

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

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

3 ➔Section 1. KRS 241.010 is amended to read as follows:

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

5 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
6 whatever source or by whatever process it is produced;

7 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether
8 patented or not, containing alcohol in an amount in excess of more than one percent
9 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every
10 spurious or imitation liquor sold as, or under any name commonly used for,
11 alcoholic beverages, whether containing any alcohol or not. It does not include the
12 following products:

13 (a) Medicinal preparations manufactured in accordance with formulas prescribed
14 by the United States Pharmacopoeia, National Formulary, or the American
15 Institute of Homeopathy;

16 (b) Patented, patent, and proprietary medicines;

17 (c) Toilet, medicinal, and antiseptic preparations and solutions;

18 (d) Flavoring extracts and syrups;

19 (e) Denatured alcohol or denatured rum;

20 (f) Vinegar and preserved sweet cider;

21 (g) Wine for sacramental purposes; and

22 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
23 use;

24 (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,
25 or process that mixes liquor, spirits, or any other alcohol product with pure
26 oxygen or by any other means produces a vaporized alcoholic product used for
27 human consumption;

1 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,
 2 nebulizer, atomizer, or other device that is designed and intended by the
 3 manufacturer to dispense a prescribed or over-the-counter medication or a
 4 device installed and used by a licensee under this chapter to demonstrate the
 5 aroma of an alcoholic beverage;

6 (4) "Automobile race track" means a facility primarily used for vehicle racing that has a
 7 seating capacity of at least thirty thousand (30,000) people;

8 (5) **"Barrel-aged and batched cocktail" means an alcoholic beverage that is:**

9 **(a) Composed of:**

10 **1. Distilled spirits that have been dispensed from their original sealed**
 11 **container; and**

12 **2. Other ingredients or alcoholic beverages;**

13 **(b) Placed into a barrel or container on the premises of a retail licensee; and**

14 **(c) Dispensed from the barrel or container as a retail sale by the drink;**

15 **(6)** "Bed and breakfast" means a one (1) family dwelling unit that:

16 (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are
 17 occupied for sleeping purposes by persons not members of the single-family
 18 unit;

19 (b) Holds a permit under KRS Chapter 219; and

20 (c) Has an innkeeper who resides on the premises or property adjacent to the
 21 premises during periods of occupancy;

22 ~~(7)~~ (6) "Board" means the State Alcoholic Beverage Control Board created by KRS
 23 241.030;

24 ~~(8)~~ (7) "Bottle" means any container which is used for holding alcoholic beverages
 25 for the use and sale of alcoholic beverages at retail;

26 ~~(9)~~ (8) "Brewer" means any person who manufactures malt beverages or owns,
 27 occupies, carries on, works, or conducts any brewery, either alone or through an

1 agent;

2 ~~(10)~~⁽⁹⁾ "Brewery" means any place or premises where malt beverages are
3 manufactured for sale, and includes all offices, granaries, mash rooms, cooling
4 rooms, vaults, yards, and storerooms connected with the premises; or where any
5 part of the process of the manufacture of malt beverages is carried on; or where any
6 apparatus connected with manufacture is kept or used; or where any of the products
7 of brewing or fermentation are stored or kept;

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

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

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

24 ~~(14)~~⁽¹³⁾ "Cider" means any fermented fruit-based beverage containing seven percent
25 (7%) or more alcohol by volume and includes hard cider and perry cider;

26 ~~(15)~~⁽¹⁴⁾ "City administrator" means city alcoholic beverage control administrator;

27 ~~(16)~~⁽¹⁵⁾ "Commercial airport" means an airport through which more than five hundred

1 thousand (500,000) passengers arrive or depart annually;

2 ~~(17)~~~~(16)~~ (a) "Commercial quadricycle" means a vehicle equipped with a minimum of
3 ten (10) pairs of fully operative pedals for propulsion by means of human
4 muscular power and which:

- 5 1. Has four (4) wheels;
- 6 2. Is operated in a manner similar to that of a bicycle;
- 7 3. Is equipped with a minimum of thirteen (13) seats for passengers;
- 8 4. Has a unibody design;
- 9 5. Is equipped with a minimum of four (4) hydraulically operated brakes;
- 10 6. Is used for commercial tour purposes;
- 11 7. Is operated by the vehicle owner or an employee of the owner; and
- 12 8. Has an electrical assist system that shall only be used when traveling to
13 or from its storage location while not carrying passengers.

14 (b) A "commercial quadricycle" is not a motor vehicle as defined in KRS 186.010
15 or 189.010;

16 ~~(18)~~~~(17)~~ "Commissioner" means the commissioner of the Department of Alcoholic
17 Beverage Control;

18 ~~(19)~~~~(18)~~ "Consumer" means a person, persons, or business organization who
19 purchases alcoholic beverages and who:

- 20 (a) Does not hold a license or permit issued by the department;
- 21 (b) Purchases the alcoholic beverages for personal consumption only and not for
22 resale;
- 23 (c) Is of lawful drinking age; and
- 24 ~~(d) Receives the alcoholic beverages at a location other than a licensed premises;~~
25 ~~and~~
- 26 ~~(e)~~ Receives the alcoholic beverages in territory where the alcoholic beverages
27 may be lawfully sold or received;

1 ~~(20)~~~~(19)~~ "Convention center" means any facility which, in its usual and customary
2 business, provides seating for a minimum of one thousand (1,000) people and offers
3 convention facilities and related services for seminars, training and educational
4 purposes, trade association meetings, conventions, or civic and community events
5 or for plays, theatrical productions, or cultural exhibitions;

6 ~~(21)~~~~(20)~~ "Convicted" and "conviction" means a finding of guilt resulting from a plea of
7 guilty, the decision of a court, or the finding of a jury, irrespective of a
8 pronouncement of judgment or the suspension of the judgment;

9 ~~(22)~~~~(21)~~ "County administrator" means county alcoholic beverage control
10 administrator;

11 ~~(23)~~~~(22)~~ "Department" means the Department of Alcoholic Beverage Control;

12 ~~(24)~~~~(23)~~ "Dining car" means a railroad passenger car that serves meals to consumers on
13 any railroad or Pullman car company;

14 ~~(25)~~~~(24)~~ "Discount in the usual course of business" means price reductions, rebates,
15 refunds, and discounts given by wholesalers to distilled spirits and wine retailers
16 pursuant to an agreement made at the time of the sale of the merchandise involved
17 and are considered a part of the sales transaction, constituting reductions in price
18 pursuant to the terms of the sale, irrespective of whether the quantity discount was:

19 (a) Prorated and allowed on each delivery;

20 (b) Given in a lump sum after the entire quantity of merchandise purchased had
21 been delivered; or

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

23 ~~(26)~~~~(25)~~ "Distilled spirits" or "spirits" means any product capable of being consumed
24 by a human being which contains alcohol in excess of the amount permitted by
25 KRS Chapter 242 obtained by distilling, mixed with water or other substances in
26 solution, except wine, hard cider, and malt beverages;

27 ~~(27)~~~~(26)~~ "Distiller" means any person who is engaged in the business of manufacturing

1 distilled spirits at any distillery in the state and is registered in the Office of the
2 Collector of Internal Revenue for the United States at Louisville, Kentucky;

3 ~~(28)~~~~(27)~~ "Distillery" means any place or premises where distilled spirits are
4 manufactured for sale, and which are registered in the office of any collector of
5 internal revenue for the United States. It includes any United States government
6 bonded warehouse;

7 ~~(29)~~~~(28)~~ "Distributor" means any person who distributes malt beverages for the
8 purpose of being sold at retail;

9 ~~(30)~~~~(29)~~ "Dry" means a territory in which a majority of the electorate voted to prohibit
10 all forms of retail alcohol sales through a local option election held under KRS
11 Chapter 242;

12 ~~(31)~~~~(30)~~ "Election" means:

13 (a) An election held for the purpose of taking the sense of the people as to the
14 application or discontinuance of alcoholic beverage sales under KRS Chapter
15 242; or

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

17 ~~(32)~~~~(31)~~ "Horse racetrack" means a facility licensed to conduct a horse race meeting
18 under KRS Chapter 230;

19 ~~(33)~~~~(32)~~ "Hotel" means a hotel, motel, or inn for accommodation of the traveling
20 public, designed primarily to serve transient patrons;

21 ~~(34)~~~~(33)~~ "Investigator" means any employee or agent of the department who is
22 regularly employed and whose primary function is to travel from place to place for
23 the purpose of visiting licensees, and any employee or agent of the department who
24 is assigned, temporarily or permanently, by the commissioner to duty outside the
25 main office of the department at Frankfort, in connection with the administration of
26 alcoholic beverage statutes;

27 ~~(35)~~~~(34)~~ "License" means any license issued pursuant to KRS Chapters 241 to 244;

1 ~~(36)~~~~(35)~~ "Licensee" means any person to whom a license has been issued, pursuant to
2 KRS Chapters 241 to 244;

3 ~~(37)~~~~(36)~~ "Limited restaurant" means:

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

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

17 ~~(38)~~~~(37)~~ "Local administrator" means a city alcoholic beverage administrator, county
18 alcoholic beverage administrator, or urban-county alcoholic beverage control
19 administrator;

20 ~~(39)~~~~(38)~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any
21 name or description, manufactured from malt wholly or in part, or from any
22 substitute for malt, and includes weak cider;

23 ~~(40)~~~~(39)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

24 ~~(41)~~~~(40)~~ "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other
25 person engaged in the production or bottling of alcoholic beverages;

26 ~~(42)~~~~(41)~~ "Minor" means any person who is not twenty-one (21) years of age or older;

27 ~~(43)~~~~(42)~~ "Moist" means a territory in which a majority of the electorate voted to permit

1 limited alcohol sales by any one (1) or a combination of special limited local option
2 elections authorized by KRS Chapter 242;

3 ~~(44)~~~~((43))~~ "Population" means the population figures established by the federal decennial
4 census for a census year or the current yearly population estimates prepared by the
5 Kentucky State Data Center, Urban Studies Center of the University of Louisville,
6 Louisville, Kentucky, for all other years;

7 ~~(45)~~~~((44))~~ "Premises" means the land and building in and upon which any business
8 regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall
9 not include as a single unit two (2) or more separate businesses of one (1) owner on
10 the same lot or tract of land, in the same or in different buildings if physical and
11 permanent separation of the premises is maintained, excluding employee access by
12 keyed entry and emergency exits equipped with crash bars, and each has a separate
13 public entrance accessible directly from the sidewalk or parking lot. Any licensee
14 holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this
15 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
16 of the license;

17 ~~(46)~~~~((45))~~ "Primary source of supply" or "supplier" means the distiller, winery, brewer,
18 producer, owner of the commodity at the time it becomes a marketable product,
19 bottler, or authorized agent of the brand owner. In the case of imported products, the
20 primary source of supply means either the foreign producer, owner, bottler, or agent
21 of the prime importer from, or the exclusive agent in, the United States of the
22 foreign distiller, producer, bottler, or owner;

23 ~~(47)~~~~((46))~~ "Private club" means a nonprofit social, fraternal, military, or political
24 organization, club, or nonprofit or for-profit entity maintaining or operating a club
25 room, club rooms, or premises from which the general public is excluded;

26 ~~(48)~~~~((47))~~ **"Private selection event" means a private event with a licensed distiller**
27 **during which participating consumers, retail licensees, wholesalers, distributors,**

1 or a distillery's own representatives select a single barrel or a blend of barrels of
 2 the distiller's products to be specially packaged for the participants;

3 (49) "Private selection package" means a bottle of distilled spirits sourced from the
 4 barrel or barrels selected by participating consumers, retail licensees,
 5 wholesalers, distributors, microbreweries that hold a quota retail drink or quota
 6 retail package license, or a distillery's own representatives during a private
 7 selection event;

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

12 (51)~~(48)~~ "Qualified historic site" means:

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

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

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

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

23 (52)~~(49)~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits,
 24 malt, or wine by any process other than as provided for on distillery premises, and
 25 every person who, without rectifying, purifying, or refining distilled spirits by
 26 mixing alcoholic beverages with any materials, manufactures any imitations of or
 27 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,

1 spirits, cordials, bitters, or any other name;

2 ~~(53)~~~~(50)~~ "Repackaging" means the placing of alcoholic beverages in any retail
3 container irrespective of the material from which the container is made;

4 ~~(54)~~~~(51)~~ "Restaurant" means a facility where the usual and customary business is the
5 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
6 and that receives at least fifty percent (50%) of its food and alcoholic beverage
7 receipts from the sale of food at the premises;

8 ~~(55)~~~~(52)~~ "Retail container" means any bottle, can, barrel, or other container which,
9 without a separable intermediate container, holds alcoholic beverages and is
10 suitable and destined for sale to a retail outlet, whether it is suitable for delivery or
11 shipment to the consumer or not;

12 ~~(56)~~~~(53)~~ "Retail sale" means any sale of alcoholic beverages to a consumer, including
13 those transactions taking place in person, electronically, online, by mail, or by
14 telephone;

15 ~~(57)~~~~(54)~~ "Retailer" means any licensee who sells and delivers any alcoholic beverage to
16 consumers, except for manufacturers with limited retail sale privileges and direct
17 shipper licensees;

18 ~~(58)~~~~(55)~~ "Riverboat" means any boat or vessel with a regular place of mooring in this
19 state that is licensed by the United States Coast Guard to carry one hundred (100) or
20 more passengers for hire on navigable waters in or adjacent to this state;

21 ~~(59)~~~~(56)~~ "Sale" means any transfer, exchange, or barter for consideration, and includes
22 all sales made by any person, whether principal, proprietor, agent, servant, or
23 employee, of any alcoholic beverage;

24 ~~(60)~~~~(57)~~ "Service bar" means a bar, counter, shelving, or similar structure used for
25 storing or stocking supplies of alcoholic beverages that is a workstation where
26 employees prepare alcoholic beverage drinks to be delivered to customers away
27 from the service bar;

1 ~~(61)~~~~(58)~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep
2 with intent to sell, and the delivery of any alcoholic beverage;

3 ~~(62)~~~~(59)~~ "Small farm winery" means a winery whose wine production is not less than
4 two hundred fifty (250) gallons and not greater than five hundred thousand
5 (500,000) gallons in a calendar year;

6 ~~(63)~~~~(60)~~ "Souvenir package" means a special package of distilled spirits available from
7 a licensed retailer that is:

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

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

12 ~~(64)~~~~(61)~~ "State administrator" or "administrator" means the distilled spirits
13 administrator or the malt beverages administrator, or both, as the context requires;

14 ~~(65)~~~~(62)~~ "State park" means a state park that has a:

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

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

17 ~~(66)~~~~(63)~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used
18 for serving and selling distilled spirits or wine by the drink for consumption on the
19 licensed premises to guests and patrons from additional locations other than the
20 main bar;

21 ~~(67)~~~~(64)~~ "Territory" means a county, city, district, or precinct;

22 ~~(68)~~~~(65)~~ "Urban-county administrator" means an urban-county alcoholic beverage
23 control administrator;

24 ~~(69)~~~~(66)~~ "Valid identification document" means an unexpired, government-issued form
25 of identification that contains the photograph and date of birth of the individual to
26 whom it is issued;

27 ~~(70)~~~~(67)~~ "Vehicle" means any device or animal used to carry, convey, transport, or

1 otherwise move alcoholic beverages or any products, equipment, or appurtenances
 2 used to manufacture, bottle, or sell these beverages;

3 ~~(71)~~~~[(68)]~~ "Vintage distilled spirit" means:

4 **(a) A private selection package; or**

5 **(b) A package or packages of distilled spirits that:**

6 **1.**~~[(a)]~~ Are in their original manufacturer's unopened container;

7 **2.**~~[(b)]~~ Are not owned by a distillery; and

8 **3.**~~[(c)]~~ Are not otherwise available for purchase from a licensed
 9 wholesaler within the Commonwealth;

10 **(72) (a) "Vintage distilled spirits seller" means a non-licensed person at least**
 11 **twenty-one (21) years of age who is:**

12 **1. An administrator, executor, receiver, or other fiduciary who receives**
 13 **and sells vintage distilled spirits in execution of the person's fiduciary**
 14 **capacity;**

15 **2. A creditor who receives or takes possession of vintage distilled spirits**
 16 **as security for, or in payment of, debt, in whole or in part;**

17 **3. A public officer or court official who levies on vintage distilled spirits**
 18 **under order or process of any court or magistrate to sell the vintage**
 19 **distilled spirits in satisfaction of the order or process; or**

20 **4. Any other person not engaged in the business of selling alcoholic**
 21 **beverages.**

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

23 **1. A person selling alcoholic beverages as part of an approved KRS**
 24 **243.630 transfer; or**

25 **2. A person selling alcoholic beverages as authorized by KRS 243.540;**

26 ~~(73)~~~~[(69)]~~ "Warehouse" means any place in which alcoholic beverages are housed or
 27 stored;

1 ~~(74)~~~~(70)~~ "Weak cider" means any fermented fruit-based beverage containing more than
2 one percent (1%) but less than seven percent (7%) alcohol by volume;

3 ~~(75)~~~~(71)~~ "Wet" means a territory in which a majority of the electorate voted to permit
4 all forms of retail alcohol sales by a local option election under KRS 242.050 or
5 242.125 on the following question: "Are you in favor of the sale of alcoholic
6 beverages in (name of territory)?";

7 ~~(76)~~~~(72)~~ "Wholesale sale" means a sale to any person for the purpose of resale;

8 ~~(77)~~~~(73)~~ "Wholesaler" means any person who distributes alcoholic beverages for the
9 purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer
10 or cooperative of a retail outlet;

11 ~~(78)~~~~(74)~~ "Wine" means the product of the normal alcoholic fermentation of the juices
12 of fruits, with the usual processes of manufacture and normal additions, and
13 includes champagne and sparkling and fortified wine of an alcoholic content not to
14 exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and
15 perry cider and also includes preparations or mixtures vended in retail containers if
16 these preparations or mixtures contain not more than fifteen percent (15%) of
17 alcohol by volume. It does not include weak cider; and

18 ~~(79)~~~~(75)~~ "Winery" means any place or premises in which wine is manufactured from
19 any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials
20 are compounded, except a place or premises that manufactures wine for sacramental
21 purposes exclusively.

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

24 **(1) A limited nonquota package license may be issued as a supplementary license to**
25 **a licensee that holds an NO1 retail drink license, an NO2 retail drink license, or a**
26 **limited restaurant license in a jurisdiction that has authorized the sale of distilled**
27 **spirits and wine by the package.**

- 1 **(2) The limited nonquota package license shall authorize the licensee to:**
- 2 **(a) Purchase private selection packages in the original manufacturer's**
- 3 **unopened containers; and**
- 4 **(b) Sell private selection packages at retail in the original manufacturer's**
- 5 **unopened containers, and only for consumption off the licensed premises.**
- 6 **(3) The licensee shall purchase private selection packages in accordance with**
- 7 **subsection (4) of Section 6 of this Act.**
- 8 ➔Section 3. KRS 243.027 is amended to read as follows:
- 9 (1) KRS 243.027 to 243.029 shall supersede any conflicting statute in KRS Chapters
- 10 241 to 244.
- 11 (2) A direct shipper license shall authorize the holder to ship alcoholic beverages to
- 12 consumers. The department shall issue a direct shipper license to a successful
- 13 applicant that:
- 14 (a) Pays an annual license fee of one hundred dollars (\$100);
- 15 (b) Is a manufacturer located in this state or any other state or an alcoholic
- 16 beverage supplier licensed under KRS 243.212 or 243.215; and
- 17 (c) Holds a current license, permit, or other authorization to manufacture or
- 18 supply alcoholic beverages in the state where the applicant is located. If an
- 19 applicant is located outside of Kentucky, proof of its current license, permit,
- 20 or other authorization as issued by its home state shall be sufficient proof of
- 21 its eligibility to hold a direct shipper license in Kentucky.
- 22 (3) (a) A manufacturer applicant shall only be authorized to ship alcoholic beverages
- 23 that are sold under a brand name owned or exclusively licensed to the
- 24 manufacturer, provided the alcoholic beverages were:
- 25 1. Produced by the manufacturer;
- 26 2. Produced for the manufacturer under a written contract with another
- 27 manufacturer; or

- 1 3. Bottled for or by the manufacturer.
- 2 (b) An applicant licensed under KRS 243.212 or 243.215 shall only be authorized
- 3 to ship alcoholic beverages for which it is the primary source of supply.
- 4 (4) The department shall establish the form for a direct shipper license application
- 5 through the promulgation of an administrative regulation. These requirements shall
- 6 include only the following:
- 7 (a) The address of the manufacturer or supplier; and
- 8 (b) If the applicant is located outside this state, a copy of the applicant's current
- 9 license, permit, or other authorization to manufacture, store, or supply
- 10 alcoholic beverages in the state where the applicant is located.
- 11 (5) For purposes of this section, the holder of a direct shipper license may utilize the
- 12 services of a third party to fulfill shipments, subject to the following:
- 13 (a) The third party shall not be required to hold any alcoholic beverage license,
- 14 but no licensed entity shall serve as a third party to fulfill shipments other than
- 15 the holder of a storage license or transporter's license;
- 16 (b) The third party may operate from the premises of the direct shipper licensee or
- 17 from another business location; and
- 18 (c) The direct shipper licensee shall be liable for any violation of KRS 242.250,
- 19 242.260, 242.270, or 244.080 that may occur by the third party.
- 20 (6) A direct shipper licensee shall:
- 21 (a) Agree that the Secretary of State shall serve as its registered agent for service
- 22 of process. The licensee shall agree that legal service on the agent constitutes
- 23 legal service on the direct shipper licensee;
- 24 (b) Maintain the records required under KRS 243.027 to 243.029 and provide the
- 25 department and the Department of Revenue access to or copies of these
- 26 records;
- 27 (c) Allow the department or the Department of Revenue to perform an audit of

- 1 the direct shipper licensee's records or an inspection of the direct shipper
2 licensee's licensed premises upon request. If an audit or inspection reveals a
3 violation, the department or the Department of Revenue may recover
4 reasonable expenses from the licensee for the cost of the audit or inspection;
- 5 (d) Register with the Department of Revenue, and file all reports and pay all taxes
6 required under KRS 243.027 to 243.029; and
- 7 (e) Submit to the jurisdiction of the Commonwealth of Kentucky for any
8 violation of KRS 242.250, 242.260, 242.270, or 244.080 or for nonpayment of
9 any taxes owed.
- 10 (7) (a) Each direct shipper licensee shall submit to the department and the
11 Department of Revenue a quarterly report for that direct shipper license
12 showing:
- 13 1. The total amount of alcoholic beverages shipped into the state per
14 consumer;
- 15 2. The name and address of each consumer;
- 16 3. The purchase price of the alcoholic beverages shipped and the amount of
17 taxes charged to the consumer for the alcoholic beverages shipped; and
18 4. The name and address of each common carrier.
- 19 (b) The Department of Revenue shall create a form through the promulgation of
20 an administrative regulation for reporting under paragraph (a) of this
21 subsection.
- 22 (c) The department shall provide a list of all active direct shipper licensees to
23 licensed common carriers on a quarterly basis to reduce the number of
24 unlicensed shipments in the Commonwealth.
- 25 (8) A direct shipper licensee shall submit a current copy of its alcoholic beverage
26 license from its home state along with the one hundred dollar (\$100) license fee
27 every year upon renewal of its direct shipper license.

1 (9) Notwithstanding any provision of this section to the contrary, a manufacturer
 2 located and licensed in Kentucky may ship by a common carrier holding a Kentucky
 3 transporter's license samples of alcoholic beverages produced by the manufacturer
 4 in quantities not to exceed one (1) liter, per any recipient, of any
 5 individual~~particular~~ product in one (1) calendar year of distilled spirits or wine, or
 6 ninety-six (96) ounces, per any recipient, of any individual~~particular~~ product in
 7 one (1) calendar year of malt beverages, to any of the following:

- 8 (a) Marketing or media representatives twenty-one (21) years of age or older;
 9 (b) Distilled spirits, wine, or malt beverage competitions or contests;
 10 (c) Wholesalers or distributors located outside of Kentucky;
 11 (d) Federal, state, or other regulatory testing labs;~~and~~
 12 (e) Third-party product formulation and development partners; and
 13 (f) Persons or entities engaged in a private selection event pursuant to Section
 14 6 of this Act.

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

18 ➔Section 4. KRS 243.029 is amended to read as follows:

- 19 (1) For purposes of this section, "taxes" associated with the purchase of alcoholic
 20 beverages includes any applicable:
 21 (a) Sales tax;
 22 (b) Use tax;
 23 (c) Excise tax;
 24 (d) Wholesale tax equivalent as established in KRS 243.884;
 25 (e) Regulatory license fees; and
 26 (f) Other assessments.
 27 (2) For purposes of this section and for other tax purposes, each sale and delivery of

1 alcoholic beverages under a direct shipper license is a sale occurring at the address
2 of the consumer. For each tax remittance or collected group of tax remittances, the
3 direct shipper licensee shall include its federal tax identification number.

4 (3) *A direct shipper licensee that sells alcoholic beverages under its direct shipper*
5 *license for shipment to a consumer shall charge the consumer all applicable*
6 *taxes and shall sell the alcoholic beverages with all applicable taxes included in*
7 *the selling price. The total amount of the applicable taxes shall be identified on*
8 *the consumer's invoice and shall specifically state the amount of the applicable*
9 *sales tax included in the invoice*~~[Except for the regulatory license fee imposed~~
10 ~~under KRS 243.075, the applicable taxes shall be collected by the direct shipper~~
11 ~~licensee from the consumer. The regulatory license fee and all other applicable~~
12 ~~taxes shall be separately stated on the invoice, bill of sale, or similar document~~
13 ~~given to the consumer].~~

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

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

20 ➔Section 5. KRS 243.030 is amended to read as follows:

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

24 The licenses and their accompanying fees are as follows:

- 25 (1) Distiller's license:
 - 26 (a) Class A, per annum\$3,090.00
 - 27 (b) Class B (craft distillery), per annum\$1,000.00

1	<u>(c) Off-premises retail sales outlet, per annum.....</u>	<u>\$300.00</u>
2	(2) Rectifier's license:	
3	(a) Class A, per annum	\$2,580.00
4	(b) Class B (craft rectifier), per annum	\$825.00
5	(3) Winery license, per annum	\$1,030.00
6	(4) Small farm winery license, per annum	\$110.00
7	(a) Small farm winery off-premises retail license, per annum	\$30.00
8	(5) Wholesaler's license, per annum	\$2,060.00
9	(6) Quota retail package license, per annum.....	\$570.00
10	(7) Quota retail drink license, per annum	\$620.00
11	(8) Transporter's license, per annum	\$210.00
12	(9) Special nonbeverage alcohol license, per annum	\$60.00
13	(10) Special agent's or solicitor's license, per annum	\$30.00
14	(11) Bottling house or bottling house storage license,	
15	per annum	\$1,030.00
16	(12) Special temporary license, per event	\$100.00
17	(13) Special Sunday retail drink license, per annum	\$520.00
18	(14) Caterer's license, per annum	\$830.00
19	(15) Special temporary alcoholic beverage	
20	auction license, per event	\$100.00
21	(16) Extended hours supplemental license, per annum	\$2,060.00
22	(17) Hotel in-room license, per annum	\$210.00
23	(18) Air transporter license, per annum	\$520.00
24	(19) Sampling license, per annum	\$110.00
25	(20) Replacement or duplicate license	\$25.00
26	(21) Entertainment destination center license:	
27	(a) When the licensee is a city, county, urban-county government, consolidated	

1	local government, charter county government, or unified	
2	local government, per annum	\$2,577.00
3	(b) All other licensees, per annum	\$7,730.00
4	(22) Limited restaurant license, per annum	\$780.00
5	(23) Limited golf course license, per annum	\$720.00
6	(24) Small farm winery wholesaler's license, per annum	\$110.00
7	(25) Qualified historic site license, per annum	\$1,030.00
8	(26) Nonquota type 1 license, per annum	\$4,120.00
9	(27) Nonquota type 2 license, per annum	\$830.00
10	(28) Nonquota type 3 license, per annum	\$310.00
11	(29) Distilled spirits and wine storage license, per annum	\$620.00
12	(30) Out-of-state distilled spirits and wine supplier's license,	
13	per annum	\$1, 550.00
14	(31) Limited out-of-state distilled spirits and	
15	wine supplier's license, per annum	\$260.00
16	(32) Authorized public consumption license, per annum.....	\$250.00
17	(33) Direct shipper license, per annum.....	\$100.00
18	(34) <u>Limited nonquota package license, per annum.....</u>	<u>\$300.00</u>

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

21 **(36)**~~(35)~~ Other special licenses the board finds necessary for the proper regulation and
 22 control of the traffic in distilled spirits and wine and provides for by administrative
 23 regulation. In establishing the amount of license taxes that are required to be fixed
 24 by the board, it shall have regard for the value of the privilege granted.

25 **(37)**~~(36)~~ The fee for each of the first five (5) supplemental bar licenses shall be the
 26 same as the fee for the primary retail drink license. There shall be no charge for
 27 each supplemental license issued in excess of five (5) to the same licensee at the

1 same premises.

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

6 ➔Section 6. KRS 243.0305 is amended to read as follows:

7 (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that
8 has authorized the limited sale of alcoholic beverages at distilleries under KRS
9 242.1243 and that has a gift shop or other retail outlet on its premises may conduct
10 the activities permitted under this section as a part of its distiller's license.

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

14 1. Be permitted to transfer its products from the distillery proper to the
15 location where those *retail* sales occur without having to transfer
16 physical possession of those distilled spirits to a licensed wholesaler;
17 and

18 2. ~~[Effective January 1, 2022,]~~Without otherwise reporting those distilled
19 spirits to a licensed wholesaler, report *those retail sales* and pay all taxes
20 required to the Department of Revenue at the time and in the manner
21 required by the Department of Revenue in accordance with its powers
22 under KRS 131.130(3).

23 (b) 1. ~~[Effective January 1, 2022,]~~A distiller selling distilled spirits in
24 accordance with this subsection shall pay all wholesale sales taxes due
25 under KRS 243.884. For the purposes of this subsection, "wholesale
26 sales" means a sale of distilled spirits made by a distiller under
27 subsection (3)(b), (4), (7),~~[(8), and]~~ (9), (10), and (12) of this section, if

1 required by KRS 243.884, excluding sales made by a distiller under
 2 subsection (4)(a)3. and (b) of this section that utilize a licensed
 3 wholesaler.

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

6 (c) All other distilled spirits that are produced by the distillery shall be sold and
 7 physically transferred in compliance with all other relevant provisions of KRS
 8 Chapters 241 to 244.

9 (3) A distiller may sell its own private selection packages and souvenir packages at
 10 retail:

11 (a) To consumers in accordance with KRS 243.027 to 243.029 if it holds a direct
 12 shipper license; and

13 (b) To distillery visitors of legal drinking age, in quantities not to exceed an
 14 aggregate of ~~four and one half (4 1/2) liters per purchaser per day for sales~~
 15 ~~prior to January 1, 2021, and in quantities not to exceed an aggregate of~~ nine
 16 (9) liters per purchaser per day ~~[on and after January 1, 2021].~~

17 (4) A distiller may conduct private selection events and sell private selection packages
 18 at retail, as follows:

19 (a) Distillers may sell private selection packages to consumers who participated
 20 in a private selection event only by:

21 1. Shipping the private selection packages in accordance with KRS
 22 243.027 to 243.029 if the distiller holds a direct shipper license, but
 23 these sales and shipments shall be exempt from the quantity
 24 limitations established in KRS 243.028(1);

25 2. Selling the private selection packages to the participating consumers
 26 directly from the distillery premises, but these sales shall be exempt
 27 from the quantity limitations established in subsection (3)(b) of this

1 section; or

2 3. Selling the private selection packages through a wholesaler and to a
 3 licensed retailer of the consumer's choice. The distillery and
 4 wholesaler's cooperation in facilitating the sale of the private selection
 5 packages to the retailer of the consumer's choice shall not be deemed
 6 a violation of Section 12 of this Act.

7 (b) Except as provided in KRS 243.036, distillers may sell private selection
 8 packages to retail licensees that participated in a private selection event only
 9 through a licensed wholesaler.

10 (c) A distillery shall make available for purchase not less than seventy percent
 11 (70%) of its annual private selection packages to licensed wholesalers and
 12 shall maintain records of such transactions in accordance with KRS
 13 244.150.

14 (d) Distillers may sell private selection packages to wine and distilled spirits
 15 wholesalers, malt beverage distributors, and microbreweries that hold a
 16 quota retail drink or quota retail package license that participated in a
 17 private selection event if the private selection packages resulting from the
 18 event are sold only through a licensed retailer.

19 (5) Hours of sale for souvenir packages sold at retail and private selection packages
 20 sold to distillery visitors at retail shall be in conformity with KRS 244.290(3).

21 (6) [(5)] Except as provided in this section, souvenir package and private selection
 22 package sales to distillery visitors shall be governed by all the statutes and
 23 administrative regulations governing the retail sale of distilled spirits by the
 24 package.

25 (7) [(6)] Souvenir packages sold to distillery visitors under subsection (3)(b) of this
 26 section, which are not made available to wholesalers licensed in Kentucky or
 27 elsewhere, shall be registered by the licensed distiller with the department and

1 shall be sold exclusively to in-person distillery visitors in quantities not to exceed
 2 three (3) liters per person per day [pursuant to KRS 244.440 and made available to
 3 a Kentucky licensed wholesaler].

4 ~~(8)~~[(7)] Notwithstanding any provision of KRS 244.050 to the contrary, a distillery
 5 holding a sampling license may allow visitors to sample distilled spirits under the
 6 following conditions:

- 7 (a) Sampling shall be permitted only on the licensed premises during regular
 8 business hours;
- 9 (b) A distillery shall not charge for the samples; and
- 10 (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces
 11 of samples per visitor per day, except in connection with a private selection
 12 event.

13 ~~(9)~~[(8)] Notwithstanding the provisions of KRS 243.110, in accordance with this
 14 section, a distillery located in wet territory or in any territory that has authorized the
 15 limited sale of alcoholic beverages under an election held pursuant to KRS
 16 242.1243 may:

- 17 (a) Hold an NQ2 retail drink license for the sale of alcoholic beverages on the
 18 distillery premises; and
- 19 (b) Employ persons to engage in the sale or service of alcohol under an NQ2
 20 license, if each employee completes the department's Server Training in
 21 Alcohol Regulations program within thirty (30) days of beginning
 22 employment.

23 ~~(10)~~[(9)] A distiller may sell to consumers at fairs, festivals, and other similar types of
 24 events located in wet territory. A distiller may:

25 (a) Sell alcoholic beverages by the drink, containing spirits distilled or bottled on
 26 the premises of the distillery;

27 (b) Sell by the package in quantities not to exceed nine (9) liters per person, per

1 day; and

2 (c) Serve complimentary samples not to exceed one and three-fourths (1-3/4)
 3 ounces per person, per day.

4 ~~(11)~~~~(10)~~ A distiller may offer for sale in its gift shop products that were produced in
 5 collaboration with a brewer or microbrewer, except that:

- 6 (a) These packages shall not be exclusive to the distiller's gift shop; and
 7 (b) The distiller shall purchase the jointly branded souvenir package only from a
 8 licensed malt beverage distributor or a microbrewery pursuant to KRS
 9 243.157(1)(f). A microbrewery selling and delivering the jointly branded
 10 souvenir package directly to a distiller under this subsection shall provide
 11 notice to the distributor of any self-distribution delivery by electronic or
 12 other means.

13 (12) A distiller that sells souvenir packages and serves complimentary samples in
 14 accordance with this section at any of its licensed premises may, for each such
 15 premises, maintain one (1) separately licensed off-premises retail sales outlet and
 16 engage in the activities and hold the licenses authorized in subsections (3), (4),
 17 (8), (9), and (11) of this section if the off-premises retail sales outlet premises are
 18 located in wet territory or in a precinct that has authorized alcoholic beverage
 19 sales by the distillery under KRS 242.1243. The distiller shall pay the fee required
 20 under Section 5 of this Act for each off-premises retail sales outlet it maintains.

21 ~~(13)~~~~(11)~~ Except as expressly stated in this section, this section does not exempt the
 22 holder of 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 ~~(14)~~~~(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 7. KRS 243.110 is amended to read as follows:

- 3 (1) Except as provided in subsection (3) of this section, each kind of license listed in
4 KRS 243.030 shall be incompatible with every other kind listed in that section and
5 no person or entity holding a license of any of those kinds shall apply for or hold a
6 license of another kind listed in KRS 243.030.
- 7 (2) (a) Each kind of license listed in KRS 243.040(1), (3), or (4) shall be
8 incompatible with every other kind listed in KRS 243.040(1), (3), or (4), and
9 no person holding a license of any of those kinds shall apply for or hold a
10 license of any other kind listed in KRS 243.040(1), (3), or (4).
- 11 (b) A brewery holding a license listed in KRS 243.040(5) or (8) shall not apply
12 for or hold a license listed in KRS 243.040(3) or (4).
- 13 (3) (a) The holder of a quota retail package license may also hold a quota retail drink
14 license, an NQ1 retail drink license, an NQ2 retail drink license, an NQ3 retail
15 drink license, or a special nonbeverage alcohol license.
- 16 (b) The holder of a transporter's license may also hold a distilled spirits and wine
17 storage license.
- 18 (c) The holder of a distiller's license may also hold a rectifier's license, a special
19 nonbeverage alcohol license, a winery license, or a small farm winery license.
- 20 (d) A commercial airline system or charter flight system retail license, a
21 commercial airline system or charter flight system transporter's license, and a
22 retail drink license if held by a commercial airline or charter flight system may
23 be held by the same licensee.
- 24 (e) A Sunday retail drink license and supplemental license may be held by the
25 holder of a primary license.
- 26 (f) The holder of a distiller's, winery, small farm winery, brewer, microbrewery,
27 distilled spirits and wine supplier's, or malt beverage supplier's license may

1 also hold a direct shipper license.

2 **(g) The holder of an NO1 retail drink license, an NO2 retail drink license, or a**
3 **limited restaurant license may also hold a limited nonquota package**
4 **license.**

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

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

12 ➔Section 8. KRS 243.232 is amended to read as follows:

13 (1) A person holding a license to sell distilled spirits by the drink or by the package at
14 retail may sell vintage distilled spirits purchased from a nonlicensed person upon
15 written notice to the department in accordance with administrative regulations
16 promulgated by the department.

17 (2) Vintage distilled spirits may be resold only:

18 (a) By the drink by a person holding a license to sell distilled spirits by the drink;
19 and

20 (b) By the package by a person holding a license to sell distilled spirits by the
21 package.

22 **(3) Vintage distilled spirits may be sold or resold by the package by a person holding**
23 **a limited nonquota package license.**

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

26 **(5) Prior to selling vintage distilled spirits purchased from a vintage distilled spirits**
27 **seller to a consumer, a licensee shall provide notice of its purchase of the spirits**

1 to the department. The notice shall contain the following information:

2 (a) The name, address, state license number, and phone number of the licensee

3 purchasing vintage distilled spirits;

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

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

6 purchased;

7 (d) The date of the purchase; and

8 (e) The number of packages that the licensee has previously purchased from

9 the same vintage distilled spirits seller and the dates of those purchases.

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

11 (1) A quota retail package license shall authorize the licensee to:

12 (a) Purchase, receive, possess, and sell distilled spirits and wine at retail in
13 unbroken packages only, and only for consumption off the licensed premises;†

14 ~~and‡~~

15 (b) Deliver to the consumer, at the consumer's request, alcoholic beverages that
16 are purchased from the licensed premises, in quantities not to exceed four and
17 one-half (4 1/2) liters of distilled spirits and four (4) cases of wine per
18 consumer per day for sales prior to January 1, 2021, and in quantities not to
19 exceed an aggregate of nine (9) liters of distilled spirits and four (4) cases of
20 wine per consumer per day on and after January 1, 2021; and

21 (c) 1. Sell distilled spirits and wine in unbroken packages only at fairs and
22 festivals held in wet territory if the fair or festival is located in the
23 same county as the quota retail package license holder's licensed
24 premises; and

25 2. Notwithstanding KRS 243.0307, sell and provide samples of distilled
26 spirits and wine at fairs and festivals held in wet territory if the fair or
27 festival is located in the same county as the quota retail package

1 **license holder's licensed premises.**

2 (2) The licensee shall purchase distilled spirits and wine in retail packages only and
3 only from:

4 (a) Licensed wholesalers;

5 (b) Those licensees authorized to sell distilled spirits and wine by the package at
6 retail, but only if the distilled spirits and wine have first gone through the
7 three (3) tier system; or

8 (c) From a distillery souvenir gift shop.

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

12 ➔Section 10. KRS 243.260 is amended to read as follows:

13 (1) A special temporary license may be issued in wet territory to any regularly
14 organized fair, exposition, racing association, **farmers market**, or other party, when
15 in the opinion of the board a necessity for the license exists. Unless inconsistent
16 with this section, a special temporary licensee shall have the same privileges and
17 restrictions of a quota retail drink licensee and an NQ4 retail malt beverage drink
18 licensee at the designated premises, not to exceed thirty (30) days.

19 (2) A nonprofit organization holding an NQ4 retail malt beverage drink license may be
20 issued a special temporary license to sell distilled spirits and wine by the drink on
21 the licensed premises for a specified and limited time, not to exceed ten (10) days.
22 The temporary license may be issued in conjunction with any public or private
23 event, including but not limited to weddings, receptions, reunions, or similar
24 occasions.

25 (3) The holder of a special temporary license may sell, serve, and deliver alcoholic
26 beverages by the drink, for consumption only at the designated premises and the
27 date and times for the qualifying event.

1 (4) A special temporary license shall not be issued for an event held in dry or moist
2 territory.

3 ➔Section 11. KRS 243.884 is amended to read as follows:

4 (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer,
5 wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine
6 and distilled spirits, all distributors of beer, all direct shipper licensees
7 shipping alcohol to a consumer at a Kentucky address, all distillers making
8 sales pursuant to KRS 243.0305(3)~~[(b)],~~ (4)(a)1. and 2., (4)(c), (7),~~[(8), and]~~
9 (9), (10), and (12), and all microbreweries selling malt beverages under KRS
10 243.157.

11 (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent
12 (11%) of the gross receipts of any such wholesaler or distributor derived from
13 "sales at wholesale" or "wholesale sales" made within the Commonwealth,
14 except as provided in subsection (3) of this section. For the purposes of this
15 section, the gross receipts of a microbrewery making "wholesale sales" shall
16 be calculated by determining the dollar value amount that the microbrewer
17 would have collected had it conveyed to a distributor the same volume sold to
18 a consumer as allowed under KRS 243.157 (3)(b) and (c).

19 (c) On and after July 1, 2015, the following rates shall apply:

20 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at
21 wholesale; and

22 2. For wine and beer:

23 a. Ten and three-quarters of one percent (10.75%) for wholesale sales
24 or sales at wholesale made on or after July 1, 2015, and before
25 June 1, 2016;

26 b. Ten and one-half of one percent (10.5%) for wholesale sales or
27 sales at wholesale made on or after June 1, 2016, and before June

1 1, 2017;

2 c. Ten and one-quarter of one percent (10.25%) for wholesale sales
3 or sales at wholesale made on or after June 1, 2017, and before
4 June 1, 2018; and

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

7 (d) On and after March 12, 2021, the following rates shall apply for direct shipper
8 sales:

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

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

13 (e) For direct shipper sales or sales made pursuant to Section 6 of this Act, if a
14 wholesale price is not readily available, the direct shipper licensee or distillery
15 shall calculate the wholesale price to be seventy percent (70%) of the retail
16 price of the alcoholic beverages.

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

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

27 (a) Sales made between wholesalers or between distributors;

- 1 (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a
2 small farm winery in a calendar year made by:
- 3 1. The small farm winery; or
 - 4 2. A wholesaler of that wine produced by the small farm winery; and
- 5 (c) Sales made between a direct shipper licensee and a consumer located outside
6 of Kentucky.

7 ➔Section 12. KRS 244.240 is amended to read as follows:

- 8 (1) No distiller, rectifier, winery, or wholesaler and no employee, servant, or agent of a
9 distiller, rectifier, winery, or wholesaler shall:
- 10 (a) Except as provided in KRS 243.0305 and 243.155, be interested directly or
11 indirectly in any way in any premises where distilled spirits or wine is sold at
12 retail or in any business devoted wholly or partially to the sale of distilled
13 spirits or wine at retail;
 - 14 (b) Make or cause to be made any loan to any person engaged in the manufacture
15 or sale of distilled spirits or wine at wholesale or retail;
 - 16 (c) Make any gift or render any kind of service whatsoever, directly or indirectly,
17 to any licensee that may tend to influence the licensee to purchase the product
18 of the distiller, rectifier, winery, or wholesaler; or
 - 19 (d) Enter into a contract with any retail licensee under which the licensee agrees
20 to confine the licensee's sales to distilled spirits or wine manufactured or sold
21 by one (1) or more distillers, rectifiers, wineries, or wholesalers. This type of
22 contract shall be void.
- 23 (2) Nothing in this section shall prohibit the giving of discounts in the usual course of
24 business if the same discounts are offered to all licensees holding the same license
25 type buying similar quantities.
- 26 (3) A retailer shall not require or demand that a distiller, rectifier, winery, or wholesaler
27 violate this section.

1 **(4) This section shall not prohibit a distiller from:**

2 **(a) Supplying a retailer with barrels for the purpose of holding barrel-aged and**
 3 **batched cocktails; and**

4 **(b) Selling private selection packages as authorized in subsection (4)(a)3. of**
 5 **Section 6 of this Act.**

6 ➔Section 13. KRS 244.260 is amended to read as follows:

7 (1) No wholesaler shall purchase, import, keep upon the licensed premises, or sell any
 8 distilled spirits or wine in any container except in the original sealed package
 9 containing quantities of not less than fifty (50) milliliters each of distilled spirits or
 10 one hundred (100) milliliters of wine, and not exceeding **the largest applicable**
 11 **federal standard of fill size for**~~one and seventy-five hundredths (1.75) liters of~~
 12 distilled spirits or two hundred twenty (220) liters of wine, as received from the
 13 distiller, rectifier, winery, or wholesaler. The containers shall be in sizes authorized
 14 by federal law and at all times shall have affixed to them all labels required by
 15 federal law or the administrative regulations of the board.

16 (2) Except **for purposes of preparing barrel-aged and batched cocktails as defined in**
 17 **Section 1 of this Act and** as permitted by KRS 243.055 and 243.082(4) and
 18 subsection (3) of this section, licensees holding retail distilled spirits and wine drink
 19 licenses shall not keep upon their licensed premises any distilled spirits or wine in
 20 any container except in the original package as received from the wholesaler and
 21 authorized by federal law. Containers of distilled spirits shall not exceed **the largest**
 22 **applicable federal standard of fill size for distilled spirits**~~one and seventy-five~~
 23 ~~hundredths (1.75) liters}~~ or be less than fifty (50) milliliters of distilled spirits.
 24 Containers of wine shall not exceed two hundred twenty (220) liters or be less than
 25 one hundred (100) milliliters. All containers shall at all times have affixed to them
 26 any labels required by federal law or administrative regulations of the board.

27 (3) Licensees holding retail distilled spirits and wine package licenses shall not keep

1 upon their licensed premises any distilled spirits or wine in any container except in
 2 the original package as received from the wholesaler and authorized by federal law.
 3 Containers of distilled spirits shall not exceed *the largest applicable federal*
 4 *standard of fill size for distilled spirits*~~[one and seventy five hundredths (1.75)~~
 5 ~~liters]~~ or be less than fifty (50) milliliters of distilled spirits. Containers of wine
 6 shall not exceed two hundred twenty (220) liters or be less than one hundred (100)
 7 milliliters. Except as permitted by subsection (2) of this section, all containers shall
 8 at all times remain sealed and shall have affixed to them any labels required by
 9 federal law or administrative regulations of the board.

10 ➔Section 14. KRS 243.034 is amended to read as follows:

- 11 (1) A limited restaurant license may be issued to an establishment meeting the
 12 definition criteria established in KRS 241.010~~(37)~~~~[(36)]~~ as long as the
 13 establishment is within:
- 14 (a) Any wet territory; or
 15 (b) Any moist precinct that has authorized the sale of alcoholic beverages under
 16 KRS 242.1244.
- 17 (2) A limited restaurant license shall authorize the licensee to purchase, receive,
 18 possess, and sell alcoholic beverages at retail by the drink for consumption on the
 19 licensed premises or off-premises consumption pursuant to KRS 243.081. The
 20 licensee shall purchase alcoholic beverages only from licensed wholesalers or
 21 distributors. The license shall not authorize the licensee to sell alcoholic beverages
 22 by the package.
- 23 (3) The holder of a limited restaurant license shall maintain at least seventy percent
 24 (70%) of its gross receipts from the sale of food and maintain the minimum
 25 applicable seating requirement required for the type of limited restaurant license.
- 26 (4) A limited restaurant as defined by KRS 241.010~~(37)~~~~(a)~~~~[(36)(a)]~~ shall:
- 27 (a) Only sell alcoholic beverages incidental to the sale of a meal; and

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

3 ➔Section 15. KRS 243.0341 is amended to read as follows:

4 (1) Notwithstanding any other provision of law, any city or county that conducted an
5 election under KRS 242.1244(2) prior to January 1, 2016, for by the drink sales of
6 alcoholic beverages in restaurants and dining facilities seating one hundred (100)
7 persons or more or any city with limited sale precincts created pursuant to KRS
8 242.1292 may elect to act under this section.

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

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

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

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

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

20 (a) Sales shall only be conducted in restaurants and other dining facilities meeting
21 the requirements of KRS 241.010(37)(a)~~[(36)(a)]~~; and

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

24 (4) A city or county acting under this section may allow limited restaurant sales as
25 defined in KRS 241.010(37)~~[(36)]~~.

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

27 (a) Modify the city's or county's ability to issue a limited restaurant license to

1 restaurants or other dining facilities meeting the requirements of KRS
2 241.010~~(37)(b)~~~~[(36)(b)]~~; or

3 (b) Affect, alter, or otherwise impair any license previously issued to a restaurant
4 or dining facility meeting the requirements of KRS 241.010~~(37)(b)~~~~[(36)(b)]~~.

5 ➔Section 16. Whereas distilled spirits represent a signature industry of the
6 Commonwealth, and this industry is essential for job creation and other economic
7 benefits to the state, an emergency is declared to exist, and this Act takes effect upon its
8 passage and approval by the Governor or upon its otherwise becoming a law.