator for any reason that the
3 administrator, in the exercise of the administrator's sound discretion, deems
4 sufficient. Among those factors that the administrator shall consider in the exercise
5 of this discretion are:
- 6 (a) Public sentiment in the area;
- 7 (b) Number of licensed outlets in the area;
- 8 (c) Potential for future growth;
- 9 (d) Type of area involved;
- 10 (e) Type of transportation available;
- 11 (f) Financial potential of the area; and
- 12 (g) Applicant's status as a delinquent taxpayer as defined in KRS 131.1815.

13 **(3) A direct shipper license applicant shall be exempt from the requirements of this**
14 **section and shall instead meet the requirements for its license type as set forth in**
15 **Section 1 of this Act.**

16 ➔Section 11. KRS 243.790 is amended to read as follows:

17 The sale or distribution of alcoholic beverages manufactured in or imported into this state
18 for shipment permanently out of the state to be sold ~~[through retail outlets]~~ without the
19 state and consumed without the state shall not be subject to the tax imposed by KRS
20 243.720. Provided, however, the Department of Revenue may, when necessary for the
21 purpose of control enforcement or protection of revenue, prescribe the conditions under
22 which containers of such alcoholic beverages for shipment permanently out of the state to
23 be sold ~~[through retail outlets]~~ without the state and consumed without the state may be
24 kept and trafficked in without payment of the tax.

25 ➔Section 12. KRS 243.0305 is amended to read as follows:

26 (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that
27 has authorized the limited sale of alcoholic beverages at distilleries under KRS

1 242.1243 and that has a gift shop or other retail outlet on its premises may conduct
2 the activities permitted under this section as a part of its distiller's license.

3 (2) (a) For purposes of all retail drink and package sales that occur pursuant to
4 subsection (3), (8), or (9) of this section, the distillery shall:

5 1. Be permitted to transfer its products from the distillery proper to the
6 location where those sales occur without having to transfer physical
7 possession of those distilled spirits to a licensed wholesaler; and

8 2. Effective January 1, 2022, without otherwise reporting those distilled
9 spirits to a licensed wholesaler, report and pay all taxes required to the
10 Department of Revenue at the time and in the manner required by the
11 Department of Revenue in accordance with its powers under KRS
12 131.130(3).

13 (b) 1. Effective January 1, 2022, a distiller selling distilled spirits in
14 accordance with this subsection shall pay all wholesale sales taxes due
15 under Section 13 of this Act. For the purposes of this subsection,
16 "wholesale sales" means a sale of distilled spirits made by a distiller
17 under subsection (3)(b), (8), and (9) of this section, if required by
18 Section 13 of this Act.

19 2. Effective January 1, 2022, a distiller shall pay the excise tax on
20 distilled spirits in accordance with KRS 243.720 and 243.730.

21 (c) All other distilled spirits that are produced by the distillery shall be sold and
22 physically transferred in compliance with all other relevant provisions of
23 KRS Chapters 241 to 244 ~~under this section, a wholesaler registered to~~
24 ~~distribute the brands of any distiller shall permit the distiller to transfer its~~
25 ~~products directly from the distillery proper to any portion of the distillery~~
26 ~~premises. However, for purposes of all retail drink and package sales by~~
27 ~~distillers under subsections (3), (8), and (9) of this section, all of these~~

1 ~~transfers shall be invoiced from the distiller to the wholesaler and from the~~
2 ~~wholesaler to the distiller, and all of these transferred products shall be~~
3 ~~included in the wholesaler's inventory and depletions for purposes of tax~~
4 ~~collections imposed pursuant to KRS 243.710 to 243.895 and 243.990].~~

- 5 (3) A distiller may sell souvenir packages at retail:
- 6 (a) To consumers in accordance with KRS 243.027 to 243.029 if it holds a direct
7 shipper license; and
- 8 (b) To distillery visitors of legal drinking age, in quantities not to exceed an
9 aggregate of four and one-half (4-1/2) liters per purchaser per day for sales
10 prior to January 1, 2021, and in quantities not to exceed an aggregate of nine
11 (9) liters per purchaser per day on and after January 1, 2021.
- 12 (4) Hours of sale for souvenir packages sold to distillery visitors at retail shall be in
13 conformity with KRS 244.290(3).
- 14 (5) Except as provided in this section, souvenir package sales to distillery visitors shall
15 be governed by all the statutes and administrative regulations governing the retail
16 sale of distilled spirits by the package.
- 17 (6) **Souvenir packages sold to distillery visitors under section (3)(b) of this section**
18 **shall be registered with the department pursuant to KRS 244.440 and made**
19 **available to a Kentucky licensed wholesaler.**~~[No wholesaler may restrict the sale~~
20 ~~of souvenir packages to the distiller of origin exclusively, but shall make souvenir~~
21 ~~packages available to any Kentucky retail licensee licensed for the sale of distilled~~
22 ~~spirits by the package.]~~
- 23 (7) Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding
24 a sampling license may allow visitors to sample distilled spirits under the following
25 conditions:
- 26 (a) Sampling shall be permitted only on the licensed premises during regular
27 business hours;

- 1 (b) A distillery shall not charge for the samples; and
- 2 (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces
- 3 of samples per visitor per day.
- 4 (8) Notwithstanding the provisions of KRS 243.110, in accordance with this section, a
- 5 distillery located in wet territory or in any territory that has authorized the limited
- 6 sale of alcoholic beverages under an election held pursuant to KRS 242.1243 may:
- 7 (a) Hold an NQ2 retail drink license for the sale of alcoholic beverages on the
- 8 distillery premises; and
- 9 (b) Employ persons to engage in the sale or service of alcohol under an NQ2
- 10 license, if each employee completes the department's Server Training in
- 11 Alcohol Regulations program within thirty (30) days of beginning
- 12 employment.
- 13 (9) A distiller may sell to consumers at fairs, festivals, and other similar types of events
- 14 located in wet territory alcoholic beverages by the drink, containing spirits distilled
- 15 or bottled on the premises of the distillery.
- 16 (10) A distiller may offer for sale in its gift shop products that were produced in
- 17 collaboration with a brewer or microbrewer except that:
- 18 (a) These packages shall not be exclusive to the distiller's gift shop; and
- 19 (b) The distiller shall purchase the jointly branded souvenir package only from a
- 20 licensed malt beverage distributor.
- 21 (11) Except as expressly stated in this section, this section does not exempt the holder of
- 22 a distiller's license from:
- 23 (a) The provisions of KRS Chapters 241 to 244;
- 24 (b) The administrative regulations of the board; and
- 25 (c) Regulation by the board at all the distiller's licensed premises.
- 26 (12) Nothing in this section shall be construed to vitiate the policy of this
- 27 Commonwealth supporting an orderly three (3) tier system for the production and

1 sale of alcoholic beverages.

2 ➔Section 13. KRS 243.884 is amended to read as follows:

- 3 (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer,
4 wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine
5 and distilled spirits, all distributors of beer, *all direct shipper licensees*
6 *shipping alcohol to a consumer at a Kentucky address, all distillers making*
7 *sales pursuant to subsections (3)(b), (8), and (9) of Section 12 of this Act,*
8 and all microbreweries selling malt beverages under KRS 243.157.
- 9 (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent
10 (11%) of the gross receipts of any such wholesaler or distributor derived from
11 "sales at wholesale" or "wholesale sales" made within the Commonwealth,
12 except as provided in subsection (3) of this section. For the purposes of this
13 section, the gross receipts of a microbrewery making "wholesale sales" shall
14 be calculated by determining the dollar value amount that the microbrewer
15 would have collected had it conveyed to a distributor the same volume sold to
16 a consumer as allowed under KRS 243.157 (3)(b) and (c).
- 17 (c) On and after July 1, 2015, the following rates shall apply:
- 18 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at
19 wholesale; and
- 20 2. For wine and beer:
- 21 a. Ten and three-quarters of one percent (10.75%) for wholesale sales
22 or sales at wholesale made on or after July 1, 2015, and before
23 June 1, 2016;
- 24 b. Ten and one-half of one percent (10.5%) for wholesale sales or
25 sales at wholesale made on or after June 1, 2016, and before June
26 1, 2017;
- 27 c. Ten and one-quarter of one percent (10.25%) for wholesale sales

1 or sales at wholesale made on or after June 1, 2017, and before
2 June 1, 2018; and

3 d. Ten percent (10%) for wholesale sales or sales at wholesale made
4 on or after June 1, 2018.

5 **(d) On and after the effective date of this Act, the following rates shall apply for**
6 **direct shipper sales:**

7 **1. For distilled spirits shipments, eleven percent (11%) for wholesale**
8 **sales or sales at wholesale; and**

9 **2. For wine and beer shipments, ten percent (10%) for wholesale sales or**
10 **sales at wholesale.**

11 **(e) For direct shipper sales, if a wholesale price is not readily available, the**
12 **direct shipper licensee shall calculate the wholesale price to be seventy**
13 **percent (70%) of the retail price of the alcoholic beverages.**

14 (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, ~~and~~
15 ~~microbreweries,~~ **distillers, and direct shipper licensees** shall pay and report the tax
16 levied by this section on or before the twentieth day of the calendar month next
17 succeeding the month in which possession or title of the distilled spirits, wine, or
18 malt beverages is transferred from the wholesaler or distributor to retailers, or by
19 microbreweries, **distillers, or direct shipper licensees** to consumers in this state, in
20 accordance with rules and regulations of the Department of Revenue designed
21 reasonably to protect the revenues of the Commonwealth.

22 (3) Gross receipts from sales at wholesale or wholesale sales shall not include the
23 following sales:

24 (a) Sales made between wholesalers or between distributors;~~and~~

25 (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a
26 small farm winery in a calendar year made by:

27 1. The small farm winery; or

- 1 2. A wholesaler of that wine produced by the small farm winery; **and**
2 **(c) Sales made between a direct shipper licensee and a consumer located**
3 **outside of Kentucky.**

4 ➔Section 14. KRS 244.220 is amended to read as follows:

5 The prohibitions, restrictions and regulations relating to special licenses shall be those
6 which the board may by its regulations and in the exercise of its sound discretion
7 prescribe. **For purposes of this section, a special license shall be one that is not set**
8 **forth in KRS Chapters 241 to 244.**

9 ➔Section 15. KRS 241.010 is amended to read as follows:

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

- 11 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
12 whatever source or by whatever process it is produced;
- 13 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether
14 patented or not, containing alcohol in an amount in excess of more than one percent
15 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every
16 spurious or imitation liquor sold as, or under any name commonly used for,
17 alcoholic beverages, whether containing any alcohol or not. It does not include the
18 following products:
- 19 (a) Medicinal preparations manufactured in accordance with formulas prescribed
20 by the United States Pharmacopoeia, National Formulary, or the American
21 Institute of Homeopathy;
- 22 (b) Patented, patent, and proprietary medicines;
- 23 (c) Toilet, medicinal, and antiseptic preparations and solutions;
- 24 (d) Flavoring extracts and syrups;
- 25 (e) Denatured alcohol or denatured rum;
- 26 (f) Vinegar and preserved sweet cider;
- 27 (g) Wine for sacramental purposes; and

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

1 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
2 and storerooms connected with the premises; or where any part of the process of the
3 manufacture of malt beverages is carried on; or where any apparatus connected with
4 manufacture is kept or used; or where any of the products of brewing or
5 fermentation are stored or kept;

6 (10) "Building containing licensed premises" means the licensed premises themselves
7 and includes the land, tract of land, or parking lot in which the premises are
8 contained, and any part of any building connected by direct access or by an entrance
9 which is under the ownership or control of the licensee by lease holdings or
10 ownership;

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

16 (12) "Charitable organization" means a nonprofit entity recognized as exempt from
17 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.
18 501(c)) or any organization having been established and continuously operating
19 within the Commonwealth of Kentucky for charitable purposes for three (3) years
20 and which expends at least sixty percent (60%) of its gross revenue exclusively for
21 religious, educational, literary, civic, fraternal, or patriotic purposes;

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

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

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

27 (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10)

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

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

- 1 forms of retail alcohol sales through a local option election held under KRS Chapter
2 242;
- 3 (30) "Election" means:
- 4 (a) An election held for the purpose of taking the sense of the people as to the
5 application or discontinuance of alcoholic beverage sales under KRS Chapter
6 242; or
- 7 (b) Any other election not pertaining to alcohol;
- 8 (31) "Horse racetrack" means a facility licensed to conduct a horse race meeting under
9 KRS Chapter 230;
- 10 (32) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public,
11 designed primarily to serve transient patrons;
- 12 (33) "Investigator" means any employee or agent of the department who is regularly
13 employed and whose primary function is to travel from place to place for the
14 purpose of visiting licensees, and any employee or agent of the department who is
15 assigned, temporarily or permanently, by the commissioner to duty outside the main
16 office of the department at Frankfort, in connection with the administration of
17 alcoholic beverage statutes;
- 18 (34) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- 19 (35) "Licensee" means any person to whom a license has been issued, pursuant to KRS
20 Chapters 241 to 244;
- 21 (36) "Limited restaurant" means:
- 22 (a) A facility where the usual and customary business is the preparation and
23 serving of meals to consumers, which has a bona fide kitchen facility, which
24 receives at least seventy percent (70%) of its food and alcoholic beverage
25 receipts from the sale of food, which maintains a minimum seating capacity of
26 fifty (50) persons for dining, which has no open bar, which requires that
27 alcoholic beverages be sold in conjunction with the sale of a meal, and which

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

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

8 (45) "Primary source of supply" or "supplier" means the distiller, winery, brewer,
9 producer, owner of the commodity at the time it becomes a marketable product,
10 bottler, or authorized agent of the brand owner. In the case of imported products, the
11 primary source of supply means either the foreign producer, owner, bottler, or agent
12 of the prime importer from, or the exclusive agent in, the United States of the
13 foreign distiller, producer, bottler, or owner;

14 (46) "Private club" means a nonprofit social, fraternal, military, or political organization,
15 club, or nonprofit or for-profit entity maintaining or operating a club room, club
16 rooms, or premises from which the general public is excluded;

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

21 (48) "Qualified historic site" means:

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

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

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

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

- 1 main bar;
- 2 (64) "Territory" means a county, city, district, or precinct;
- 3 (65) "Urban-county administrator" means an urban-county alcoholic beverage control
4 administrator;
- 5 (66) "Valid identification document" means an unexpired, government-issued form of
6 identification that contains the photograph and date of birth of the individual to
7 whom it is issued;
- 8 (67) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise
9 move alcoholic beverages or any products, equipment, or appurtenances used to
10 manufacture, bottle, or sell these beverages;
- 11 (68) "Vintage distilled spirit" means a package or packages of distilled spirits that:
- 12 (a) Are in their original manufacturer's unopened container;
- 13 (b) Are not owned by a distillery; and
- 14 (c) Are not otherwise available for purchase from a licensed wholesaler within
15 the Commonwealth;
- 16 (69) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- 17 (70) "Weak cider" means any fermented fruit-based beverage containing more than one
18 percent (1%) but less than seven percent (7%) alcohol by volume;
- 19 (71) "Wet" means a territory in which a majority of the electorate voted to permit all
20 forms of retail alcohol sales by a local option election under KRS 242.050 or
21 242.125 on the following question: "Are you in favor of the sale of alcoholic
22 beverages in (name of territory)?";
- 23 (72) "Wholesale sale" means a sale to any person for the purpose of resale;
- 24 (73) "Wholesaler" means any person who distributes alcoholic beverages for the purpose
25 of being sold at retail, but it shall not include a subsidiary of a manufacturer or
26 cooperative of a retail outlet;
- 27 (74) "Wine" means the product of the normal alcoholic fermentation of the juices of

1 fruits, with the usual processes of manufacture and normal additions, and includes
2 champagne and sparkling and fortified wine of an alcoholic content not to exceed
3 twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry
4 cider and also includes preparations or mixtures vended in retail containers if these
5 preparations or mixtures contain not more than fifteen percent (15%) of alcohol by
6 volume. It does not include weak cider; and

7 (75) "Winery" means any place or premises in which wine is manufactured from any
8 fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are
9 compounded, except a place or premises that manufactures wine for sacramental
10 purposes exclusively.

11 ➔Section 16. KRS 243.120 is amended to read as follows:

12 (1) A distiller's, rectifier's, or winery license shall authorize the licensee to engage in
13 the business of distiller, rectifier, or winery at the premises specifically designated
14 in the license, to maintain aging warehouses, and to transport for himself or herself
15 only any alcoholic beverage which he or she is authorized under the license to
16 manufacture or sell. The licensee shall transport alcoholic beverages only by a
17 vehicle operated by himself or herself, which has affixed to its sides at all times a
18 sign of form and size prescribed by the state board, containing among other things
19 the name and license number of the licensee. ~~[- No distilled spirits or wine shall be
20 transported on the same truck or vehicle with malt beverages, except by a common
21 carrier, unless the owner of the truck or vehicle holds a distributor's license.]~~

22 (2) (a) The manufacture of distilled spirits at the distillery shall not be less than six
23 hundred (600) gallons in one (1) year.

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

27 (c) Distillers that produce fifty thousand (50,000) gallons or less of distilled

1 spirits per calendar year at the premises shall obtain a distiller's license, Class
2 B (craft distillery).

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

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

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

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

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

18 (5) Nothing in this section shall be construed to:

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

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

22 ➔Section 17. KRS 243.130 is amended to read as follows:

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

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

27 (b) By rectifiers to wineries or to distillers if distilled spirits sold to distillers are

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

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

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

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

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

9 ➔Section 18. KRS 243.886 is amended to read as follows:

10 To reimburse himself for the cost of collecting and reporting the tax, each person required
11 to pay and report the tax levied by KRS 243.884, other than a microbrewery or a distiller,
12 shall deduct on each report one percent (1%) of the tax due, provided the amount due is
13 not delinquent at the time of payment. A microbrewery or distiller that reports and pays
14 the wholesale sales tax levied by KRS 243.884, in accordance with KRS 243.157 or
15 Section 12 of this Act as applicable, shall not be entitled to deduct one percent (1%) of
16 the tax due.

17 ➔Section 19. KRS 243.100 is amended to read as follows:

18 An individual shall not become a licensee if the individual:

19 (1) (a) Has been convicted of any felony until five (5) years have passed from the
20 date of conviction, release from custody or incarceration, parole, or
21 termination of probation, whichever is later;

22 (b) Has been convicted of any misdemeanor involving a controlled substance that
23 is described in or classified pursuant to KRS Chapter 218A in the two (2)
24 years immediately preceding the application;

25 (c) Has been convicted of any misdemeanor directly or indirectly attributable to
26 the use of alcoholic beverages in the two (2) years immediately preceding the
27 application;

- 1 (d) Is under the age of twenty-one (21) years; or
- 2 (e) Has had any license relating to the regulation of the manufacture, sale, and
- 3 transportation of alcoholic beverages revoked for cause or has been convicted
- 4 of a violation of any statute within KRS Chapters 241 to 244, until the
- 5 expiration of two (2) years from the date of the revocation or conviction.
- 6 (2) A partnership, limited partnership, limited liability company, corporation,
- 7 governmental agency, or other business entity recognized by law shall not be
- 8 licensed if:
- 9 (a) Each principal owner, partner, member, officer, and director does not qualify
- 10 under subsection (1)(a), (b), (c), (d), and (e) of this section;
- 11 (b) It has had any license relating to the regulation of the manufacture, sale, and
- 12 transportation of alcoholic beverages revoked for cause or has been convicted
- 13 of a violation of any statute within KRS Chapters 241 to 244, until the
- 14 expiration of two (2) years from the date of the revocation or conviction; or
- 15 (c) Any principal owner, partner, member, officer, or director, or any business
- 16 entity in which they were directly or indirectly interested, has had any license
- 17 revoked for cause or has been convicted of a violation of any statute within
- 18 KRS Chapters 241 to 244, until the expiration of the later of two (2) years
- 19 from the date of the revocation or two (2) years from the date of conviction.
- 20 (3) The provisions of subsection (1)(a) and (b) shall apply to anyone applying for a new
- 21 license under this chapter after July 15, 1998, but shall not apply to those who
- 22 renew a license that was originally issued prior to July 15, 1998, or an application
- 23 for a supplemental license where the original license was issued prior to July 15,
- 24 1998.
- 25 (4) A person shall not evade license disqualification by applying for a license through
- 26 or under the name of a different person. The state administrators shall examine the
- 27 ownership, membership, and management of all license applicants, and shall deny

1 the application if a disqualified person has a direct or indirect interest in the
 2 applicant's business. The department may issue administrative subpoenas and
 3 summonses to determine ownership of an applicant or to investigate alleged
 4 violations by a licensee.

5 **(5) A direct shipper license applicant shall be exempt from the requirements of this**
 6 **section, and shall instead follow the requirements set forth in Section 1 of this**
 7 **Act.**

8 ➔Section 20. KRS 243.240 is amended to read as follows:

- 9 (1) A quota retail package license shall authorize the licensee to:
- 10 (a) Purchase, receive, possess, and sell distilled spirits and wine at retail in
 11 unbroken packages only, and only for consumption off the licensed premises;
 12 and
- 13 (b) Deliver to the consumer, at the consumer's request, alcoholic beverages that
 14 are purchased from the licensed premises, in quantities not to exceed four and
 15 one-half (4 1/2) liters of distilled spirits and four (4) cases of wine per
 16 consumer per day for sales prior to January 1, 2021, and in quantities not to
 17 exceed an aggregate of nine (9) liters of distilled spirits and four (4) cases of
 18 wine per consumer per day on and after January 1, 2021.
- 19 (2) The licensee shall purchase distilled spirits and wine in retail packages only and
 20 only from:
- 21 (a) Licensed wholesalers;~~[-or]~~
- 22 (b) Those licensees authorized to sell distilled spirits and wine by the package at
 23 retail, but only if the distilled spirits and wine have first gone through the
 24 three (3) tier system; **or**
- 25 **(c) From a distillery souvenir gift shop.**

26 ➔Section 21. Whereas the need for adequate and appropriate licensing, taxation,
 27 and regulation of direct shipments of alcohol into the state is of the utmost importance,

1 and whereas licensees may find themselves subject to discipline if these issues are not
2 addressed immediately, an emergency is declared to exist and this Act shall take effect
3 upon its passage and approval by the Governor or upon its otherwise becoming a law.