

1 AN ACT relating to alcohol retail premises.

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

3 ➔Section 1. KRS 243.034 is amended to read as follows:

- 4 (1) A limited restaurant license may be issued to an establishment meeting the
5 definition criteria established in KRS 241.010(37) as long as the establishment is
6 within:
- 7 (a) Any wet territory; or
 - 8 (b) Any moist precinct that has authorized the sale of alcoholic beverages under
9 KRS 242.1244.
- 10 (2) A limited restaurant license shall authorize the licensee to purchase, receive,
11 possess, and sell alcoholic beverages at retail by the drink for consumption on the
12 licensed premises or off-premises consumption pursuant to KRS 243.081. The
13 licensee shall purchase alcoholic beverages only from licensed wholesalers or
14 distributors, **except for purchases made pursuant to subsection (5) of this section.**
15 The license shall not authorize the licensee to sell alcoholic beverages by the
16 package.
- 17 (3) The holder of a limited restaurant license shall maintain at least seventy percent
18 (70%) of its gross receipts from the sale of food and maintain the minimum
19 applicable seating requirement required for the type of limited restaurant license.
- 20 (4) A limited restaurant as defined by KRS 241.010(37)(a) shall:
- 21 (a) Only sell alcoholic beverages incidental to the sale of a meal; and
 - 22 (b) Not have an open bar and shall not sell alcoholic beverages to any person who
23 has not purchased or does not purchase a meal.
- 24 **(5) (a) The holder of a limited restaurant license may purchase alcoholic beverages**
25 **by the package from licensees authorized to sell distilled spirits, wine, and**
26 **malt beverages at retail, but only if those alcoholic beverages have first gone**
27 **through the three (3) tier system.**

1 **(b) Any purchase made pursuant to this subsection shall:**

2 **1. Only be sold by the drink for consumption on the licensed premises or**
 3 **off-premises consumption pursuant to KRS 243.081;**

4 **2. Be reported quarterly on a form prescribed by the department; and**

5 **3. Include a copy of each receipt of purchase.**

6 **(c) The holder of a limited restaurant license shall not purchase at retail more**
 7 **than:**

8 **1. Nine (9) liters of distilled spirits per month;**

9 **2. Nine (9) liters of wine per month; and**

10 **3. Three (3) cases of malt beverages per month.**

11 ➔Section 2. KRS 243.084 is amended to read as follows:

12 (1) A "Nonquota type 2" or "NQ2" retail drink license may be issued to an applicant
 13 operating as, or in:

14 (a) A hotel that:

15 1. Contains at least fifty (50) sleeping units; and

16 2. Receives from its total food and alcoholic beverage sales at least fifty
 17 percent (50%) of its gross receipts from the sale of food;

18 (b) A restaurant;

19 (c) An airport;

20 (d) A riverboat;

21 (e) A distiller; or

22 (f) A business located within, or adjacent to, an entertainment destination center
 23 licensed premises.

24 (2) A holder of an NQ2 retail drink license may purchase, receive, possess, and sell
 25 alcoholic beverages at retail by the drink for consumption on the licensed premises
 26 or off-premises consumption pursuant to KRS 243.081. The licensee shall purchase
 27 alcoholic beverages only from licensed wholesalers or distributors, **except for**

1 *purchases made by restaurants pursuant to subsection (4) of this section.* A
 2 distiller may purchase its own products for retail drink sales under KRS 243.0305.
 3 The holder of an NQ2 retail drink license shall store alcoholic beverages in the
 4 manner prescribed in KRS 244.260.

- 5 (3) (a) To qualify for an NQ2 license, a riverboat shall have a regular or alternative
 6 place of mooring in a wet county or city of this state.
 7 (b) If a riverboat moors or makes landfall in a location other than its regular or
 8 alternate regular place of mooring, all alcoholic beverages shall be kept
 9 locked.
 10 (c) A riverboat licensed under this subsection shall not take on or discharge
 11 passengers when mooring or making landfall in dry option territory.

12 *(4) (a) A holder of an NO2 retail drink license operating as a restaurant may*
 13 *purchase alcoholic beverages by the package from licensees authorized to*
 14 *sell distilled spirits, wine, and malt beverages at retail, but only if those*
 15 *alcoholic beverages have first gone through the three (3) tier system.*

16 *(b) Any purchase made pursuant to this subsection shall:*

- 17 *1. Only be sold by the drink for consumption on the licensed premises or*
 18 *off-premises consumption pursuant to KRS 243.081;*
 19 *2. Be reported quarterly on a form prescribed by the department; and*
 20 *3. Include a copy of each receipt of purchase.*

21 *(c) A holder of an NQ2 retail drink license shall not purchase at retail more*
 22 *than:*

- 23 *1. Nine (9) liters of distilled spirits per month;*
 24 *2. Nine (9) liters of wine per month; and*
 25 *3. Three (3) cases of malt beverages per month.*

26 ➔Section 3. KRS 243.088 is amended to read as follows:

- 27 (1) A "Nonquota type 4" or "NQ4" retail malt beverage drink license may be issued to

1 the holder of a quota retail drink license, microbrewery license, small farm winery
2 license, or any other business wishing to sell malt beverages by the drink for
3 consumption on the premises only.

4 (2) An NQ4 retail malt beverage drink license shall authorize the licensee to:

5 (a) Sell malt beverages at retail by the drink from only the licensed premises for
6 consumption at the licensed premises only; and

7 (b) Purchase malt beverages only from a distributor, except for purchases made
8 pursuant to subsection (5) of this section.

9 (3) The holder of an NQ4 retail malt beverage drink license may also hold a nonquota
10 retail malt beverage package license.

11 (4) A nonquota retail malt beverage drink license shall not be issued to any premises
12 from which gasoline and lubricating oil are sold or from which the servicing and
13 repair of motor vehicles is conducted, unless there is maintained in inventory on the
14 premises for sale at retail not less than five thousand dollars (\$5,000) of food,
15 groceries, and related products valued at cost. For purposes of this subsection, the
16 term "food and groceries" has the meaning provided in KRS 243.280. This section
17 shall not apply to any licensed premises that sells no fuel other than marine fuel.

18 (5) (a) The holder of an NQ4 retail malt beverage drink license may purchase malt
19 beverages by the package from licensees authorized to sell malt beverages at
20 retail, but only if those malt beverages have first gone through the three (3)
21 tier system.

22 (b) Any purchase made pursuant to this subsection shall:

23 1. Only be sold by the drink for consumption on the licensed premises;

24 2. Be reported quarterly on a form prescribed by the department; and

25 3. Include a copy of each receipt of purchase.

26 (c) The holder of an NQ4 retail malt beverage drink license shall not purchase
27 at retail more than three (3) cases of malt beverages per month.

1 ➔ Section 4. KRS 243.250 is amended to read as follows:

2 **(1)** A quota retail drink license shall authorize the licensee to purchase, receive,
3 possess, and sell distilled spirits and wine at retail by the drink for consumption on
4 the licensed premises, or off-premises consumption pursuant to KRS 243.081. The
5 licensee shall purchase distilled spirits and wine only from licensed wholesalers,
6 **except for purchases made pursuant to subsection (2) of this section.**

7 **(2) (a) The holder of a quota retail drink license may purchase distilled spirits and**
8 **wine by the package from licensees authorized to sell distilled spirits and**
9 **wine at retail, but only if those distilled wine and spirits have first gone**
10 **through the three (3) tier system.**

11 **(b) Any purchase made pursuant to this subsection shall:**

12 **1. Only be sold by the drink for consumption on the licensed premises or**
13 **off-premises consumption pursuant to KRS 243.081;**

14 **2. Be reported quarterly on a form prescribed by the department; and**

15 **3. Include a copy of each receipt of purchase.**

16 **(c) The holder of a quota retail drink license shall not purchase at retail more**
17 **than:**

18 **1. Nine (9) liters of distilled spirits per month; and**

19 **2. Nine (9) liters of wine per month.**

20 ➔ Section 5. KRS 243.036 is amended to read as follows:

21 (1) A special temporary alcoholic beverage auction license may be issued to **an**
22 **auctioneer licensed under KRS Chapter 330 or to** a charitable or nonprofit
23 organization.

24 (2) A special temporary alcoholic beverage auction license **issued to a charitable or**
25 **nonprofit organization** shall authorize the holder to:

26 (a) Purchase, transport, receive, possess, store, sell, and deliver alcoholic
27 beverages to be sold by auction or raffle or consumed at charity or nonprofit

1 events;

2 (b) Purchase, transport, receive, possess, store, sell, and deliver limited specially
3 labeled bottles of alcoholic beverages to be sold at charity or nonprofit events;

4 (c) Obtain alcoholic beverages from distillers, rectifiers, wineries, small farm
5 wineries, brewers, microbreweries, wholesalers, distributors, retailers, or any
6 other person, by gift or donation, for the purpose of charity or nonprofit
7 events; and

8 (d) Receive payment for alcoholic beverages sold at events.

9 (3) **For a charitable or nonprofit auction:**

10 (a) Each alcoholic beverage auction or raffle conducted by a charitable
11 organization shall be subject to all restrictions and limitations contained in
12 KRS Chapters 241 to 244 and the administrative regulations issued under
13 those chapters and shall be authorized only on the days and only during the
14 hours that the sale of alcoholic beverages is otherwise authorized in the
15 county or municipality; **and** ~~[-]~~

16 (b) ~~[(4)]~~ The location at which the alcoholic beverages are auctioned, raffled, or
17 consumed under this section shall not constitute a public place for the purpose
18 of KRS Chapter 222. Charitable or nonprofit events may be conducted on
19 licensed or unlicensed premises. The charitable organization possessing a
20 special temporary alcoholic beverage auction license shall post a copy of the
21 license at the location of the event.

22 (4) **An auctioneer holding a special temporary alcoholic beverage auction license**
23 **may:**

24 (a) **Transport, receive, possess, store, advertise, auction, sell, deliver, and ship**
25 **alcoholic beverages either sold or intended for sale at auction by the**
26 **licensee;**

27 (b) **Sell only alcoholic beverages at auction that:**

- 1 1. Were previously lawfully sold at retail; and
- 2 2. Are in their original manufacturer's unopened container;
- 3 (c) Deliver and ship any alcoholic beverages sold at an auction directly to the
4 consumer who purchased the alcoholic beverages. Any shipment to a
5 consumer outside of this state is subject to all applicable laws of the
6 jurisdiction in which that consumer is located. When shipping alcoholic
7 beverages directly to a consumer in this state, the auctioneer holder of the
8 license shall:
- 9 1. Ensure that the shipping label on each container containing the
10 alcoholic beverages conspicuously states the following: "CONTAINS
11 ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER
12 REQUIRED FOR DELIVERY";
- 13 2. Obtain the signature of a person who is at least twenty-one (21) years
14 of age at the delivery address prior to delivery, after requiring that
15 person to demonstrate that he or she is at least twenty-one (21) years
16 of age by providing a valid identification document; and
- 17 3. Not ship the alcoholic beverages to any address in this state located in
18 dry territory; and
- 19 (d) Conduct the auction on premises licensed by the department, unlicensed
20 premises, or online.
- 21 (5) A special temporary alcoholic beverage auction conducted by an auctioneer shall
22 be:
- 23 (a) Subject to all restrictions and limitations contained in KRS Chapters 241 to
24 244 and the administrative regulations issued under those chapters;
- 25 (b) Separate from any other type of alcoholic beverage auction authorized
26 under KRS Chapters 241 to 244, but may be combined with other types of
27 auctions authorized under KRS Chapter 330;

1 (c) Authorized for in-person live auctions and online auction closings only on
2 the days and only during the hours that the sale of alcoholic beverages is
3 otherwise authorized in the county or municipality where the live auction is
4 held or, for an online auction, the physical location of the alcoholic
5 beverages being sold; and

6 (d) Subject to the auction and auctioneer requirements of KRS Chapter 330.

7 (6) An auctioneer conducting a special temporary alcoholic beverage auction shall:

8 (a) Post a copy of its special temporary alcoholic beverage auction license and
9 auctioneer license at the location of the event for in-person auctions and on
10 the auction website for online auctions; and

11 (b) Not hold any other type of alcoholic beverage license.

12 (7) Alcoholic beverages shall only be sold by an auctioneer under a special
13 temporary alcoholic beverage auction license if the alcoholic beverages were not
14 purchased or attained for the purpose of resale at auction and in the following
15 circumstances:

16 (a) As an "Estate Auction," or included in such auction where the alcoholic
17 beverages being offered at auction are the property belonging to the estate
18 of one (1) or more deceased persons and are being offered by:

19 1. The direction and authority of the authorized executor or
20 administrator;

21 2. Court order; or

22 3. The direction or on behalf of a surviving spouse or direct heirs;

23 (b) As a "Living Estate Auction" or "Downsizing Auction" or included in such
24 auction where the alcoholic beverages being offered at auction are the
25 property belonging to a person or persons of a household that is in
26 transition due to one (1) of the following life-changing situations:

27 1. One (1) or more members of the household moving into a retirement

- 1 home, nursing home, assisted living home, or a smaller residence; or
- 2 2. Combining one (1) household with another; or
- 3 (c) As a partial or complete disbursement of an alcoholic beverage collection
- 4 consisting of more than one (1) package that has been collected by the same
- 5 individual or household. An individual or household shall not sell
- 6 collections at auction more than once every three (3) years.
- 7 (8) (a) A person shall not purchase alcoholic beverages from an auctioneer at a
- 8 special temporary alcoholic beverage auction unless that person may
- 9 lawfully receive or possess the alcoholic beverages.
- 10 (b) Nothing in this section shall prevent a vintage distilled spirits licensee from
- 11 purchasing alcoholic beverages at auction if the alcoholic beverages qualify
- 12 as vintage distilled spirits.
- 13 (9) All advertising for an auctioneer special temporary alcoholic beverage auction
- 14 shall:
- 15 (a) Show the name and license number for the special temporary alcoholic
- 16 beverage auction license and the auctioneer license; and
- 17 (b) Conform to all advertising requirements and restrictions for auctions
- 18 contained in KRS Chapter 330 and any administrative regulations
- 19 promulgated under that chapter.
- 20 (10) If a person ceases to be licensed as an auctioneer under KRS Chapter 330, the
- 21 person's special temporary alcoholic beverage auction license shall be
- 22 automatically suspended until the person reestablishes licensure as an
- 23 auctioneer.
- 24 (11) An auctioneer holding a special temporary alcoholic beverage auction license
- 25 shall file a quarterly report with the department, which shall be established and
- 26 maintained by the department, utilizing a form prescribed by the department that
- 27 includes the following information:

1 (a) The number of alcoholic beverage packages auctioned in the preceding
 2 three (3) months in total, with each purchase matched to the individuals
 3 who both sold and purchased the alcoholic beverages;

4 (b) The date of each purchase;

5 (c) The name, address, and phone number of each individual who sold and
 6 purchased the alcoholic beverages;

7 (d) A detailed description of the alcoholic beverages purchased, including the
 8 brand name, number of packages, and the size of the packages; and

9 (e) Whether each alcoholic beverage package was purchased in-person,
 10 delivered in-person, or shipped.

11 (12) A special temporary alcoholic beverage auction license shall not be issued for any
 12 period longer than thirty (30) days.

13 (13)~~[(6)]~~ Notwithstanding any other provision of KRS Chapters 241 to 244, a distiller,
 14 rectifier, winery, small farm winery, brewer, microbrewery, wholesaler, distributor,
 15 or retailer may donate, give away, or deliver any of its products to a charitable or
 16 nonprofit organization possessing a special temporary alcoholic beverage auction
 17 license under this section.

18 (14)~~[(7)]~~ All restrictions and prohibitions applying to an alcoholic beverage retail
 19 package and alcoholic beverage by the drink license, not inconsistent with this
 20 section, shall apply to a special temporary alcoholic beverage auction license.

21 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 330 IS CREATED TO
 22 READ AS FOLLOWS:

23 (1) An auctioneer licensed under this chapter may obtain a special temporary
 24 alcoholic beverage auction license from the Department of Alcoholic Beverage
 25 Control. A special temporary alcoholic beverage auction license shall allow the
 26 auctioneer to auction alcoholic beverages as authorized in Section 5 of this Act.

27 (2) An auctioneer who receives a suspension or revocation from the Department of

1 *Alcoholic Beverage Control for a violation relating to a special temporary*
 2 *alcoholic beverage auction license may be subject to additional discipline by the*
 3 *board under this chapter.*

4 *(3) The Department of Alcoholic Beverage Control shall have no authority to take*
 5 *any action relating to an auctioneer's license issued under this chapter.*

6 *(4) An auctioneer may auction alcoholic beverages as a separate auction or in the*
 7 *same auction with other types of real property, personal property, or any*
 8 *combination thereof.*

9 ➔Section 7. KRS 243.033 is amended to read as follows:

10 (1) A caterer's license may be issued as a supplementary license to a caterer that holds a
 11 quota retail package license, a quota retail drink license, an NQ1 license, an NQ2
 12 license, or a limited restaurant license.

13 (2) The caterer's license may be issued as a primary license to a caterer in any wet
 14 territory or in any moist territory under KRS 242.1244 for the premises that serves
 15 as the caterer's commissary and designated banquet hall. No primary caterer's
 16 license shall authorize alcoholic beverage sales at a premises that operates as a
 17 restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and
 18 key at the licensed premises during the time that the alcoholic beverages are not
 19 being used in conjunction with a catered function.

20 (3) The caterer's license shall authorize the caterer to:

21 (a) Purchase and store alcoholic beverages in the manner prescribed in KRS
 22 243.088, 243.250, and 244.260;

23 (b) Transport, sell, serve, and deliver alcoholic beverages by the drink at locations
 24 away from the licensed premises or at the caterer's designated banquet hall in
 25 conjunction with the catering of food and alcoholic beverages for a customer
 26 and the customer's guests, in:

27 1. Cities and counties established as moist territory under KRS 242.1244 if

- 1 the receipts from the catering of food at any catered event are at least
2 seventy percent (70%) of the gross receipts from the catering of both
3 food and alcoholic beverages;
- 4 2. Precincts established as moist territory if the receipts from the catering
5 of food at any catered event are at least ten percent (10%) of the gross
6 receipts from the catering of both food and alcoholic beverages. This
7 subparagraph shall supersede any conflicting provisions of KRS
8 Chapters 241 to 244;
- 9 3. Wet cities and counties in which quota retail drink licenses are not
10 available if the receipts from the catering of food at any catered event
11 are at least fifty percent (50%) of the gross receipts from the catering of
12 both food and alcoholic beverages; or
- 13 4. All other wet territory if the receipts from the catering of food at any
14 catered event are at least thirty-five percent (35%) of the gross receipts
15 from the catering of both food and alcoholic beverages;
- 16 (c) Receive and fill telephone orders for alcoholic beverages in conjunction with
17 the ordering of food for a catered event; and
- 18 (d) Receive payment for alcoholic beverages served at a catered event on a by-
19 the-drink, cash bar, or by-the-event basis. The caterer may bill the customer
20 for by-the-function sales of alcoholic beverages in the usual course of the
21 caterer's business.
- 22 (4) A caterer licensee shall not cater alcoholic beverages at locations for which retail
23 alcoholic beverage licenses or special temporary licenses have been issued. A
24 caterer licensee may cater a ***charitable or nonprofit*** fundraising event for which a
25 special temporary alcoholic beverage auction license has been issued under KRS
26 243.036.
- 27 (5) A caterer licensee shall not cater alcoholic beverages on Sunday except in territory

1 in which the Sunday sale of alcoholic beverages is permitted under the provisions
2 of KRS 244.290 and 244.480.

3 (6) The location at which alcoholic beverages are sold, served, and delivered by a
4 caterer, pursuant to this section, shall not constitute a public place for the purpose of
5 KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at
6 which the function being catered is held shall be excluded from the public place
7 provisions of KRS Chapter 222.

8 (7) The caterer licensee shall post a copy of the licensee's caterer's license at the
9 location of the function for which alcoholic beverages are catered.

10 (8) All restrictions and prohibitions applying to a quota retail drink licensee and an
11 NQ4 retail malt beverage drink licensee not inconsistent with this section shall
12 apply to the caterer licensee.

13 (9) The caterer licensee shall maintain records as set forth in KRS 244.150 and in
14 administrative regulations promulgated by the board.

15 (10) Notwithstanding subsection (3)(b) of this section, a caterer may serve alcoholic
16 beverages to guests who are twenty-one (21) years of age or older at a private event
17 in dry territory if:

18 (a) The alcoholic beverages were lawfully purchased in a wet or moist territory:

19 1. By an individual; or

20 2. At the caterer's licensed premises in wet or moist territory; and

21 (b) The alcoholic beverages are not sold in dry territory to guests at the private
22 residence or private event regardless of whether the venue is a public place.