

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) "Bed and breakfast" means a one (1) family dwelling unit that:
- 9 (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are
10 occupied for sleeping purposes by persons not members of the single-family
11 unit;
- 12 (b) Holds a permit under KRS Chapter 219; and
- 13 (c) Has an innkeeper who resides on the premises or property adjacent to the
14 premises during periods of occupancy;
- 15 (6) "Board" means the State Alcoholic Beverage Control Board created by KRS
16 241.030;
- 17 (7) "Bottle" means any container which is used for holding alcoholic beverages for the
18 use and sale of alcoholic beverages at retail;
- 19 (8) "Brewer" means any person who manufactures malt beverages or owns, occupies,
20 carries on, works, or conducts any brewery, either alone or through an agent;
- 21 (9) "Brewery" means any place or premises where malt beverages are manufactured for
22 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
23 and storerooms connected with the premises; or where any part of the process of the
24 manufacture of malt beverages is carried on; or where any apparatus connected with
25 manufacture is kept or used; or where any of the products of brewing or
26 fermentation are stored or kept;
- 27 (10) "Building containing licensed premises" means the licensed premises themselves

1 and includes the land, tract of land, or parking lot in which the premises are
2 contained, and any part of any building connected by direct access or by an entrance
3 which is under the ownership or control of the licensee by lease holdings or
4 ownership;

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

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

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

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

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

21 (16) (a) "Commercial quadricycle" means a vehicle equipped with a minimum of ten
22 (10) pairs of fully operative pedals for propulsion by means of human
23 muscular power and which:

- 24 1. Has four (4) wheels;
- 25 2. Is operated in a manner similar to that of a bicycle;
- 26 3. Is equipped with a minimum of thirteen (13) seats for passengers;
- 27 4. Has a unibody design;

- 1 5. Is equipped with a minimum of four (4) hydraulically operated brakes;
- 2 6. Is used for commercial tour purposes;
- 3 7. Is operated by the vehicle owner or an employee of the owner; and
- 4 8. Has an electrical assist system that shall only be used when traveling to
- 5 or from its storage location while not carrying passengers.
- 6 (b) A "commercial quadricycle" is not a motor vehicle as defined in KRS 186.010
- 7 or 189.010;
- 8 (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage
- 9 Control;
- 10 (18) "Consumer" means a person or persons who~~[-]~~, or a business organization that,
- 11 purchases alcoholic beverages and~~[- who]~~;
- 12 (a) Does not hold a license or permit issued by the department;
- 13 (b) Purchases the alcoholic beverages for personal consumption only and not for
- 14 resale;
- 15 (c) Is of lawful drinking age; and
- 16 (d)~~[- Receives the alcoholic beverages at a location other than a licensed premises;~~
- 17 ~~and~~
- 18 (e)~~[-]~~ Receives the alcoholic beverages in territory where the alcoholic beverages
- 19 may be lawfully sold or received;
- 20 (19) "Convention center" means any facility which, in its usual and customary business,
- 21 provides seating for a minimum of one thousand (1,000) people and offers
- 22 convention facilities and related services for seminars, training and educational
- 23 purposes, trade association meetings, conventions, or civic and community events
- 24 or for plays, theatrical productions, or cultural exhibitions;
- 25 (20) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
- 26 guilty, the decision of a court, or the finding of a jury, irrespective of a
- 27 pronouncement of judgment or the suspension of the judgment;

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

1 242;

2 (30) "Election" means:

3 (a) An election held for the purpose of taking the sense of the people as to the
4 application or discontinuance of alcoholic beverage sales under KRS Chapter
5 242; or

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

7 (31) "Horse racetrack" means a facility licensed to conduct a horse race meeting under
8 KRS Chapter 230;

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

11 (33) "Investigator" means any employee or agent of the department who is regularly
12 employed and whose primary function is to travel from place to place for the
13 purpose of visiting licensees, and any employee or agent of the department who is
14 assigned, temporarily or permanently, by the commissioner to duty outside the main
15 office of the department at Frankfort, in connection with the administration of
16 alcoholic beverage statutes;

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

18 (35) "Licensee" means any person to whom a license has been issued, pursuant to KRS
19 Chapters 241 to 244;

20 (36) "Limited restaurant" means:

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

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

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

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

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

16 (47) **"Private selection event" means a private event with a licensed distiller during**
17 **which participating consumers, retail licensees, wholesalers, distributors, or a**
18 **distillery's own representatives select a single barrel or a blend of barrels of the**
19 **distiller's products to be specially packaged for the participants;**

20 (48) **"Private selection package" means a bottle of distilled spirits sourced from the**
21 **barrel or barrels selected by participating consumers, retail licensees,**
22 **wholesalers, distributors, or a distillery's own representatives during a private**
23 **selection event;**

24 (49) "Public nuisance" means a condition that endangers safety or health, is offensive to
25 the senses, or obstructs the free use of property so as to interfere with the
26 comfortable enjoyment of life or property by a community or neighborhood or by
27 any considerable number of persons;

1 ~~(50)~~~~(48)~~ "Qualified historic site" means:

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

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

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

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

12 ~~(51)~~~~(49)~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits,
13 malt, or wine by any process other than as provided for on distillery premises, and
14 every person who, without rectifying, purifying, or refining distilled spirits by
15 mixing alcoholic beverages with any materials, manufactures any imitations of or
16 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,
17 spirits, cordials, bitters, or any other name;

18 ~~(52)~~~~(50)~~ "Repackaging" means the placing of alcoholic beverages in any retail
19 container irrespective of the material from which the container is made;

20 ~~(53)~~~~(51)~~ "Restaurant" means a facility where the usual and customary business is the
21 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
22 and that receives at least fifty percent (50%) of its food and alcoholic beverage
23 receipts from the sale of food at the premises;

24 ~~(54)~~~~(52)~~ "Retail container" means any bottle, can, barrel, or other container which,
25 without a separable intermediate container, holds alcoholic beverages and is
26 suitable and destined for sale to a retail outlet, whether it is suitable for delivery or
27 shipment to the consumer or not;

1 ~~(55)~~~~(53)~~ "Retail sale" means any sale of alcoholic beverages to a consumer, including
2 those transactions taking place in person, electronically, online, by mail, or by
3 telephone;

4 ~~(56)~~~~(54)~~ "Retailer" means any licensee who sells and delivers any alcoholic beverage to
5 consumers, except for manufacturers with limited retail sale privileges and direct
6 shipper licensees;

7 ~~(57)~~~~(55)~~ "Riverboat" means any boat or vessel with a regular place of mooring in this
8 state that is licensed by the United States Coast Guard to carry one hundred (100) or
9 more passengers for hire on navigable waters in or adjacent to this state;

10 ~~(58)~~~~(56)~~ "Sale" means any transfer, exchange, or barter for consideration, and includes
11 all sales made by any person, whether principal, proprietor, agent, servant, or
12 employee, of any alcoholic beverage;

13 ~~(59)~~~~(57)~~ "Service bar" means a bar, counter, shelving, or similar structure used for
14 storing or stocking supplies of alcoholic beverages that is a workstation where
15 employees prepare alcoholic beverage drinks to be delivered to customers away
16 from the service bar;

17 ~~(60)~~~~(58)~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep
18 with intent to sell, and the delivery of any alcoholic beverage;

19 ~~(61)~~~~(59)~~ "Small farm winery" means a winery whose wine production is not less than
20 two hundred fifty (250) gallons and not greater than five hundred thousand
21 (500,000) gallons in a calendar year;

22 ~~(62)~~~~(60)~~ "Souvenir package" means a special package of distilled spirits available from
23 a licensed retailer that is:

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

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

1 ~~(63)~~~~(61)~~ "State administrator" or "administrator" means the distilled spirits
2 administrator or the malt beverages administrator, or both, as the context requires;

3 ~~(64)~~~~(62)~~ "State park" means a state park that has a:

- 4 (a) Nine (9) or eighteen (18) hole golf course; or
5 (b) Full-service lodge and dining room;

6 ~~(65)~~~~(63)~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used
7 for serving and selling distilled spirits or wine by the drink for consumption on the
8 licensed premises to guests and patrons from additional locations other than the
9 main bar;

10 ~~(66)~~~~(64)~~ "Territory" means a county, city, district, or precinct;

11 ~~(67)~~~~(65)~~ "Urban-county administrator" means an urban-county alcoholic beverage
12 control administrator;

13 ~~(68)~~~~(66)~~ "Valid identification document" means an unexpired, government-issued form
14 of identification that contains the photograph and date of birth of the individual to
15 whom it is issued;

16 ~~(69)~~~~(67)~~ "Vehicle" means any device or animal used to carry, convey, transport, or
17 otherwise move alcoholic beverages or any products, equipment, or appurtenances
18 used to manufacture, bottle, or sell these beverages;

19 ~~(70)~~~~(68)~~ "Vintage distilled spirit" means a package or packages of distilled spirits that:

- 20 (a) Are in their original manufacturer's unopened container;
21 (b) Are not owned by a distillery; and
22 (c) Are not otherwise available for purchase from a licensed wholesaler
23 within the Commonwealth;

24 ~~(71)~~~~(69)~~ "Warehouse" means any place in which alcoholic beverages are housed or
25 stored;

26 ~~(72)~~~~(70)~~ "Weak cider" means any fermented fruit-based beverage containing more than
27 one percent (1%) but less than seven percent (7%) alcohol by volume;

1 ~~(73)~~~~(71)~~ "Wet" means a territory in which a majority of the electorate voted to permit
2 all forms of retail alcohol sales by a local option election under KRS 242.050 or
3 242.125 on the following question: "Are you in favor of the sale of alcoholic
4 beverages in (name of territory)?";

5 ~~(74)~~~~(72)~~ "Wholesale sale" means a sale to any person for the purpose of resale;

6 ~~(75)~~~~(73)~~ "Wholesaler" means any person who distributes alcoholic beverages for the
7 purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer
8 or cooperative of a retail outlet;

9 ~~(76)~~~~(74)~~ "Wine" means the product of the normal alcoholic fermentation of the juices
10 of fruits, with the usual processes of manufacture and normal additions, and
11 includes champagne and sparkling and fortified wine of an alcoholic content not to
12 exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and
13 perry cider and also includes preparations or mixtures vended in retail containers if
14 these preparations or mixtures contain not more than fifteen percent (15%) of
15 alcohol by volume. It does not include weak cider; and

16 ~~(77)~~~~(75)~~ "Winery" means any place or premises in which wine is manufactured from
17 any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials
18 are compounded, except a place or premises that manufactures wine for sacramental
19 purposes exclusively.

20 ➔Section 2. KRS 243.027 is amended to read as follows:

21 (1) KRS 243.027 to 243.029 shall supersede any conflicting statute in KRS Chapters
22 241 to 244.

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

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

27 (b) Is a manufacturer located in this state or any other state or an alcoholic

- 1 beverage supplier licensed under KRS 243.212 or 243.215; and
- 2 (c) Holds a current license, permit, or other authorization to manufacture or
3 supply alcoholic beverages in the state where the applicant is located. If an
4 applicant is located outside of Kentucky, proof of its current license, permit,
5 or other authorization as issued by its home state shall be sufficient proof of
6 its eligibility to hold a direct shipper license in Kentucky.
- 7 (3) (a) A manufacturer applicant shall only be authorized to ship alcoholic beverages
8 that are sold under a brand name owned or exclusively licensed to the
9 manufacturer, provided the alcoholic beverages were:
- 10 1. Produced by the manufacturer;
11 2. Produced for the manufacturer under a written contract with another
12 manufacturer; or
13 3. Bottled for or by the manufacturer.
- 14 (b) An applicant licensed under KRS 243.212 or 243.215 shall only be authorized
15 to ship alcoholic beverages for which it is the primary source of supply.
- 16 (4) The department shall establish the form for a direct shipper license application
17 through the promulgation of an administrative regulation. These requirements shall
18 include only the following:
- 19 (a) The address of the manufacturer or supplier; and
20 (b) If the applicant is located outside this state, a copy of the applicant's current
21 license, permit, or other authorization to manufacture, store, or supply
22 alcoholic beverages in the state where the applicant is located.
- 23 (5) For purposes of this section, the holder of a direct shipper license may utilize the
24 services of a third party to fulfill shipments, subject to the following:
- 25 (a) The third party shall not be required to hold any alcoholic beverage license,
26 but no licensed entity shall serve as a third party to fulfill shipments other than
27 the holder of a storage license or transporter's license;

- 1 (b) The third party may operate from the premises of the direct shipper licensee or
2 from another business location; and
- 3 (c) The direct shipper licensee shall be liable for any violation of KRS 242.250,
4 242.260, 242.270, or 244.080 that may occur by the third party.
- 5 (6) A direct shipper licensee shall:
- 6 (a) Agree that the Secretary of State shall serve as its registered agent for service
7 of process. The licensee shall agree that legal service on the agent constitutes
8 legal service on the direct shipper licensee;
- 9 (b) Maintain the records required under KRS 243.027 to 243.029 and provide the
10 department and the Department of Revenue access to or copies of these
11 records;
- 12 (c) Allow the department or the Department of Revenue to perform an audit of
13 the direct shipper licensee's records or an inspection of the direct shipper
14 licensee's licensed premises upon request. If an audit or inspection reveals a
15 violation, the department or the Department of Revenue may recover
16 reasonable expenses from the licensee for the cost of the audit or inspection;
- 17 (d) Register with the Department of Revenue, and file all reports and pay all taxes
18 required under KRS 243.027 to 243.029; and
- 19 (e) Submit to the jurisdiction of the Commonwealth of Kentucky for any
20 violation of KRS 242.250, 242.260, 242.270, or 244.080 or for nonpayment of
21 any taxes owed.
- 22 (7) (a) Each direct shipper licensee shall submit to the department and the
23 Department of Revenue a quarterly report for that direct shipper license
24 showing:
- 25 1. The total amount of alcoholic beverages shipped into the state per
26 consumer;
- 27 2. The name and address of each consumer;

- 1 3. The purchase price of the alcoholic beverages shipped and the amount of
2 taxes charged to the consumer for the alcoholic beverages shipped; and
3 4. The name and address of each common carrier.
- 4 (b) The Department of Revenue shall create a form through the promulgation of
5 an administrative regulation for reporting under paragraph (a) of this
6 subsection.
- 7 (c) The department shall provide a list of all active direct shipper licensees to
8 licensed common carriers on a quarterly basis to reduce the number of
9 unlicensed shipments in the Commonwealth.
- 10 (8) A direct shipper licensee shall submit a current copy of its alcoholic beverage
11 license from its home state along with the one hundred dollar (\$100) license fee
12 every year upon renewal of its direct shipper license.
- 13 (9) Notwithstanding any provision of this section to the contrary, a manufacturer
14 located and licensed in Kentucky may ship by a common carrier holding a Kentucky
15 transporter's license samples of alcoholic beverages produced by the manufacturer
16 in quantities not to exceed one (1) liter, per any recipient, of any
17 individual~~[particular]~~ product in one (1) calendar year of distilled spirits or wine, or
18 ninety-six (96) ounces, per any recipient, of any individual~~[particular]~~ product in
19 one (1) calendar year of malt beverages, to any of the following:
- 20 (a) Marketing or media representatives twenty-one (21) years of age or older;
21 (b) Distilled spirits, wine, or malt beverage competitions or contests;
22 (c) Wholesalers or distributors located outside of Kentucky;
23 (d) Federal, state, or other regulatory testing labs;~~[and]~~
24 (e) Third-party product formulation and development partners; and
25 (f) Persons or entities engaged in a private selection event pursuant to Section
26 3 of this Act.
- 27 Such samples shall be marked by affixing across the product label, a not readily

1 removed disclaimer with the words "Sample-Not for Sale" and the name of the
2 manufacturer.

3 ➔Section 3. KRS 243.0305 is amended to read as follows:

4 (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that
5 has authorized the limited sale of alcoholic beverages at distilleries under KRS
6 242.1243 and that has a gift shop or other retail outlet on its premises may conduct
7 the activities permitted under this section as a part of its distiller's license.

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

10 1. Be permitted to transfer its products from the distillery proper to the
11 location where those **retail** sales occur without having to transfer
12 physical possession of those distilled spirits to a licensed wholesaler;~~;~~
13 ~~and~~

14 2. ~~[Effective January 1, 2022, without otherwise reporting those distilled~~
15 ~~spirits to a licensed wholesaler,]~~Report **those retail sales** and pay all
16 taxes required to the Department of Revenue at the time and in the
17 manner required by the Department of Revenue in accordance with its
18 powers under KRS 131.130(3);~~;~~

19 ~~3. (b) 1. [Effective January 1, 2022, a distiller selling distilled spirits in~~
20 ~~accordance with this subsection shall]~~Pay all wholesale sales taxes due
21 under KRS 243.884. For the purposes of this subsection, "wholesale
22 sales" means a sale of distilled spirits made by a distiller under
23 subsection (3)(b), ~~(4), (8), and~~ (9), **or (10)** of this section, if required by
24 KRS 243.884, **excluding sales made by a distiller under subsection**
25 **(4)(a), (b), and (c) of this section that utilize a licensed wholesaler;**
26 ~~and~~;

27 ~~4. 2. [Effective January 1, 2022, a distiller shall]~~Pay the excise tax on

1 distilled spirits in accordance with KRS 243.720 and 243.730.

2 **(b)**~~(c)~~ All other distilled spirits that are produced by the distillery shall be sold
3 and physically transferred in compliance with all other relevant provisions of
4 KRS Chapters 241 to 244.

5 (3) A distiller may sell **its own private selection packages and** souvenir packages at
6 retail:

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

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

13 (4) **A distiller may conduct private selection events and sell private selection packages**
14 **at retail, as follows:**

15 **(a) Distillers may sell private selection packages to consumers who participate**
16 **in a private selection event only by selling the private selection packages**
17 **through a wholesaler and to a licensed retailer of the consumer's choice.**
18 **The distillery and wholesaler's cooperation in facilitating the sale of the**
19 **private selection packages to the retailer of the consumer's choice shall not**
20 **be deemed a violation of Section 5 of this Act;**

21 **(b) Except as provided in KRS 243.036, distillers may sell private selection**
22 **packages to retail licensees that participated in a private selection event only**
23 **through a licensed wholesaler;**

24 **(c) Distillers may sell private selection packages to wholesalers and distributors**
25 **that participated in a private selection event if the private selection packages**
26 **resulting from the event are sold only through a licensed retailer; and**

27 **(d) Distillers may sell private selection packages selected by the distillery's own**

1 representatives directly from the distillery premises to distillery visitors
2 subject to the quantity limitations established in subsection (3)(b) of this
3 section.

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

6 ~~(6)~~~~(5)~~ Except as provided in this section, souvenir package **and private selection**
7 package sales to distillery visitors shall be governed by all the statutes and
8 administrative regulations governing the retail sale of distilled spirits by the
9 package.

10 ~~(7)~~~~(6)~~ Souvenir packages sold to distillery visitors under subsection (3)(b) of this
11 section shall be registered with the department pursuant to KRS 244.440 and made
12 available to a Kentucky licensed wholesaler.

13 ~~(8)~~~~(7)~~ Notwithstanding any provision of KRS 244.050 to the contrary, a distillery
14 holding a sampling license may allow visitors to sample distilled spirits under the
15 following conditions:

- 16 (a) Sampling shall be permitted only on the licensed premises during regular
17 business hours;
- 18 (b) A distillery shall not charge for the samples; and
- 19 (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces
20 of samples per visitor per day, **except in connection with a private selection**
21 event.

22 ~~(9)~~~~(8)~~ Notwithstanding the provisions of KRS 243.110, in accordance with this
23 section, a distillery located in wet territory or in any territory that has authorized the
24 limited sale of alcoholic beverages under an election held pursuant to KRS
25 242.1243 may:

- 26 (a) Hold an NQ2 retail drink license for the sale of alcoholic beverages on the
27 distillery premises; and

1 (b) Employ persons to engage in the sale or service of alcohol under an NQ2
2 license, if each employee completes the department's Server Training in
3 Alcohol Regulations program within thirty (30) days of beginning
4 employment.

5 ~~(10)~~~~(9)~~ A distiller may sell to consumers at fairs, festivals, and other similar types of
6 events located in wet territory alcoholic beverages by the drink, containing spirits
7 distilled or bottled on the premises of the distillery.

8 ~~(11)~~~~(10)~~ A distiller may offer for sale in its gift shop products that were produced in
9 collaboration with a brewer or microbrewer, except that:

10 (a) These packages shall not be exclusive to the distiller's gift shop; and

11 (b) The distiller shall purchase the jointly branded souvenir package only from a
12 licensed malt beverage distributor.

13 ~~(12)~~~~(11)~~ Except as expressly stated in this section, this section does not exempt the
14 holder of a distiller's license from:

15 (a) The provisions of KRS Chapters 241 to 244;

16 (b) The administrative regulations of the board; and

17 (c) Regulation by the board at all the distiller's licensed premises.

18 ~~(13)~~~~(12)~~ Nothing in this section shall be construed to vitiate the policy of this
19 Commonwealth supporting an orderly three (3) tier system for the production and
20 sale of alcoholic beverages.

21 ➔Section 4. KRS 243.884 is amended to read as follows:

22 (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer,
23 wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine
24 and distilled spirits, all distributors of beer, all direct shipper licensees
25 shipping alcohol to a consumer at a Kentucky address, all distillers making
26 sales pursuant to KRS 243.0305(3)~~(b)~~, ~~(4)~~,~~(8)~~, and (9), **or (10), excluding**
27 **sales made by a distiller under subsection (4)(a), (b), and (c) of Section 3 of**

1 *this Act that utilize a licensed wholesaler,* and all microbreweries selling malt
2 beverages under KRS 243.157.

3 (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent
4 (11%) of the gross receipts of any such wholesaler or distributor derived from
5 "sales at wholesale" or "wholesale sales" made within the Commonwealth,
6 except as provided in subsection (3) of this section. For the purposes of this
7 section, the gross receipts of a microbrewery making "wholesale sales" shall
8 be calculated by determining the dollar value amount that the microbrewer
9 would have collected had it conveyed to a distributor the same volume sold to
10 a consumer as allowed under KRS 243.157 (3)(b) and (c).

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

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

14 2. For wine and beer:

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

18 b. Ten and one-half of one percent (10.5%) for wholesale sales or
19 sales at wholesale made on or after June 1, 2016, and before June
20 1, 2017;

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

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

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

- 1 1. For distilled spirits shipments, eleven percent (11%) for wholesale sales
2 or sales at wholesale; and
- 3 2. For wine and beer shipments, ten percent (10%) for wholesale sales or
4 sales at wholesale.
- 5 (e) For direct shipper sales, if a wholesale price is not readily available, the direct
6 shipper licensee shall calculate the wholesale price to be seventy percent
7 (70%) of the retail price of the alcoholic beverages.
- 8 (2) Wholesalers of distilled spirits and wine, distributors of malt beverages,
9 microbreweries, distillers, and direct shipper licensees shall pay and report the tax
10 levied by this section on or before the twentieth day of the calendar month next
11 succeeding the month in which possession or title of the distilled spirits, wine, or
12 malt beverages is transferred from the wholesaler or distributor to retailers, or by
13 microbreweries, distillers, or direct shipper licensees to consumers in this state, in
14 accordance with rules and regulations of the Department of Revenue designed
15 reasonably to protect the revenues of the Commonwealth.
- 16 (3) Gross receipts from sales at wholesale or wholesale sales shall not include the
17 following sales:
- 18 (a) Sales made between wholesalers or between distributors;
- 19 (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a
20 small farm winery in a calendar year made by:
- 21 1. The small farm winery; or
22 2. A wholesaler of that wine produced by the small farm winery; and
- 23 (c) Sales made between a direct shipper licensee and a consumer located outside
24 of Kentucky.
- 25 ➔Section 5. KRS 244.240 is amended to read as follows:
- 26 (1) No distiller, rectifier, winery, or wholesaler and no employee, servant, or agent of a
27 distiller, rectifier, winery, or wholesaler shall:

- 1 (a) Except as provided in KRS 243.0305 and 243.155, be interested directly or
2 indirectly in any way in any premises where distilled spirits or wine is sold at
3 retail or in any business devoted wholly or partially to the sale of distilled
4 spirits or wine at retail;
- 5 (b) Make or cause to be made any loan to any person engaged in the manufacture
6 or sale of distilled spirits or wine at wholesale or retail;
- 7 (c) Make any gift or render any kind of service whatsoever, directly or indirectly,
8 to any licensee that may tend to influence the licensee to purchase the product
9 of the distiller, rectifier, winery, or wholesaler; or
- 10 (d) Enter into a contract with any retail licensee under which the licensee agrees
11 to confine the licensee's sales to distilled spirits or wine manufactured or sold
12 by one (1) or more distillers, rectifiers, wineries, or wholesalers. This type of
13 contract shall be void.
- 14 (2) Nothing in this section shall prohibit the giving of discounts in the usual course of
15 business if the same discounts are offered to all licensees holding the same license
16 type buying similar quantities.
- 17 (3) A retailer shall not require or demand that a distiller, rectifier, winery, or wholesaler
18 violate this section.
- 19 **(4) This section shall not prohibit a distiller from selling private selection packages**
20 **as authorized in subsection (4)(a) of Section 3 of this Act.**

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