

1 AN ACT relating to minimum security requirements at retail establishments
2 licensed to sell alcohol for on-premises consumption.

3 WHEREAS, it is the intent of the General Assembly to ensure the physical safety of
4 all patrons of retail businesses licensed to sell on-premises consumption of alcoholic
5 beverages; and

6 WHEREAS, the General Assembly recognizes the important role bouncers play in
7 maintaining the peace on the premises of these businesses, while also recognizing that
8 bouncers are placed in a position of authority over patrons on the premises; and

9 WHEREAS, patrons are entitled to their personal physical safety when on the
10 premises of these businesses including in all their interactions with that business's
11 bouncer; and

12 WHEREAS, it is the duty of these businesses to implement responsible hiring
13 practices when filling a bouncer position; and

14 WHEREAS, it is in the interest and safety of all patrons that individuals employed
15 as bouncers receive training on topics intrinsic to safe conflict de-escalation; and

16 WHEREAS, it is the duty of the bouncer to use effective interpersonal
17 communication skills when interacting with patrons and employ safe conflict de-
18 escalation techniques when necessary; and

19 WHEREAS, it is the responsibility of the Commonwealth to regulate bouncer
20 conduct by developing and implementing a standardized bouncer application, a bouncer
21 training and certification program, and a bouncer incident report log;

22 NOW, THEREFORE,

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

24 ➔Section 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
25 READ AS FOLLOWS:

26 ***As used in Sections 1 to 5 of this Act:***

27 ***(1) "Bouncer" means a person employed by a business where the person acts with***

1 the purpose of keeping the peace on the premises of the business, screening
2 potential customers for suitable attire or clothing, or screening potential
3 customers for legal drinking age status. "Bouncer" does not include a person
4 employed as a security guard at a theater, arena, stadium, or other place where
5 public exhibitions, games, contests, and performances are held;

6 (2) "Business" means a retail business licensed to sell alcohol for on-premises
7 consumption;

8 (3) "Business's agent" means an employee of the business whose duties are not
9 those of the bouncer;

10 (4) "Criminal history" means an individual's convictions for a qualifying offense
11 maintained by the Justice and Public Safety Cabinet;

12 (5) "Employer" means a person, business, corporation, partnership, or other private
13 entity using an off-duty law enforcement officer as a bouncer;

14 (6) "Law enforcement officer" means a member of a lawfully organized police unit
15 or police force of county, city, or metropolitan government who is responsible for
16 the detection of crime and the enforcement of the general criminal laws of the
17 state, as well as sheriffs, sworn deputy sheriffs, campus police officers, law
18 enforcement support personnel, public airport authority security officers, other
19 public peace officers responsible for law enforcement, state troopers, and special
20 local peace officers licensed pursuant to KRS 61.360; and

21 (7) "Qualifying offense" means a capital offense, a Class A felony, or a Class B
22 felony resulting in the death or serious physical injury of another person.

23 ➔Section 2. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) The Department of Alcoholic Beverage Control shall prepare and disseminate
26 information to advise businesses licensed to sell alcohol for on-premises
27 consumption to use the standardized bouncer application and the bouncer

1 training and certification program.

2 (2) The department shall develop and make publicly available the standardized
3 bouncer application, including:

4 (a) Optional disclosure of an applicant's criminal history relating to a
5 qualifying offense;

6 (b) Prior work experience as a bouncer; and

7 (c) Any previous workplace incidents involving the applicant employed as a
8 bouncer and relating to the serious physical injury of a patron during the
9 applicant's performance of bouncer duties.

10 (3) The department shall develop and establish minimum criteria for a bouncer
11 training program operated by schools and trade associations whose members are
12 engaged in or involved in the retail sale of alcoholic beverages for on-premises
13 consumption. The training program shall also include a separate curriculum for
14 law enforcement officers to teach the differences between enforcement authority
15 when working as an agent of a municipality, jurisdiction, the Commonwealth or
16 subdivision thereof and authority when working as a bouncer for a private
17 employer. The training program shall be offered to the public, at minimum, six
18 (6) times per calendar year, beginning January 1, 2023.

19 (4) The department shall issue certificates of approval to operate bouncer training
20 programs.

21 (a) Certificates of approval and each subsequent renewal shall be issued for a
22 period of three (3) years.

23 1. Before issuing or renewing a certificate, the department may:

24 a. Require an applicant to submit information;

25 b. Prescribe forms of application and of reports which it deems
26 necessary to be made by an applicant or certificate holder;

27 c. Conduct investigations;

- 1 d. Require the maintenance of such books and records as the
2 department directs; and
- 3 e. Revoke, cancel, or suspend for cause any certificate provided for
4 by Sections 1 to 5 of this Act.
- 5 2. The department shall promulgate and make publicly available
6 administrative regulations to effectuate the provisions of this section,
7 including:
- 8 a. Minimum requirements for the curriculum training program;
9 b. Continuing training obligations for employees holding
10 certificates of completion;
- 11 c. Training obligations for bouncers, business owners, or
12 business's agents following an entry in the bouncer incident
13 report log;
- 14 d. A certificate of completion or certificate of renewal form issued
15 in respect to the training program;
- 16 e. Provisions authorizing in-person classroom and online
17 instruction; and
- 18 f. Deadlines for transmitting copies of newly issued certificates to
19 the department.
- 20 3. In developing the minimum requirements for the curriculum training
21 program, the department shall consider inclusion of the following
22 topics:
- 23 a. Interpersonal communication techniques;
24 b. De-escalation techniques to effectively and safely interact with
25 all individuals including those that are under the influence of
26 alcohol or an illegal substance;
- 27 c. Physical maneuvers that involve minimum application of

1 physical force and pose a low risk of bodily harm to another
2 individual;

3 d. Emotional regulation techniques;

4 e. Personal mental health evaluation techniques;

5 f. Interpersonal communication techniques with individuals
6 suffering from behavioral and mental health disorders; and

7 g. First aid.

8 4. Certificates of approval may be revoked by the department for failure
9 to adhere to the department's administrative regulations.
10 Administrative regulations shall afford those who have been issued a
11 certificate of approval the opportunity for an administrative hearing
12 pursuant to KRS Chapter 13B prior to revocation of a certificate of
13 approval.

14 (b) Fees paid to the department as part of an application for an approval
15 certificate or renewal certificate authorizing operation of a bouncer training
16 program shall promptly be refunded to a business whose application or
17 renewal is denied.

18 (c) Certificates of approval obtained by a person employed as a bouncer shall
19 follow that person upon termination of employment with the business to his
20 or her subsequent place of employment.

21 ➔Section 3. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) The Department of Alcoholic Beverage Control shall develop and maintain a
24 bouncer incident report log.

25 (2) Entries into the bouncer incident report log shall document reports of bouncer
26 misconduct, which includes the following:

27 (a) The bouncer causes serious physical injury to a patron or patrons on the

1 premises of the business; or

2 (b) The bouncer consistently engages in inappropriate physical contact with a
3 patron or patrons and this contact results in a reprimand by the business
4 owner or another figure of authority. For the purposes of this paragraph,
5 inappropriate physical contact shall be considered physical contact that is
6 not supported by the bouncer certification training program and that
7 compromises the safety of the patron or patrons.

8 (3) Entries into the bouncer incident report log shall include the following:

9 (a) The names of the:

10 1. Injured party;

11 2. Business; and

12 3. Bouncer or bouncers involved;

13 (b) The date of the incident;

14 (c) The nature of the incident;

15 (d) Any legal action brought against the business or bouncer by the injured
16 patron relating to this incident;

17 (e) The outcome of the incident when made available; and

18 (f) Confirmation that the bouncer and business owner or business's agent
19 attended bouncer training not more than six (6) months after the initial
20 report date.

21 (4) The department shall promulgate and make publicly available administrative
22 regulations to effectuate the provisions of this section, including:

23 (a) Appropriate format, storage, and maintenance of the bouncer incident
24 report log;

25 (b) Confidentiality requirements for the bouncer incident report log, including:

26 1. A confidential verification process for a business cross-referencing an
27 applicant's name against the bouncer incident report log; and

1 2. A confidential verification process for an individual or business
2 wishing to cross-reference his or her own name or business name
3 against the bouncer incident report log;

4 (c) Disclosure requirements which reasonably protect the named parties in an
5 entry in the bouncer incident report log; and

6 (d) Destruction process of any bouncer incident report log entry ten (10) years
7 after the original entry date.

8 (5) Any person who willfully releases or permits the release of confidential
9 information concerning an entry in the bouncer incident report log to persons
10 not authorized under this section shall be liable for a one hundred dollar (\$100)
11 fine per violation. Nothing in this subsection shall be construed to obstruct the
12 release of information contained in the bouncer incident report log pursuant to a
13 lawful subpoena.

14 (6) The department shall conduct an annual audit of the bouncer incident report log
15 and shall determine whether the revocation or suspension of a business's liquor
16 license is warranted under subsection (9) of Section 7 of this Act.

17 (7) Upon making a determination that a business liquor license is revoked or
18 suspended under subsection (9) of Section 7 of this Act, the department shall
19 issue notice to the relevant business and shall afford that business the
20 opportunity for an administrative hearing pursuant to KRS Chapter 13B prior to
21 the revocation or suspension.

22 ➔Section 4. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) All businesses shall use the standardized bouncer application developed by the
25 Department of Alcoholic Beverage Control when hiring a bouncer.

26 (2) In the event a bouncer engages in behavior described in subsection (2) of Section
27 3 of this Act, a business or business's agent shall:

- 1 (a) File a report with the Department of Alcoholic Beverage Control within
 2 thirty (30) calendar days of the incident;
- 3 (b) Relieve the bouncer from bouncer duties for a minimum of fourteen (14)
 4 calendar days;
- 5 (c) Require the bouncer to attend the bouncer training program offered by the
 6 department before returning to bouncer duties no later than six (6) months
 7 after the original incident report date;
- 8 (d) Attend the bouncer training program offered by the department no later
 9 than six (6) months after the original incident report date; and
- 10 (e) Submit proof of attendance at the bouncer certification and training
 11 program to the department within thirty (30) calendar days starting on the
 12 program completion date.
- 13 (3) A business may verify with the department whether an applicant for bouncer is
 14 named in an entry or entries in the bouncer incident report log with the written
 15 consent of the applicant. The business's agent shall submit the request to the
 16 department along with the following:
- 17 (a) Proof of identity;
- 18 (b) Proof of current employment with the business; and
- 19 (c) The written consent of the applicant for the bouncer position.

20 ➔Section 5. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
 21 READ AS FOLLOWS:

- 22 (1) A law enforcement officer is off-duty as a law enforcement officer during all
 23 hours when he or she is working as a bouncer for a private employer. Acts and
 24 omissions of a law enforcement officer working as a bouncer for a private
 25 employer shall be deemed to be the acts and omissions of the private person or
 26 private entity employing the officer. An employer using an off-duty officer as a
 27 bouncer shall hold harmless the jurisdiction by which the officer is employed and

1 fully indemnify the jurisdiction for any expense or loss, including attorney's fees,
 2 which results from any action taken against the jurisdiction arising out of the
 3 acts or omissions of the off-duty officer while working as a bouncer.

4 (2) Neither the Commonwealth nor any subdivision thereof shall be liable for acts or
 5 omissions of a law enforcement officer in the discharge of his or her duties as a
 6 bouncer. An employer employing the officer as a bouncer shall hold harmless the
 7 Commonwealth or any subdivision thereof by which the officer is employed and
 8 fully indemnify the Commonwealth or its subdivision for any expense or loss,
 9 including attorney's fees, which results from any action taken against the
 10 Commonwealth or subdivision arising out of the acts or omissions of the officer
 11 while working as a bouncer.

12 (3) To avoid confusion of the public, off-duty law enforcement officers of any
 13 jurisdiction, including the Commonwealth or subdivision thereof, shall not use or
 14 display any equipment, supplies, weapons, badges, insignias, or uniforms
 15 supplied by the jurisdiction during their performance of any private security
 16 duties under this section. This prohibition includes any such items the officer
 17 may have purchased which indicate any affiliation with the jurisdiction.

18 (4) A law enforcement officer shall not participate in investigations, in his or her
 19 official capacity, of a business which employs him or her as a bouncer when he
 20 or she is off-duty.

21 ➔Section 6. KRS 244.120 is amended to read as follows:

22 (1) A retail licensee, a patron, or the licensee's agents, servants, or employees shall not
 23 cause, suffer, or permit the licensed premises to be disorderly.

24 (2) Acts which constitute disorderly premises consist of causing, suffering, or
 25 permitting patrons, the licensee, or the licensee's servants, agents, or employees to
 26 cause public inconvenience, annoyance, or alarm, or create a risk through:

27 (a) Engaging in fighting or in violent, tumultuous, or threatening behavior;

- 1 (b) Making unreasonable noise;
- 2 (c) Refusing to obey an official order to disperse issued to maintain public safety
3 in dangerous proximity to a fire, hazard, or other emergency;
- 4 (d) Creating a hazardous or physically offensive condition by any act that serves
5 no legitimate purpose;
- 6 (e) Creating a public nuisance;
- 7 (f) Engaging in criminal activity that would constitute a capital offense, felony, or
8 misdemeanor;~~[-or]~~
- 9 (g) Failing to maintain the minimum health, fire, safety, or sanitary standards
10 established by the state or a local government, or by state administrative
11 regulations, for the licensed premises; **or**
- 12 **(h) Allowing a bouncer to consume alcohol during working hours or permitting**
13 **a bouncer to work under the influence of alcohol or an illegal substance.**
14 **For the purposes of this paragraph, "bouncer" has the same meaning as in**
15 **Section 1 of this Act.**

16 ➔Section 7. KRS 243.500 is amended to read as follows:

17 Any license may be revoked or suspended for the following causes:

- 18 (1) Conviction of the licensee or the licensee's agent, servant, or employee for selling
19 any illegal alcoholic beverages on the licensed premises.
- 20 (2) Making any false, material statements in an application or renewal application for a
21 license or supplemental license.
- 22 (3) Conviction of the licensee or any of the licensee's agents, servants, or employees of:
- 23 (a) Two (2) violations of the terms and provisions of KRS Chapters 241 to 244,
24 or any act regulating the manufacture, sale, and transportation of alcoholic
25 beverages within two (2) consecutive years;
- 26 (b) Two (2) misdemeanors directly or indirectly attributable to the use of
27 alcoholic beverages within two (2) consecutive years; or

- 1 (c) Any felony.
- 2 (4) Failure or default of a licensee to pay an excise tax or any part of the tax or any
3 penalties imposed by or under the provisions of any statutes, ordinances, or Acts of
4 Congress relative to taxation, or for a violation of any related administrative
5 regulations promulgated by the Department of Revenue.
- 6 (5) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600,
7 and 243.610, or granted under any Act of Congress relative to the regulation of the
8 manufacture, sale, and transportation of alcoholic beverages.
- 9 (6) Setting up, conducting, operating, or keeping, on the licensed premises, any
10 gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or
11 facility for betting or transmitting bets on horse races; or permitting to be set up,
12 conducted, operated, kept, or engaged in, on the licensed premises, any gambling
13 game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility.
- 14 This subsection shall not apply to:
- 15 (a) The sale of lottery tickets sold under the provisions of KRS Chapter 154A;
- 16 (b) The operation of a pari-mutuel system for betting, where authorized by law;
- 17 (c) The conduct of charitable gaming by a charitable organization licensed or
18 permitted under KRS Chapter 238; or
- 19 (d) Special temporary raffles of alcoholic beverages under KRS 243.036.
- 20 (7) Conviction of the licensee, the licensee's agents, servants, or employees for:
- 21 (a) The trafficking or possession upon the licensed premises of controlled or
22 illegal substances described in KRS Chapter 218A, including synthetic drugs;
- 23 (b) Knowingly permitting the trafficking or possession by patrons upon the
24 licensed premises of controlled or illegal substances described in KRS
25 Chapter 218A, including synthetic drugs; or
- 26 (c) Knowingly receiving stolen property upon the licensed premises.
- 27 (8) Failure to comply with the terms of a final order of the board.

1 (9) (a) A licensee:

2 1. Hiring a bouncer without using the standardized bouncer application
3 form developed by the department;

4 2. Permitting a bouncer to perform bouncer duties on the premises
5 without completing the bouncer training and certification program;

6 3. Failing to report to the department when necessary under Section 3 of
7 this Act; or

8 4. Permitting a bouncer who is named in no less than ten (10) entries in
9 the bouncer incident report log to work as a bouncer on the licensee's
10 premises.

11 (b) For purposes of this subsection, "bouncer" has the same meaning as
12 in Section 1 of this Act.

13 ➔Section 8. This Act takes effect January 1, 2023.

14 ➔Section 9. This Act shall be known as Christopher's Law.