

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2022 REGULAR SESSION
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Amend printed copy of **HB 500/HCS 1**

On page 12, line 10, to page 13, line 5, delete the text in its entirety and insert the following in lieu thereof:

"(72) (a) "Vintage distilled spirits seller" means a non-licensed person at least twenty-one

(21) years of age who is:

- 1. An administrator, executor, receiver, or other fiduciary who receives and sells vintage distilled spirits in execution of the person's fiduciary capacity;**
- 2. A creditor who receives or takes possession of vintage distilled spirits as security for, or in payment of, debt, in whole or in part;**
- 3. A public officer or court official who levies on vintage distilled spirits under order or process of any court or magistrate to sell the vintage distilled spirits in satisfaction of the order or process; or**
- 4. Any other person not engaged in the business of selling alcoholic beverages.**

(b) "Vintage distilled spirits seller" does not mean:

- 1. A person selling alcoholic beverages as part of an approved KRS 243.630 transfer; or**
- 2. A person selling alcoholic beverages as authorized by KRS 243.540;**

~~(73)~~~~(69)~~ "Warehouse" means any place in which alcoholic beverages are housed or stored;

~~(74)~~~~(70)~~ "Weak cider" means any fermented fruit-based beverage containing more than one

Amendment No. HFA

Rep. Rep. Chad McCoy

Committee Amendment _____

Floor Amendment _____

Adopted: _____

Rejected: _____

Signed: _____

LRC Drafter: _____

Date: _____

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

~~(75)~~~~(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)?";

~~(76)~~~~(72)~~ "Wholesale sale" means a sale to any person for the purpose of resale;

~~(77)~~~~(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;

~~(78)~~~~(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

~~(79)~~~~(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.";
and

On page 13, delete lines 12 to 20 in their entirety and insert the following in lieu thereof:

"(2) The limited nonquota package license shall authorize the licensee to:

(a) Purchase private selection packages in the original manufacturer's unopened containers; and

(b) Sell private selection packages at retail in the original manufacturer's unopened

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containers, and only for consumption off the licensed premises.

(3) The licensee shall purchase private selection packages in accordance with subsection (4) of Section 6 of this Act."; and

On page 20, line 24, to page 21, line 17, delete the text in its entirety and insert the following in lieu thereof:

"(2) (a) For purposes of all retail drink and package sales that occur pursuant to subsection (3), (4), (7), (8), or (9), (10), or (12) of this section, the distillery shall:

1. Be permitted to transfer its products from the distillery proper to the location where those **retail** sales occur without having to transfer physical possession of those distilled spirits to a licensed wholesaler; and
2. ~~Effective January 1, 2022,~~ Without otherwise reporting those distilled spirits to a licensed wholesaler, report **those retail sales** and pay all taxes required to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its powers under KRS 131.130(3).

(b) 1. ~~Effective January 1, 2022,~~ A distiller selling distilled spirits in accordance with this subsection shall pay all wholesale sales taxes due under KRS 243.884. For the purposes of this subsection, "wholesale sales" means a sale of distilled spirits made by a distiller under subsection (3)(b), (4), (7), (8), and (9), (10), and (12) of this section, if required by KRS 243.884, **excluding sales made by a distiller under subsection (4)(a)3. and (b) of this section that utilize a licensed wholesaler.**

2. ~~Effective January 1, 2022,~~ A distiller shall pay the excise tax on distilled spirits in accordance with KRS 243.720 and 243.730."; and

On page 21, line 18, delete "(b)" and remove the brackets and strikethrough from "~~(c)~~"; and

On page 22, between lines 21 and 22, insert the following:

"(c) A distillery shall make available for purchase not less than seventy percent (70%) of its annual private selection packages to licensed wholesalers and shall maintain records of such transactions in accordance with KRS 244.150."; and

On page 22, line 22, delete "**(c)**" and insert "**(d)**" in lieu thereof; and

On page 23, delete lines 6 to 9 in their entirety and insert the following in lieu thereof:

"(7)(6) Souvenir packages sold to distillery visitors under subsection (3)(b) of this section, which are not made available to wholesalers licensed in Kentucky or elsewhere, shall be registered by the licensed distiller with the department and shall be sold exclusively to in-person distillery visitors in quantities not to exceed three (3) liters per person per day [pursuant to KRS 244.440 and made available to a Kentucky licensed wholesaler].";
and

On page 24, line 19, delete "**conducts retail activities**" and insert in lieu thereof "**sells souvenir packages and serves complimentary samples**"; and

On page 27, between lines 2 and 3, insert the following:

"(4) A vintage distilled spirits seller shall sell no more than twenty-four (24) vintage distilled spirits packages in any given twelve (12) month period.

(5) Prior to selling vintage distilled spirits purchased from a vintage distilled spirits seller to a consumer, a licensee shall provide notice of its purchase of the spirits to the department. The notice shall contain the following information:

(a) The name, address, state license number, and phone number of the licensee purchasing vintage distilled spirits;

(b) The name, address, and phone number of the vintage distilled spirits seller;

(c) The brand name and quantity of each vintage distilled spirits package purchased;

(d) The date of the purchase; and

(e) The number of packages that the licensee has previously purchased from the same vintage distilled spirits seller and the dates of those purchases."; and

On page 27, delete lines 3 to 23 in their entirety and insert the following in lieu thereof:

"➔Section 9. KRS 243.240 is amended to read as follows:

- (1) A quota retail package license shall authorize the licensee to:
 - (a) Purchase, receive, possess, and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises;~~and~~
 - (b) Deliver to the consumer, at the consumer's request, alcoholic beverages that are purchased from the licensed premises, in quantities not to exceed four and one-half (4 1/2) liters of distilled spirits and four (4) cases of wine per consumer per day for sales prior to January 1, 2021, and in quantities not to exceed an aggregate of nine (9) liters of distilled spirits and four (4) cases of wine per consumer per day on and after January 1, 2021; **and**
- (c) 1. Sell distilled spirits and wine in unbroken packages only at fairs and festivals held in wet territory if the fair or festival is located in the same county as the quota retail package license holder's licensed premises; and**
- 2. Notwithstanding KRS 243.0307, sell and provide samples of distilled spirits and wine at fairs and festivals held in wet territory if the fair or festival is located in the same county as the quota retail package license holder's licensed premises.**
- (2) The licensee shall purchase distilled spirits and wine in retail packages only and only from:
 - (a) Licensed wholesalers;
 - (b) Those licensees authorized to sell distilled spirits and wine by the package at retail, but only if the distilled spirits and wine have first gone through the three (3) tier system; or

(c) From a distillery souvenir gift shop.

(3) The restrictions and permissions for sales to quota retail package licensees and to consumers that are authorized under subsection (4) of Section 6 of this Act shall supersede any conflicting provisions of this section."; and

On page 28, line 20, after "**(4)(c)**," insert "**(Z)**"; and

On page 29, delete lines 25 to 26 in their entirety and insert the following in lieu thereof:

"(e) For direct shipper sales **or sales made pursuant to Section 6 of this Act**, if a wholesale price is not readily available, the direct shipper licensee **or distillery** shall calculate the wholesale price to be seventy percent".