

KENTUCKY ALCOHOL STATUTES AND REGULATIONS

A GUIDE FROM KLC MUNICIPAL LAW



Kentucky League of Cities (KLC)
100 East Vine Street, Suite 800
Lexington, KY 40507
Phone: 800.876.4552 (toll-free)
Fax: 859.977.3703
www.klc.org

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KENTUCKY ABC LAWS - INTRODUCTION

Trying to stay up to date on Kentucky's alcohol statutes and regulations is a pretty daunting challenge given the changes in the law from one legislative session to the next. This is the second edition of the Kentucky League of Cities Legal Department's compendium of current effective statutes and regulations governing alcohol with the goal of having a snapshot of the laws of Kentucky as they exist prior to the 2021 legislative session.

The advantage of having this guide as a pdf is that it is word searchable. So, if a issue comes up in your community - hopefully you can just use the key-word search to locate the portions of the Kentucky statutory law and regulations that will apply.

Should that fail, or if you have any questions at all on any matter of municipal law, please feel free to contact the Kentucky League of Cities Department of Municipal Law at 800.876.4552.



The following new statutory sections have not been codified as of this publication and will be properly assigned as soon as they are:

A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) If authorized under its licensing statute, a license holder with the privilege of selling alcoholic beverages by the drink at retail shall be permitted to sell alcoholic beverages by the drink in a sealed container, and by the package in sealed original containers, on a delivery, to-go, or take-out basis, as follows:
 1. The sale of alcoholic beverages pursuant to this section must be in conjunction with the purchase of a prepared meal and only in quantities that a reasonable person would purchase with a meal;
 2. Deliveries, if applicable, shall be made in a vehicle operated and owned by the licensee, the licensee's employee, or an independent contractor or agent; and
 3. Any person delivering alcoholic beverages must be at least twenty-one (21) years of age.
- (2) All licensees and their employees and independent contractors are prohibited from:
 - (a) Selling alcohol in bulk quantities;
 - (b) Completing sales in dry territories;
 - (c) Delivering:
 1. Into dry territory;
 2. To a minor under twenty-one (21) years of age; or
 3. To an intoxicated person.
- (3) (a) For purposes of this section, alcoholic drinks to go shall be:
 1. Placed in a bag or other container that is secured in a manner that makes it visibly apparent if the container has been subsequently opened or tampered with; and
 2. Transported in a locked glove compartment or the trunk or other area that is not a passenger area under KRS 189.530(5).
- (b) The department may, but is not required to, promulgate an administrative regulation that sets forth the:
 1. Conditions under which sales may take place;
 2. Days and times that sales may take place; and
 3. The requirements for transportation of alcoholic drinks to go under this section.
- (4) For purposes of this section, vehicles used for deliveries shall be exempt from displaying the name and license number of the retail licensee selling the alcoholic beverages being delivered.



(5) Except as provided in this section, sales of alcoholic beverages shall be subject to all of the statutes and administrative regulations relating to the retail sale of alcoholic beverages.

A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

- (1) As of the effective date of this Act, KRS 244.602 to 244.606 shall not apply to any new distribution agreement, or the renewal of an existing distribution agreement, between a distributor of malt beverages and a microbrewery. Any existing distribution agreement between a distributor of malt beverages and a microbrewery shall be deemed to renew upon the earlier of January 1, 2022, or the renewal date set forth in that agreement.
- (2) Every distribution agreement providing for and specifying the rights and duties of a microbrewer and distributor with and in regard to the sale of the products of the microbrewer within the Commonwealth of Kentucky shall be in writing. The terms and provisions of the agreement shall comply with and conform to this section.
- (3) A distribution agreement between a microbrewer and a distributor shall not:
 - (a) Require the microbrewer or distributor to agree to renew the distribution agreement at the expiration of a term;
 - (b) Except as set forth in subsection (4) or (9) of this section, permit a microbrewer or distributor to terminate a distribution agreement without first giving written notice of any alleged deficiency and giving the other party a reasonable opportunity to cure the alleged deficiency. For purposes of this paragraph, a reasonable opportunity to cure shall be sixty (60) days from the date a notice of an alleged deficiency is received;
 - (c) Permit the assignment of the distribution agreement, in part or in whole, without first obtaining the consent of the other party, which shall not be unreasonably withheld provided the assignee possesses the financial, technical, and operational skills necessary to perform under the distribution agreement;
 - (d) Permit the microbrewer or distributor to unilaterally amend a distribution agreement, or any document referred to or incorporated by reference in the distribution agreement;
 - (e) Require a microbrewer or distributor to mediate or arbitrate disputes which may arise between them, though nothing shall prohibit the parties from resolving the dispute by retaining an independent mediator or arbitrator while equally sharing the cost; or
 - (f) Prohibit the microbrewer or distributor from litigating in state or federal courts located in Kentucky or from litigating under the laws of the Commonwealth.
- (4) A microbrewer may terminate a distribution agreement according to the terms of the agreement or in any of the following instances:
 - (a) The assignment or attempted assignment by the distributor for the benefit of creditors, the institution of proceedings in bankruptcy by or against the distributor, the dissolution or liquidation



- of the distributor, the insolvency of the distributor, or the distributor's failure to pay for malt beverages in accordance with law;
- (b) The felony conviction of a distributor, or any of its owners who participate in the distributor's management which, in the sole judgment of the microbrewer, may adversely affect the goodwill or interests of the microbrewer;
 - (c) Fraudulent or discriminatory conduct of the distributor in any of its dealings with a microbrewery or a microbrewer's products;
 - (d) Revocation or suspension for more than thirty-one (31) days of the distributor's federal basic permit or any state or local license required of the distributor for the normal operation of its business;
 - (e) Sale of malt beverages by a distributor outside its sales territory prescribed by the distribution agreement in accordance with KRS 244.585;
 - (f) Without microbrewer consent, the distributor effectuates a change in ownership or possession of ownership interests, establishes a trust or other ownership interest, enters into buy-sell agreements, or grants an option to purchase an ownership interest; provided, however, this right of termination shall not apply to the transfer, creation, sale, gift, or grant of an ownership interest, or option thereon, of a total aggregate of less than ten percent (10%) of the total existing ownership or possession of ownership interest of the distributor or intrafamily transfer; or
 - (g) In the case of a microbrewer whose products represent five percent (5%) or less of a distributor's gross annual sales, the giving of a forty-five (45) day notice of termination and the payment to the distributor of reasonable compensation, which shall be equivalent to the fair market value of the distributor's total investment in the microbrewer's products being terminated. For purposes of this subsection, fair market value shall be calculated based on a multiple of the distributor's gross profits from the sale of the microbrewer's products in the twelve (12) months immediately prior to the date of the microbrewer's written notice of intent to terminate. The fair market valuation shall be based on an arm's length transaction entered into without duress or threat of termination, and shall include all elements of value, including goodwill and going-concern value. If the parties are unable to agree on the fair market valuation, the dispute shall be resolved as provided in Section 3 of the Act. A microbrewer terminating an agreement under this paragraph may do so not more than once in a thirty-six (36) month period and shall not be deemed to be in violation of subsection (5)(b) of this section.
- (5) A microbrewer or a distributor of malt beverages shall not:
- (a) Unreasonably discriminate or retaliate against the other party in the application or performance of the terms of a distribution agreement;
 - (b) Require or request payment, convey money or other consideration, or accept any sum of money or other consideration in exchange for the right to distribute the product or products of the microbrewer in a designated territory, provided that the following items shall not be prohibited:
 - 1. A microbrewer's request to a distributor to pay or contribute any sum of money for or toward the cost of marketing the product or products of the microbrewer so long as the money contributed by the distributor is spent by the microbrewer in a manner that at such times as agreed to in writing by the microbrewer and the distributor; and



2. Any payment pursuant to subsection (4)(g) of this section;
 - (c) Unreasonably withheld timely consent to a proposed sale or transfer, in part or whole, of the stock or assets of the microbrewer or distributor, and in no event shall the microbrewer or distributor take more than thirty (30) days to approve or disapprove the proposed sale or transfer after the microbrewer or distributor has received written notice of the proposal and received all requested information to enable the microbrewer or distributor to pass upon the purchaser's or transferee's financial, technical, and operational skills necessary to perform under the distribution agreement; or
 - (d) Fail to give at least thirty (30) days' advance notice of a change in ownership or possession of an ownership interest, whether by sale, transfer, gift, or grant of an option.
- (6) A distributor of malt beverages shall not:
- (a) Refuse to enter into a distribution agreement with a microbrewery, in whole or in part, except for good cause and in good faith; or
 - (b) Continue to distribute the microbrewer's products thirty (30) days after receiving a notice of the termination of a distribution agreement. However, any sums owed to the distributor by the microbrewer or another distributor assuming the obligation to distribute the microbrewer's product within the territory encompassed by the terminated distribution agreement shall still be owed.
- (7) A microbrewer shall not enter into a contract with more than one (1) distributor to sell any of its products or brands within the same territory or area at the same time. This subsection shall not apply to contracts entered into prior to January 1, 2004, or future renewals of those contracts to the extent the existing contract and the future renewal allow different distributors to sell some but not all of the brewer's or importer's brands or brand extensions within the same territory or area at the same time.
- (8) A distributor that enters into or renews a distribution agreement with a microbrewer following the effective date of this ACT shall maintain physical facilities and personnel so that:
- (a) The product and brand of the microbrewer are reasonably represented in the territory of the distributor for which the distribution agreement applies;
 - (b) The reputation and trade name of the microbrewer are reasonably promoted and protected; and
 - (c) The public is fully served.
- (9) A distributor may terminate a distribution agreement according to the terms of the agreement or in any of the following instances:
- (a) The assignment or attempted assignment by the microbrewer for the benefit of creditors, the institution of proceedings in bankruptcy by or against the microbrewer, the dissolution or liquidation of the microbrewer, or the insolvency of the microbrewer;
 - (b) The felony conviction of a microbrewer, or any of its owners who participate in the microbrewer's management which, in the sole judgment of the distributor, may adversely affect the goodwill or interests of the distributor;



- (c) Fraudulent or discriminatory conduct of the microbrewer in any of its dealings with a distributor or a distributor's brands;
 - (d) Revocation or suspension for more than thirty-one (31) days of the microbrewer's federal basic permit or any state or local license required of the microbrewer for the normal operation of its business;
 - (e) Without distributor consent, the microbrewer effectuates a change in ownership or possession of ownership interests, establishes a trust or other ownership interest, enters into buy-sell agreements, or grants an option to purchase an ownership interest; provided, however, this right of termination shall not apply to the transfer, creation, sale, gift, or grant of an ownership interest, or option thereon, of a total aggregate of less than ten percent (10%) of the total existing ownership or possession of ownership interest of the microbrewer or intrafamily transfer; or
 - (f) In the case of a microbrewer whose products represent five percent (5%) or less of a distributor's gross annual sales, the giving of a forty-five (45) day notice of termination and payment to the microbrewer of reasonable compensation, which shall be determined to be a sum equal to five (5) times the monthly average of purchases from the microbrewer over the twelve (12) months prior to the termination.
- (10) In the event of a termination of a contract between a microbrewer and a distributor, the microbrewer shall repurchase all of its product still in the distributor's inventory upon return from the distributor, provided that the "best by", "expiration", or other similar printed date is greater than thirty (30) days after the date of the return of the product.
- (11) Any microbrewer or distributor that violates any provision of this section shall pay the injured party all reasonable damages sustained as a result of the microbrewer's or distributor's violations, together with the costs and attorneys' fees incurred by the microbrewer or distributor in protecting its right.

A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

In the event the microbrewer and distributor cannot agree on the fair market value as set forth in subsection (4) (g) of Section 2 of this Act, then the parties shall arbitrate in accordance with the following:

- (1) If the parties fail to reach an agreement not later than thirty (30) days after the distributor receives the microbrewer's written notice to terminate, the distributor or microbrewer may send a written notice to the other party and the American Arbitration Association, or its successor in interest, declaring the party's intention to proceed with final and binding arbitration administered by the American Arbitration Association under the American Arbitration Association's Commercial Arbitration Rules. Thereafter, an arbitration shall be held for the purpose of determining the fair market value of the distributor's total investment in the microbrewer's products being terminated. For the purpose of this paragraph, fair market shall be the value that would be determined in an arm's length transaction entered into without duress or threat of termination of the existing distributor's right and shall include all elements of value, including goodwill and going-concern value.
- (2) Notice of intent to arbitrate shall be sent, as provided in paragraph (1) of this section, not later than thirty-five (35) days after the distributor receives written notice to terminate. The arbitration



proceeding shall conclude not later than forty-five (45) days after the date the notice of intent to arbitrate is mailed to a party.

- (3) Any arbitration held pursuant to this subsection shall be conducted in the city within Kentucky that:
 1. Is closest to the distributor; and
 2. Has a population of more than twenty thousand (20,000).
- (4) Any arbitration held pursuant to this subsection shall be conducted before one (1) impartial arbitrator to be selected by the American Arbitration Association. The arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association.
- (5) An arbitrator's award in any arbitration held pursuant to this subsection shall be monetary only and shall not enjoin or compel conduct. Any arbitration held pursuant to this subsection shall be instead of all other remedies and procedures.
- (6) The cost of the arbitrator and any other direct costs of any arbitration held pursuant to this subsection shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them.
- (7) The arbitrator in any arbitration held pursuant to this subsection shall render a decision not later than thirty (30) days after the conclusion of the arbitration, unless this time period is extended by mutual agreement of the parties or by the arbitrator. The decision of the arbitration is final and binding on the parties. Under no circumstances may the parties appeal the decision of the arbitrator.
- (8) A party who fails to participate in the arbitration hearings in any arbitration held pursuant to this subsection waives all rights the party would have had in the arbitration and is considered to have consented to the determination of the arbitrator.
- (9) Nothing in this section shall be construed to limit or prohibit good-faith settlements voluntarily entered into by the parties.

CHAPTER 241 – ALCOHOLIC BEVERAGES; ADMINISTRATION AND CONTROL

241.010 Definitions for KRS Chapters 241 to 244

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

- (1) “Alcohol” means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced;
- (2) “Alcoholic beverage” means every liquid, solid, powder, or crystal, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
 - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 - (b) Patented, patent, and proprietary medicines;
 - (c) Toilet, medicinal, and antiseptic preparations and solutions;
 - (d) Flavoring extracts and syrups;
 - (e) Denatured alcohol or denatured rum;
 - (f) Vinegar and preserved sweet cider;
 - (g) Wine for sacramental purposes; and
 - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use;
- (3) (a) “Alcohol vaporizing device” or “AWOL device” means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;

(b) “Alcohol vaporizing device” or “AWOL device” does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;
- (4) “Automobile race track” means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;
- (5) “Bed and breakfast” means a one (1) family dwelling unit that:
 - (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are occupied for sleeping purposes by persons not members of the single-family unit;



- (b) Holds a permit under KRS Chapter 219; and
 - (c) Has an innkeeper who resides on the premises or property adjacent to the premises during periods of occupancy;
- (6) “Board” means the State Alcoholic Beverage Control Board created by KRS 241.030;
- (7) “Bottle” means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- (8) “Brewer” means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;
- (9) “Brewery” means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;
- (10) “Building containing licensed premises” means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;
- (11) “Caterer” means a person operating a food service business that prepares food in a licensed and inspected commissary, transports the food and alcoholic beverages to the caterer’s designated and inspected banquet hall or to an agreed location, and serves the food and alcoholic beverages pursuant to an agreement with another person;
- (12) “Charitable organization” means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;
- (13) “Cider” means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;
- (14) “City administrator” means city alcoholic beverage control administrator;
- (15) “Commercial airport” means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;
- (16) (a) “Commercial quadricycle” means a vehicle equipped with a minimum of ten (10) pairs of fully operative pedals for propulsion by means of human muscular power and which:
- 1. Has four (4) wheels;
 - 2. Is operated in a manner similar to that of a bicycle;
 - 3. Is equipped with a minimum of thirteen (13) seats for passengers;



4. Has a unibody design;
 5. Is equipped with a minimum of four (4) hydraulically operated brakes;
 6. Is used for commercial tour purposes;
 7. Is operated by the vehicle owner or an employee of the owner; and
 8. Has an electrical assist system that shall only be used when traveling to or from its storage location while not carrying passengers.
- (b) A “commercial quadricycle” is not a motor vehicle as defined in KRS 186.010 or 189.010; Control;
- (17) “Commissioner” means the commissioner of the Department of Alcoholic Beverage Control;
- (18) “Consumer” means a person who purchases alcoholic beverages and who:
- (a) Does not hold a license or permit issued by the department;
 - (b) Purchases the alcoholic beverages for personal consumption only and not for resale;
 - (c) Is of lawful drinking age;
 - (d) Receives the alcoholic beverages at a location other than a licensed premises; and
 - (e) Receives the alcoholic beverages in territory where the alcoholic beverages may be lawfully sold or received;
- (19) “Convention center” means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;
- (20) “Convicted” and “conviction” means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;
- (21) “County administrator” means county alcoholic beverage control administrator;
- (22) “Department” means the Department of Alcoholic Beverage Control;
- (23) “Dining car” means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;
- (24) “Discount in the usual course of business” means price reductions, rebates, refunds, and discounts given by wholesalers to distilled spirits and wine retailers pursuant to an agreement made at the time of the sale of the merchandise involved and are considered a part of the sales transaction, constituting reductions in price pursuant to the terms of the sale, irrespective of whether the quantity discount was:



- (a) Prorated and allowed on each delivery;
 - (b) Given in a lump sum after the entire quantity of merchandise purchased had been delivered;
 - or
 - (c) Based on dollar volume or on the quantity of merchandise purchased;
- (25) “Distilled spirits” or “spirits” means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;
- (26) “Distiller” means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;
- (27) “Distillery” means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;
- (28) “Distributor” means any person who distributes malt beverages for the purpose of being sold at retail;
- (29) “Dry” means a territory in which a majority of the electorate voted to prohibit all forms of retail alcohol sales through a local option election held under KRS Chapter 242;
- (30) “Election” means:
- (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
 - (b) Any other election not pertaining to alcohol;
- (31) “Horse racetrack” means a facility licensed to conduct a horse race meeting under KRS Chapter 230;
- (32) “Hotel” means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;
- (33) “Investigator” means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting licensees, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;
- (34) “License” means any license issued pursuant to KRS Chapters 241 to 244;
- (35) “Licensee” means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;
- (36) “Limited restaurant” means:
- (a) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of



- its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244; or
- (b) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons of dining, and which is located in a wet or moist territory under KRS 242.1244;
- (37) “Local administrator” means a city alcoholic beverage administrator, county alcoholic beverage administrator, or urban-county alcoholic beverage control administrator;
- (38) “Malt beverage” means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider;
- (39) “Manufacture” means distill, rectify, brew, bottle, and operate a winery;
- (40) “Manufacturer” means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
- (41) “Minor” means any person who is not twenty-one (21) years of age or older;
- (42) “Moist” means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections authorized by KRS Chapter 242;
- (43) “Population” means the population figures established by the federal decennial census for a census year or the current yearly population estimates prepared by the Kentucky State Data Center, Urban Studies Center of the University of Louisville, Louisville, Kentucky, for all other years;
- (44) “Premises” means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. “Premises” shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;
- (45) “Primary source of supply” or “supplier” means the distiller, winery, brewer, producer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the United States of the foreign distiller, producer, bottler, or owner;
- (46) “Private club” means a nonprofit social, fraternal, military, or political organization, club, or nonprofit or for-profit entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;



- (47) “Public nuisance” means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;
- (48) “Qualified historic site” means:
- (a) A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places;
 - (b) A site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served;
 - (c) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; or
 - (d) A not-for-profit or nonprofit facility listed on the National Register of Historic Places;
- (49) “Rectifier” means any person who rectifies, purifies, or refines distilled spirits, malt, or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;
- (50) “Repackaging” means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;
- (51) “Restaurant” means a facility where the usual and customary business is the preparation and serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and alcoholic beverage receipts from the sale of food at the premises;
- (52) “Retail container” means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery or shipment to the consumer or not;
- (53) “Retail sale” means any sale of alcoholic beverages to a consumer, including those transactions taking place in person, electronically, online, by mail, or by telephone;
- (54) “Retailer” means any licensee who sells and delivers any alcoholic beverage to consumers, except for manufacturers with limited retail sale privileges and direct shipper licensees;
- (55) “Riverboat” means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry one hundred (100) or more passengers for hire on navigable waters in or adjacent to this state;
- (56) “Sale” means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;
- (57) “Service bar” means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be



- delivered to customers away from the service bar;
- (58) “Sell” includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage;
- (59) “Small farm winery” means a winery whose wine production is not less than two hundred fifty (250) gallons and not greater than five hundred thousand (500,000) gallons in a calendar year;
- (60) “Souvenir package” means a special package of distilled spirits available from a licensed retailer that is:
- (a) Available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled; or
 - (b) Available for retail sale at a licensed Kentucky distillery but produced or bottled at another of that distiller’s licensed distilleries in Kentucky;
- (61) “State administrator” or “administrator” means the distilled spirits administrator or the malt beverages administrator, or both, as the context requires;
- (62) “State park” means a state park that has a:
- (a) Nine (9) or eighteen (18) hole golf course; or
 - (b) Full-service lodge and dining room;
- (63) “Supplemental bar” means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar;
- (64) “Territory” means a county, city, district, or precinct;
- (65) “Urban-county administrator” means an urban-county alcoholic beverage control administrator;
- (66) “Valid identification document” means an unexpired, government-issued form of identification that contains the photograph and date of birth of the individual to whom it is issued;
- (67) “Vehicle” means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages;
- (68) “Vintage distilled spirit” means a package or packages of distilled spirits that:
- (a) Are in their original manufacturer’s unopened container;
 - (b) Are not owned by a distillery; and
 - (c) Are not otherwise available for purchase from a licensed wholesaler within the Commonwealth;
- (69) “Warehouse” means any place in which alcoholic beverages are housed or stored;



- (70) “Weak cider” means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;
- (71) “Wet” means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050 or 242.125 on the following question: “Are you in favor of the sale of alcoholic beverages in (name of territory):?”;
- (72) “Wholesale sale” means a sale to any person for the purpose of resale;
- (73) “Wholesaler” means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;
- (74) “Wine” means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It does not include weak cider; and
- (75) “Winery” means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

241.015 Department of Alcoholic Beverage Control created; what to consist of; appointment, qualifications, powers, and compensation of commissioner

There is created a Department of Alcoholic Beverage Control, which shall constitute a statutory administrative department of the state government within the meaning of KRS Chapter 12. The department consists of the commissioner of alcoholic beverage control and the Alcoholic Beverage Control Board. The commissioner shall head the department, shall be its executive officer, and shall have charge of the administration of the department and perform all functions of the department not specifically assigned to the board. The Governor shall appoint as commissioner a person with administrative experience in the field of alcoholic beverage control.

241.020 Department to administer alcoholic beverage laws, except as to collection of taxes; advisory opinions, rulings, and administrative regulations; Divisions of Distilled Spirits and Malt Beverages.

- (1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, except that the collection of taxes shall be administered by the Department of Revenue. The department may issue advisory opinions and declaratory rulings related to KRS Chapters 241 to 244 and the administrative regulations promulgated under those chapters.
- (2) A Division of Distilled Spirits, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.
- (3) A Division of Malt Beverages, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.



241.030 Alcoholic Beverage Control Board

The Alcoholic Beverage Control Board shall consist of the commissioner of alcoholic beverage control and two (2) persons appointed by the secretary of the Public Protection Cabinet with the approval of the Governor, who shall be persons with administrative experience in the field of alcoholic beverage control. One (1) of these persons shall serve as administrator of the Division of Distilled Spirits, and the other shall serve as administrator of the Division of Malt Beverages. The commissioner shall be chairman of the board.

241.040 Oath of board members

Each member of the board, before entering upon his duties, shall take the oath prescribed by Section 228 of the Constitution.

241.060 Functions of board

The board shall have the following functions, powers, and duties:

- (1) To promulgate reasonable administrative regulations governing procedures relative to the applications for and revocations of licenses, the supervision and control of the use, manufacture, sale, transportation, storage, advertising, and trafficking of alcoholic beverages, and all other matters over which the board has jurisdiction. The only administrative regulation that shall be promulgated in relation to the direct shipper license is to establish the license application, as set forth in subsection (4) of Section 1 of this Act. To the extent any administrative regulation previously promulgated is contrary to the provisions of KRS 13A.120(2), the board shall repeal or amend the administrative regulation as necessary by January 1, 2022. Administrative regulations need not be uniform in their application but may vary in accordance with reasonable classifications;
- (2) To limit in its sound discretion the number of licenses of each kind or class to be issued in this state or any political subdivision, and restrict the locations of licensed premises. To this end, the board may make reasonable division and subdivision of the state or any political subdivision into districts. Administrative regulations relating to the approval, denial, and revocation of licenses may be different within the several divisions or subdivisions;
- (3) To hold hearings in accordance with the provisions of KRS Chapter 13B. The department may pay witnesses the per diem and mileage provided in KRS 421.015;
- (4) To conduct hearings and appeals under KRS 241.150, 241.200, 241.260, 243.470, and 243.520 and render final orders upon the subjects of the hearings and appeals;
- (5) To order the destruction of evidence in the department's possession after all administrative and judicial proceedings are conducted;
- (6) To suspend, revoke, or cancel for cause, after a hearing in accordance with KRS Chapter 13B, any license; and
- (7) To prohibit the issuance of a license for the premises until the expiration of two (2) years from the time the offense was committed if a violation of KRS Chapters 241 to 244 has taken place on the premises which the owner knew of or should have known of, or was committed or permitted in or on the premises owned by the licensee.

241.065 Limitation on number of quota retail package licenses in counties containing cities of first class

- (1) The number of quota retail package licenses issued by the Alcoholic Beverage Control Board to licensees in counties containing cities of the first class, and including such cities, shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.
- (2) In order that a fixed and approved standard of population as prescribed in subsection (1) of this section may be adopted, the annual estimates of population as determined by the Kentucky State Data Center at the University of Louisville shall be used in every year except a census year, and during a census year the United States government census figures of population shall be controlling.

241.066 Limitation on number of quota retail package licenses in wet county not containing a city of the first class; exceptions; construction of section; reduction of quota licenses; superseding and replacing wet city quota in dry county that becomes wet

- (1) The number of quota retail package licenses issued by the department in any wet county shall not exceed one (1) license for every two thousand three hundred (2,300) persons resident in the county, except that:
 - (a) A wet county containing a city of the first class shall be subject to the limitations in KRS 241.065;
 - (b) No fewer than two (2) quota retail package licenses shall be available for issuance by the department in any wet county; and
 - (c) Any specific county quota amounts that were issued by the department prior to January 1, 2018, in excess of the population calculations established in this section shall remain in effect, and the department shall maintain the list of specific quotas in an administrative regulation.
- (2) Nothing in this section shall be construed to prohibit license renewal or license transfers approved by the department of an existing quota retail license issued in a wet county.
- (3) In counties that have not received an increased quota license amount from the department, any quota licenses over the established amount shall be reduced as the licenses are revoked, surrendered, or not renewed by the license holder.
- (4) If a dry county that contains a wet city becomes wet, the quota established by this section shall supersede and replace any separate city quota.

241.067 Limitation on number of quota retail package licenses in city that becomes wet separate from its county in local option election; exceptions; construction of section; reduction of quota licenses; superseding and replacing wet city quota in dry county that becomes wet

- (1) The number of quota retail package licenses issued by the department in any city that becomes wet separate from its county by virtue of a local option election pursuant to KRS 242.125 shall not exceed one (1) license for every two thousand three hundred (2,300) persons resident in the city, except that:
 - (a) No fewer than two (2) quota retail package licenses shall be available for issuance by the department in any wet city; and



- (b) Any specific city quota amounts that were issued by the department prior to January 1, 2018, in excess of the population calculations established in this section shall remain in effect, and the department shall maintain the list of specific quotas in an administrative regulation.
- (2) Nothing in this section shall be construed to prohibit license renewal or license transfers approved by the department of an existing quota retail license issued in a wet city.
- (3) In cities that have not received an increased quota license amount from the department, any quota licenses over the established amount shall be reduced as the licenses are revoked, surrendered, or not renewed by the license holder.
- (4) If a dry county in which a wet city is located becomes wet, the quota established for that entire county by KRS 241.066 shall supersede and replace any separate city quota under this section.

241.068 Population data to be used in administering KRS 241.066 and 241.067

For the purposes of administering KRS 241.066 and 241.067:

- (1) The population data shall be based on a wet county's or city's annual population estimates prepared by the Kentucky State Data Center at the University of Louisville in every year except a federal decennial census year. The federal decennial census figures of population shall be used in a census year; and
- (2) (a) On or before January 1 of each year, the department shall obtain the population figures of all wet counties and cities as of that date for determination of the number of quota licenses available.
- (b) If a quota retail license vacancy is created by an increase in population or any other reason, the department shall publish notice of the vacancy and information on how to apply for the license within sixty (60) days in the newspaper used for the legal notices of that county or city.
- (c) The department shall accept applications for a quota retail license vacancy not later than thirty (30) days following the date on which the public notice is published.

241.069 Petition by city for increase in number of quota licenses; factors to be considered by board; effect of decision by board to grant or deny quota increase

- (1) A city may petition the board for an increase in the number of quota licenses available in its jurisdiction pursuant to KRS 242.021. A request for an increase shall not exceed the ratio of one (1) per every one thousand five hundred (1,500) residents.
- (2) The board shall consider the following factors when deciding whether to grant the increase:
 - (a) Population served by the city;
 - (b) Total retail sales of the city for the most recent past fiscal year;
 - (c) Retail sales per capita for the most recent past fiscal year;
 - (d) Total alcohol sales in the city for the most recent past fiscal year;
 - (e) Tourist destinations in the area, if applicable; and
 - (f) Other economic and commercial data offered to show the capacity to support additional licenses.



- (3) The board shall grant the request if the information supplied supports the requested increase, and shall begin the process of filing an amendment to its administrative regulation to register the increase. Additional licenses shall not be issued until the administrative regulation process is complete and the amendment is adopted.
- (4) If the board determines the information supplied does not support a quota increase, it shall notify the city of its decision by registered mail at the address given in the request. The city shall have thirty (30) days from the date of the mailing to file a written request for a hearing before the board regarding its request for an increase.

241.080 Powers of distilled spirits administrator and malt beverages administrator as to issuance of licenses

The distilled spirits administrator may approve and issue or deny any state license authorizing traffic in distilled spirits and wine. The malt beverages administrator may approve and issue or deny any state license authorizing traffic in malt beverages. Both the distilled spirits administrator and the malt beverages administrator may approve and issue or deny state licenses authorizing the traffic in alcoholic beverages.

241.090 Police powers of administrators and investigators

State administrators and all investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the state. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant. They may confiscate any contraband property. The jurisdiction and police powers of state administrators and all investigators during an emergency declared under KRS Chapter 39A shall be subject to the limitations of Section 2 of this Act.

241.100 Commissioner, distilled spirits and malt beverage administrators, and employees to comply with Executive Branch Code of Ethics; penalties

The commissioner, distilled spirits administrator, malt beverage administrator, and all department employees shall comply with the Executive Branch Code of Ethics codified in KRS Chapter 11A. A board member or department employee who violates this section may be disqualified from office or employment.

241.110 County judge/executive as county administrator; appointment of person other than county judge/executive; investigators and clerks; powers and jurisdiction; constitutional oath

- (1) The fiscal court of any county in which traffic in alcoholic beverages is not forbidden under KRS Chapter 242 may by resolution declare that regulation of the traffic in that county is necessary. The county judge/executive shall immediately constitute a county alcoholic beverage control administrator for the county. However, the county judge/executive may decline to accept this office, or after accepting the office, the county judge/executive may resign from the office, and in either event, notwithstanding the provisions of KRS 241.120 to and including KRS 241.150, the county judge/executive may promptly appoint a person at least thirty (30) years of age, who at the time of the appointment has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify to serve at the pleasure of the county judge/executive as county alcoholic beverage control administrator for that county. Before entering upon the duties of county alcoholic beverage control administrator appointed by the county judge/executive, the appointee shall take the oath prescribed by Section 228 of the Constitution. Upon the qualification and appointment of this person as county alcoholic beverage control administrator for the county, the person shall immediately notify the department.



- (2) The compensation of the county alcoholic beverage control administrator, appointed by the county judge/executive, shall be fixed by the fiscal court in accordance with KRS 64.530. The county judge/executive may also appoint any investigators and clerks deemed necessary for the proper conduct of the county alcoholic beverage control administrator's office, their salaries likewise shall be fixed by the fiscal court pursuant to KRS 64.530, and they will serve at the pleasure of the county judge/executive.
- (3) No person shall be a county alcoholic beverage control administrator, an investigator, or an employee of the county under the supervision of the county alcoholic beverage control administrator, who would be disqualified to be a member of the board under KRS 241.100.
- (4) The county alcoholic beverage control administrator, appointed by the county judge/executive, and the administrator's investigators, shall have full police powers of peace officers, and their jurisdiction shall be over the unincorporated areas of the county and within the corporate limits of any city in the county not having its own administrator. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.
- (5) Before entering upon official duties, each county administrator shall take the oath prescribed in Section 228 of the Constitution.

241.120 Disqualification of county judge/executive; how vacancy filled; appointee

- (1) The county judge/executive shall be disqualified to act as county administrator by any fact that would disqualify a person under KRS 241.100 from acting as a member of the board.
- (2) If he is disqualified to act as county administrator, or if a vacancy in that office occurs for any other reason, the judge of the Circuit Court of that county shall appoint to that position a person at least thirty (30) years of age who, at the time of appointment, has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify.
- (3) The appointee shall serve during the unexpired portion of the term or until the county judge/executive is able and willing to qualify.

241.140 Functions of county administrator; jurisdiction

Each county administrator shall have the same duties and functions regarding local license applications and renewals as the department with respect to state licenses. Each county administrator shall have the same duties and functions regarding local license penalization as the board with respect to state license penalization. If any city appoints its own administrator under KRS 241.160, the county administrator in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of that city, unless the city does not have an adequate police force.

241.150 Appeals from decision or order of county administrator to board

Appeals from a decision or order of a county administrator may be taken to the board by filing a notice of appeal with the board within thirty (30) days after the decision or order of the county administrator is mailed or delivered by personal service. The notice of appeal shall specify the county administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the county administrator and shall be accompanied by a copy of the decision or order being appealed. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from decisions or orders of the county administrator shall be governed by KRS Chapter 13B.



241.160 Wet or moist cities with population of 3,000 or more and consolidated local governments required to have city administrators; city administrators permitted in smaller cities

- (1) The legislative body of any wet or moist city with a population equal to or greater than three thousand (3,000) or a consolidated local government shall by ordinance create the office of city alcoholic beverage control administrator, or shall assign the duties of this office to a presently established city office.
- (2) Except as provided in subsection (3) of this section, the legislative body of any wet or moist city with a population of less than three thousand (3,000) may, by ordinance, create the office of city alcoholic beverage control administrator or shall assign the duties of the office to a presently established office.
- (3) If located in a county containing a consolidated local government, cities with a population of less than three thousand (3,000) shall not create the office of city alcoholic beverage control administrator. Any city under this subsection that had created the office of city alcoholic beverage control and appointed a person to that office prior to August 1, 2014, shall not be prohibited by this subsection.

241.170 Appointment of city administrator and employees in cities of first class or consolidated local government; police powers; right to inspect premises; appointment in other cities; qualifications of city administrators and employees; administrator to take Constitutional oath

- (1) The city administrator in each city of the first class or the administrator in a consolidated local government, and any investigators and clerks deemed necessary for the proper conduct of this office, shall be appointed by the mayor. The city administrator in each city of the first class or the administrator in a county containing a consolidated local government, and the administrator's investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with boundaries of the city of the first class or the boundaries of the county in a county containing a consolidated local government. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.
- (2) The city administrator in each city, other than a consolidated local government, shall be appointed by the city manager if there is one. If there is no city manager, the city administrator shall be appointed by the mayor.
- (3) No person shall be an administrator, an investigator, or an employee of the city or a consolidated local government under the supervision of the administrator, who would be disqualified to be a member of the board under KRS 241.100.
- (4) Before entering upon official duties, each city administrator shall take the oath prescribed in Section 228 of the Constitution. An appointed city alcoholic beverage control administrator shall immediately notify the department of qualification and appointment.

241.190 Functions of city administrator

Each city administrator shall have the same duties and functions regarding local license applications and renewals as the department with respect to state licenses. Each city administrator shall have the same duties and functions regarding local license penalization as the board with respect to state license penalization.

241.200 Appeals from decisions or orders of city administrator

Appeals from a decision or order of each city administrator may be taken to the board by filing a notice of appeal with the board within thirty (30) days after the decision or order of the city administrator is mailed or delivered by personal service. The notice of appeal shall specify the city administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the city administrator and shall be accompanied by a copy of the decision or order being appealed. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from decisions or orders of the city administrator shall be governed by KRS Chapter 13B.

241.220 Urban-county administrator

The legislative body of any urban-county government in which traffic in alcoholic beverages is not forbidden by KRS Chapter 242 shall by ordinance create the office of urban-county alcoholic beverage control administrator.

241.230 Appointment and duties of administrator, investigators, and clerks; constitutional oath

- (1) The urban-county administrator in each urban-county government and any investigators and clerks deemed necessary for the proper conduct of the office, shall be appointed by the mayor. The urban-county administrator, and the urban-county administrator's investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with the urban-county governments. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.
- (2) No person shall be an urban-county administrator, an investigator, or an employee of the urban-county government under the supervision of the urban-county administrator, who would be disqualified to be a member of the board under KRS 241.100.
- (3) Before entering upon official duties, each urban-county administrator shall take the oath prescribed in Section 228 of the Constitution. An appointed urban-county alcoholic beverage control administrator shall immediately notify the department of qualification and appointment.

241.250 Functions and duties of urban-county administrator

Each urban-county administrator shall have the same duties and functions regarding local license applications and renewals as the department with respect to state licenses. Each urban-county administrator shall have the same duties and functions regarding local license penalization as the board with respect to state license penalization.

241.260 Appeals from urban-county administrator's decision or order

Appeals from a decision or order of each urban-county administrator may be taken to the board by filing a notice of appeal with the board within thirty (30) days after the decision or order of the urban-county administrator is mailed or delivered by personal service. The notice of appeal shall specify the urban-county administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the urban-county administrator and shall be accompanied by a copy of the decision or order being appealed. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from decisions or orders of the urban-county administrator shall be governed by KRS Chapter 13B.



241.990 Penalties

Any person who after an opportunity to be heard is found by the commissioner to have violated any of the provisions of KRS 241.100, or acted as county administrator in violation of subsection (1) of KRS 241.120, or acted as city administrator or a city employee in violation of subsection (3) of KRS 241.170, or acted as an urban-county administrator in violation of KRS 241.230, shall automatically vacate his office or position, and upon conviction by a court, he shall be guilty of a Class D felony.

CHAPTER 242 – ALCOHOLIC BEVERAGES; LOCAL OPTION

Definitions

242.015 Definitions for chapter

As used in this chapter, unless the context otherwise requires, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010.

Local Option Elections

242.020 Petition for election

- (1) A petition for an election shall be signed by a number of constitutionally qualified voters of the territory to be affected, equal to twenty-five percent (25%) of the votes cast in the territory at the last preceding general election. The petition may consist of one (1) or more separate units, and shall be filed with the county clerk in accordance with this section.
- (2)
 - (a) Before a petition for election may be presented for signatures, an intent to circulate the petition, including a copy of the unsigned petition, shall be filed with the county clerk by any person or group of persons seeking the local option election.
 - (b) After a petition for a local option election has received no fewer than the number of qualifying signatures required by subsection (1) of this section, the signed petition shall be filed with the county clerk.
 - (c) If the election is to be held on any day other than a primary or regular election date, a person or group of persons seeking the local option election shall post bond with the Circuit Court to cover all costs of the election within five (5) days after the signed petition is filed under paragraph (b) of this subsection. The cost of the election shall be established by the county judge/executive to determine the bond amount.
- (3) The petition for election, in addition to the signature and legibly printed name of each voter, shall state also the voter's residence address, year of birth, and the correct date upon which the voter's name was signed.
- (4) No signer of the petition may withdraw his or her name or have it taken from the petition after the petition has been filed. If the name of any person has been placed on the petition for election without that person's authority, the person may appear before the county judge/executive before the election is ordered and upon proof that the person's name was placed on the petition without his or her authority, the person's name and personal information required in subsection (3) of this section shall be eliminated by an order of the county judge/executive. When the person's name and personal information has been eliminated, he or she shall not be counted as a petitioner.
- (5) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (name of territory)?'". No petition for a referendum shall be circulated for more than six (6) months prior to its filing.

- (6) After a petition for election has been filed in conformity with this section, the county judge/executive shall make an order on the order book of the court directing that the local option questions may be placed on the ballot for the next primary or regular election to be held in that territory. If the date of the local option election stated in the petition as provided in KRS 242.030(1) is a date other than a primary or regular election day, all election costs for such a local option election shall be borne by the person or group of persons who circulated the petition.
- (7) Substantial compliance with the wording designated under this chapter for a particular type of petition is sufficient to validate the actual wording of the petition.

242.021 Restriction on frequency of city's request to increase quota retail licenses; publication of notice of request; contents of request; burden on city to show that increase is necessary

- (1) A city shall not file a request with the board seeking to increase the number of quota retail licenses for the city unless at least three (3) years have passed since the certification of its local option election approving alcohol sales.
- (2) Prior to making its request, the city shall publish a notice in the newspaper used for its legal notices, advising the general public of the city's intent to request additional licenses from the board.
- (3) The request to the board for a quota increase shall include:
 - (a) A certified copy of the governing body's resolution approving the request;
 - (b) A certified copy of the notice referenced in subsection (2) of this section; and
 - (c) An explanation as to the reason the city meets the criteria established in KRS 241.069 for a quota increase.
- (4) The city shall bear the burden of showing an increase is necessary.
- (5) A city shall not petition the board for an increase more than once every three (3) years.

242.022 Local option election for limited sales of alcoholic beverages by the drink at qualifying state park

- (1) (a) To promote economic development and tourism in any dry or moist county, urban-county government, charter county, consolidated local government, unified local government, or city, in which a state park is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in a city, urban-county government, charter county, consolidated local government, unified local government, or county precinct where the state park's qualifying lodge or golf course is located.
 - (b) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election under KRS 242.022 on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at the state park located in (name of precinct)?'".
- (2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020 to 242.040 and



242.060 to 242.120. The form of the proposition to be voted upon shall be “Are you in favor of the sale of alcoholic beverages by the drink at the state park located in the (name of precinct)?”.

- (3) When a majority of the votes cast at an election held under subsections (1) and (2) of this section are in favor of establishing moist territory, the entire state park shall become moist in the manner specified in KRS 242.200.

242.030 Date of local option election

- (1) The date of the local option election shall be stated in the petition for the local option election.
- (2) The local option election shall be held not earlier than sixty (60) and not later than one hundred fifty (150) days after the date the petition is filed with the county clerk.
- (3) No local option election shall be held in the same territory more than once in every three (3) years.
- (4) In order for the local option election to be held on the day fixed by law for holding a primary, the petition shall be filed not earlier than the first Wednesday after the first Monday in November of the year preceding the day on which the primary is to be held and not later than the last Tuesday in January preceding the day fixed by law for holding the primary.
- (5) In order for the local option election to be held on the day fixed by law for a regular election, the petition shall be filed not later than the second Tuesday in August preceding the day fixed by law for holding the regular election.

242.040 Advertisement of election

Within five (5) days after the county judge/executive orders an election, the county clerk shall give to the sheriff a certified copy of the order. The sheriff shall have the order published pursuant to KRS Chapter 424 in the county. When the election is ordered for the entire county, the sheriff shall also advertise the order by written or printed handbills posted at not less than five (5) conspicuous places in each precinct of the county for two (2) weeks before the election, and, when the election is ordered held in a city, district or precinct, at five (5) conspicuous places in each precinct therein for the same length of time. The sheriff shall report in writing to the county judge/executive that the notices have been published and posted.

242.050 Form of proposition

The proposition to be voted upon shall be stated without emblems and voters shall designate a “Yes” or a “No” vote. In any election the form of the proposition shall be, “Are you in favor of the sale of alcoholic beverages in (name of county or city)?”.

242.060 General election laws apply to elections; cost

- (1) The general election laws, including penalties for violations, shall apply to the election, except where these laws are inconsistent with this chapter.
- (2) The cost of the election shall be borne by the county.

242.070 Committee favoring or opposing local option proposition to certify challengers; challengers entitled to same privileges and subject to same duties and penalties as challengers in other elections; enforceability in Circuit Court and Court of Appeals

- (1) Not more than twenty (20) days prior to an election held under this chapter, any group of citizens that in good faith favors or opposes the proposition to be submitted may file with the chair of the county board of elections a petition asking that it be recognized as the committee entitled to certify challengers. If more than one (1) group claims the right to certify challengers, the county board of elections shall promptly decide and publicly announce which committee is entitled to certify challengers. That decision shall not be final, but any aggrieved party may appeal to the county judge/executive, and upon hearing the county judge/executive shall determine which group shall be recognized.
- (2)
 - (a) Each committee is entitled to have up to two (2) challengers at each precinct during the holding of the election. Any group of citizens of the county may recommend to a committee a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments. The committee shall not appoint more than one (1) challenger for any precinct from any one (1) list when multiple lists have been submitted. Any lists of challengers shall be presented to the committee within twenty (20) days after the local option petition is filed with the county clerk, and the committee or its chair shall make and certify the appointments and present a list of certified challengers to the county clerk at least twenty (20) days before the date on which the local option election will be held.
 - (b) The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section. The challengers shall be registered voters of the county in which the election is held and shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one (1) committee may not challenge a person because the person offered to vote in a way favorable to the other committee.
 - (c) The provisions of this section shall be enforceable against the chair of each committee by a mandatory summary proceeding instituted in the Circuit Court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.
- (3) The challengers shall perform their duties in the same manner and be subject to the same privileges as other challengers at an election including those provided in KRS 117.187 and 117.316 to 117.318.

242.110 Certification of results

The result of the election shall be certified by the county board of elections. The certificate of the result shall be immediately filed with the county clerk and the county judge/executive shall have the certificate entered on the order book. The entry of the certificate, or an attested copy thereof, shall be prima facie evidence of the result of the election in actions under this chapter.

242.120 Recounts and contests; creation of canvass procedures for local option elections to be consistent with canvass procedures for primaries and regular and special elections; appeals

- (1) Any qualified voter may demand a recount of the votes or contest the election in the same manner as is provided for the recount of votes or contest of regular elections of county officers by KRS 120.155 to 120.185. The members of the county board of election commissioners shall be named as contestees and summons shall be served upon them. Any qualified voter may intervene as contestee by filing a petition to be made a party in the action.
- (2)
 - (a) The canvass and returns provided for in KRS 242.110 shall constitute the official returns for the local option election, unless before 4 p.m. on the seventh day following the local option election, the county clerk or county board of elections takes notice of a discrepancy in the tally of votes cast in any precinct or number of precincts within the territory voting in the local option election, or a committee favoring or opposing the proposition makes a written request to the county board of elections to check and canvass the ballots cast, including absentee ballots, of any precinct or any number of precincts involving the local option election. After this time period has elapsed and notice is taken, the county board of elections shall assemble at 9 a.m. on the second day following the filing deadline to request a canvass, and not sooner, and recheck and canvass all voting equipment and make a proper return thereof to the county clerk, and the canvass and return shall become the official returns for the election.
 - (b) In making the canvass, the county board of elections shall make a record of the unique designation or number of the seal upon the voting equipment and, without unlocking the voting equipment against voting, canvass the votes cast. If, after a canvass, it is found that the original canvass of the returns has been correctly made from the voting equipment and that there still remains a discrepancy unaccounted for, this discrepancy shall be noted. If, upon canvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the county board of elections shall be corrected accordingly.
 - (c) The county board of elections shall, immediately upon receipt of a request for a canvass, notify the committees favoring or opposing the proposition of the time and place of the canvass. At the canvass, the committees favoring or opposing the proposition may be present. The county board of elections shall authorize representatives of the news media to observe the canvass of the votes cast at the polls in each precinct. Nothing in this section shall prohibit an individual from requesting, in addition to a canvass, a recount as authorized by KRS Chapter 120.
- (3) The State Board of Elections shall prescribe through administrative regulations promulgated under KRS Chapter 13A, a form to be used by county boards of election to report all canvassed votes. The form shall include the following information:
 - (a) The name of the county in which the canvass was conducted;
 - (b) The date of the report;
 - (c) The date of the local option election;
 - (d) The proposition for which the canvass was conducted;
 - (e) The names of the leaders of the committees favoring or opposing the proposition being canvassed; and



- (f) The votes cast at the polls, absentee votes, and vote totals for each “yes” or “no” vote. The report shall be signed by each member of the county board of elections.
- (4) The county board of elections shall file its canvass report as prescribed in administrative regulations promulgated by the State Board of Elections in accordance with KRS Chapter 13A.
- (5) The State Board of Elections shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the proper procedures for conducting a local option election canvass for each type of voting system approved by the State Board of Elections and in use in Kentucky.

242.123 Local option election for limited sale of alcoholic beverages in precinct containing golf course; petition language

- (1) (a) To promote economic development and tourism in any dry or moist county or city, a local option election for the limited sale of alcoholic beverages may be held in any precinct containing a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course.
 - (b) A petition seeking a local option election under this section shall state “We the undersigned registered voters hereby petition for an election under KRS 242.123 on the following question: ‘Are you in favor of the sale of alcoholic beverages by the drink at a golf course or courses in the (name of precinct)?’”.
- (2) A local option election for the limited sale of alcoholic beverages authorized by subsection (1) of this section shall be held in accordance with KRS 242.020 to 242.040, and 242.060 to 242.120. The form of the proposition to be voted upon shall be: “Are you in favor of the sale of alcoholic beverages by the drink at a golf course or courses in the (name of precinct)?”.

242.1238 Limited sale precinct election for sale of alcoholic beverages at horse racetrack

- (1) Other provisions of the Kentucky Revised Statutes notwithstanding, a limited sale precinct election may be held in any precinct containing a horse racetrack. The election shall be conducted in the same manner as provided for in KRS 242.1292. Upon approval of the proposition, a Nonquota type 1 retail drink license may be issued in accordance with KRS 243.265. Nothing in this section shall be construed as authorizing the issuance of any alcoholic beverage licenses other than for the premises of a horse racetrack pursuant to KRS 243.260.
- (2) A petition seeking a local option election under this section shall state “We the undersigned registered voters hereby petition for an election on the following question: ‘Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)?’”.

242.1239 Local option election for sale of alcoholic beverages by a microbrewery in the territory where the microbrewery is located or proposed

- (1) In order to promote economic development and tourism, a dry or moist city, county, urban-county government, charter county, consolidated local government, or unified local government may hold a local option election on the sale of alcoholic beverages by a microbrewery in the territory where the microbrewery is located or proposed.



- (2) A petition seeking a local option election under this subsection shall state “We the undersigned registered voters hereby petition for an election on the following question: ‘Are you in favor of the sale of alcoholic beverages at a microbrewery located in (name of precinct)?’”
- (3) The local option election shall be held in accordance with KRS 242.020 to 242.040, and 242.060 to 242.120. The form of the proposition to be voted upon shall be: “Are you in favor of the sale of alcoholic beverages at a microbrewery located in (name of precinct)?” If the majority of the votes in an election held pursuant to this subsection are “Yes,” the precinct shall become moist in the manner specified in KRS 242.200, and a nonquota type 4 retail malt beverage drink license and a nonquota retail malt beverage package license may be issued to a microbrewer located within the precinct.

242.124 Limited sale precinct election for sale of wine at an existing or proposed small farm winery located in a dry territory

- (1) If a licensed small farm winery is located in a dry or moist territory, the small farm winery shall remain dry or moist unless sales at the small farm winery are approved through a local option election held in accordance with the provisions of this section.
- (2) A local option election for the limited sale of alcoholic beverages may be held in a dry or moist city or county precinct where a small farm winery is located.
- (3) A petition seeking a local option election under this section shall state “We the undersigned registered voters hereby petition for an election on the following question: ‘Are you in favor of the sale of alcoholic beverages at a small farm winery or wineries located in (name of precinct)?’”.
- (4) A local option election for the limited sale of alcoholic beverages authorized by subsection (2) of this section shall be held in accordance with KRS 242.020 to 242.040, and 242.060 to 242.120. The form of the proposition to be voted upon shall be: “Are you in favor of the sale of alcoholic beverages at a small farm winery or wineries located in (name of precinct)?”.

242.1241 Limited sale precinct election for sale of alcoholic beverages on Sunday at licensed small farm winery in wet territory

- (1)
 - (a) If the sale of alcoholic beverages is permitted at a licensed small farm winery located in a wet or moist territory, a limited sale precinct election may be held to authorize the sale of alcoholic beverages on Sunday at the small farm winery.
 - (b) A local option election authorized under this subsection shall be held in accordance with KRS 242.020 to 242.040, and 242.060 to 242.120.
 - (c) The petition seeking a limited sale precinct election under this section shall state, “We the undersigned registered voters hereby petition for an election on the following question: ‘Are you in favor of the sale of alcoholic beverages on Sunday at a small farm winery located in (name of precinct)?’”
 - (d) If the precinct contains a licensed small farm winery, the proposition to be voted on in the limited sale precinct election shall state, “Are you in favor of the sale of alcoholic beverages on Sunday at a licensed small farm winery or wineries located in (name of precinct)?”

- (2) A limited sale precinct election to authorize Sunday sales at a small farm winery may be held less than three (3) years after a local option election held in accordance with KRS 242.124 to authorize the sale of alcoholic beverages at that small farm winery.

242.1242 Local option election for limited sale of alcoholic beverages at qualified historic sites; petition language

- (1) (a) To promote economic development and tourism in any dry or moist county, urban-county government, charter county, consolidated local government, unified local government, or city, in which a qualified historic site is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in the precinct of the county, urban-county government, charter county, consolidated local government, or unified local government where the qualified historic site is located, notwithstanding any other provision of the Kentucky Revised Statutes.

(b) A petition seeking a local option election under this section shall state “We the undersigned registered voters hereby petition for an election under this section on the following question: ‘Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in (name of precinct)?’”.
- (2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020 to 242.040; and 242.060 to 242.120. The form of the proposition to be voted upon shall be “Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in the (name of precinct)?”.

242.1243 Local option precinct election for limited sale of alcoholic beverages at qualified distillery; petition language

- (1) To promote economic development and tourism in any dry or moist county or city in which a distillery is located, a local option election for the sale of alcoholic beverages may be held in a city or county precinct where the distillery is located, notwithstanding any other provision of the Kentucky Revised Statutes.
- (2) A petition seeking a local option election under this section shall state “We the undersigned registered voters hereby petition for an election on the following question: ‘Are you in favor of the sale of alcoholic beverages at distilleries located in (name of precinct)?’”.
- (3) When a majority of the votes cast in an election held under subsections (1) and (2) of this section are in favor of establishing moist territory, the premises of the distilleries located in that precinct shall become moist in the manner specified in KRS 242.200.

242.1244 Local option for limited sale of alcoholic beverages purchased in conjunction with a meal; separate local option elections to be held for restaurants seating fifty persons and those seating one hundred persons

- (1) (a) In order to promote economic development and tourism, a dry or moist city, county, urban-county government, charter county, consolidated local government, or unified local government may hold a local option election on the sale of alcoholic beverages by the drink at restaurants that seat a minimum of fifty (50) persons and derive a minimum of seventy percent (70%) of their food and alcoholic beverage receipts from the sale of food if alcoholic beverages are purchased in conjunction with a meal. A petition seeking a local option election under this subsection shall state “We the undersigned

registered voters hereby petition for an election on the following question: ‘Are you in favor of the sale of alcoholic beverages by the drink at restaurants with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their food and alcoholic beverage receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?’”.

- (b) The local option election shall be held in accordance with KRS 242.020 to 242.040, and 242.060 to 242.120. The form of the proposition to be voted upon shall be: “Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their food and alcoholic beverage receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?”. If the majority of the votes in an election held pursuant to this subsection are “Yes,” licenses may be issued to qualified restaurants.
- (2) (a) In order to promote economic development and tourism, a dry or moist city, county, urban-county government, charter county, consolidated local government, or unified local government may hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their food and alcoholic beverage receipts from the sale of food.
 - (b) A petition seeking a local option election under this subsection shall state “We the undersigned registered voters hereby petition for an election on the following question: ‘Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their food and alcoholic beverage receipts from the sale of food?’”.
 - (c) The local option election shall be held in accordance with KRS 242.020 to 242.040, and 242.060 to 242.120. The form of the proposition to be voted upon shall be: “Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their food and alcoholic beverage receipts from the sale of food?”. If the majority of the votes in an election held pursuant to this subsection are “Yes,” licenses may be issued to qualified restaurants and dining facilities.
- (3) A local option proposition under subsection (1) of this section is a separate proposition than a local option proposition held under subsection (2) of this section, so that a separate limited local option election under each subsection is permitted. A territory may, by separate limited local option elections, simultaneously allow alcoholic beverage sales under subsections (1) and (2) of this section. A territory may also hold a limited local option election to allow alcoholic beverage sales under either subsection (1) or (2) of this section without authorizing alcoholic beverage sales under the other subsection.

242.125 Separate vote to determine wet, moist, or dry status in cities; right of city precincts to vote for separate dry status; dual status as both wet and moist

- (1) A city shall not be deemed to be the “same territory” as that of a county within the meaning of KRS 242.030(3). A city shall have the right to determine its wet or dry status separate from a county’s wet or dry status.
- (2) A dry or moist city may hold a local option election to take the sense of the city residents for establishing the city as a wet territory. If the majority of the votes are in favor of establishing the city as a wet territory, the whole city shall become wet territory by application of KRS 242.200. A moist city that becomes wet under this section shall retain its moist status and have dual status as both wet and moist.



- (3) Once a city becomes wet under this section separate from the county, a countywide local option election establishing the county as dry territory shall not cause the city to become dry territory.
- (4) Once a city becomes wet under this section separate from a county, a countywide local option election establishing the county as moist territory shall cause the city to have dual status as both wet and moist.
- (5) A wet city may hold a local option election to take the sense of the city residents for establishing the city as a dry or moist territory. If the majority of the votes are in favor of establishing the city as dry, the whole city shall become dry by application of KRS 242.190. A wet city that becomes moist under this section shall retain its wet status and have dual status as both wet and moist.
- (6) If a city votes to become wet territory, a precinct of the city may hold a later election in conformity with this chapter to take the sense of the city precinct residents for establishing the city precinct as a dry or moist territory. If the majority of the votes are in favor of establishing the city precinct as a dry or moist territory, the city precinct shall become dry or moist territory by application of KRS 242.190.
- (7) If a city precinct becomes dry or moist territory separate from a wet city, the city precinct may hold a later election in conformity with this chapter, to take the sense of the city precinct residents for reestablishing the city precinct as a wet territory. If the majority of the votes are in favor of reestablishing the city precinct as a wet territory, the city precinct shall become wet territory by application of KRS 242.200.
- (8) A dry or moist county containing a wet city may hold a local option election to take the sense of the county residents for establishing the county as a wet territory. If the majority of the votes are in favor of establishing the county as a wet territory, the whole county shall become wet territory by application of KRS 242.200.
- (9) A wet county containing a wet city by separate city election under this section may hold a local option election to take the sense of the county residents for establishing the county as a dry or moist territory. If the majority of the votes are in favor of establishing the county as a dry territory, the county territory outside the separately wet city limits shall become dry by application of KRS 242.190. If the majority of the votes are in favor of establishing the county as moist territory, both the county and city shall retain their wet status and have dual status as both wet and moist.
- (10) Residents of any city, including a separately wet city, are residents of the county, and shall therefore be permitted to sign any petitions for, and vote in, county local option elections.
- (11) A petition seeking a wet local option election under this section shall state “We the undersigned registered voters hereby petition for an election on the following question: ‘Are you in favor of the sale of alcoholic beverages in (name of county, city, or precinct)?”.
- (12) In any wet local option election under this section, the form of the proposition to be voted upon shall be: “Are you in favor of the sale of alcoholic beverages in (name of county, city, or city precinct)?”.
- (13) The status of any moist territory approving limited alcoholic beverage sales through a previous election held under KRS 242.022, 242.123, 242.1238, 242.124, 242.1242, 242.1243, 242.1244, and 242.1292, or any other limited local option election, shall not be affected by any outcome of any wet election held under this section. A territory’s wet or moist status may only be changed to dry status by a local option election in which the majority of the votes are not in favor of the original same wet or moist election proposition.

242.126 Effect on local option status of a county if urban-county government adopted

- (1) The adoption of urban-county government by a county when the local option status of the county is different from any of the cities contained therein shall not affect the local option status of the county or any of the cities contained therein. The territorial boundaries in the county shall survive the adoption of urban-county government for purposes of an election pursuant to KRS 242.125. The adoption of urban-county government shall not impede or affect the right of a county or city contained therein to determine its own local option status.
- (2) No part of this section shall apply to any urban-county government established prior to July 13, 1990.

242.1292 Limited sale precincts in cities with populations of 20,000 or more

- (1) The provisions of this section shall be applicable only in any city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census notwithstanding any other provisions of this chapter relating to the wet or moist status in any county, city, or territory which may be to the contrary.
- (2) In any city meeting the population requirements of subsection (1) of this section that is dry or moist in all or part of the city, and upon a determination that an economic hardship exists in one (1) or more of the voting precincts of the city in the manner prescribed in subsection (11) of this section, the governing body of the city shall by ordinance designate the precinct or precincts as a limited sale precinct or precincts and shall provide for an election to be held in the precinct or precincts to take the sense of the people of each precinct as to making that precinct wet territory. A petition seeking a local option election under this section shall state “We the undersigned registered voters hereby petition for an election on the following question: ‘Are you in favor of the sale of alcoholic beverages in (official name of precinct)?’”.
- (3) The election shall be held in the precinct or precincts in the manner prescribed in this chapter. The election shall not be deemed to be an election in the “same territory” within the meaning of KRS 242.030(3).
- (4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be, “Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?”.
- (5) If a majority of the votes cast in any limited sale precinct in which an election is held under this section are in favor of the sale of alcoholic beverages in that precinct, the governing body of the city shall by ordinance create or provide for the office of city alcoholic beverage control administrator.
- (6) The governing body of the city shall adopt the comprehensive regulatory ordinance covering the licensing and operation of establishments for the sale of alcoholic beverages, including, but not limited to, distilled spirits and malt beverages, within a limited sale precinct as set forth in this section. In relation to the ordinances established by a city meeting the population requirements of subsection (1) of this section under this subsection and subsection (7) of this section, review by the board, if any, shall be limited to a determination that the ordinances do not exceed the limits established for sale by statute, or administrative regulations promulgated by the board under those statutes. In its discretion the governing body shall provide without review by the board that:
 - (a) Only three (3) licenses permitting the package sale at retail of alcoholic beverages shall be granted within the territorial limits of any limited sale precinct.



- (b) Only four (4) licenses to sell alcoholic beverages by the drink for consumption on the premises by the general public shall be granted in any one (1) limited sale precinct. One (1) license in each limited sale precinct may be reserved for any newly established hotel, motel, or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons. The remaining three (3) licenses may be granted to a hotel, motel, or inn meeting the requirements of this section or to bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. Additional licenses to sell alcoholic beverages by the drink for consumption on the premises may be granted to social membership clubs established and maintained for the benefit of members of bona fide fraternal or veterans organizations.
- (7) The governing body of the city may also incorporate in the regulatory ordinance any other reasonable rules and regulations as it deems, necessary or desirable for the proper administration and enforcement of this section, for the maintenance of public order in a limited sale precinct, and for the issuance of any licenses permitted by KRS 243.070.
- (8) Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070, once any limited sale precinct has been established as wet territory, the governing body of the city may impose a regulatory license fee upon the gross receipts of each establishment located in the precinct and licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city budget period at the percentage rate reasonably estimated to fully reimburse the city for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.
- (9) Subject to the limitation imposed by subsection (3) of this section, no provision contained in this section providing for the establishment of a limited sale precinct shall preclude or abridge the right of the constitutionally qualified voters of the precinct to petition for a subsequent election on the same question.
- (10) If an election is held pursuant to other provisions of KRS Chapter 242 in the city or the county in which a limited sale precinct is located for the purpose of taking the sense of the voters upon the question of the entire city or the entire county becoming dry, wet, or moist, the status of that question in a limited sale precinct shall be determined in the following manner:
 - (a) The status of a limited sale precinct shall not be affected by any election for the entire city or the entire county if the limited sale precinct was established less than five (5) years prior to the date of the proposed election for the entire city or the entire county and if so the voters of any limited sale precinct shall not vote in the election.
 - (b) If the limited sale precinct was established more than five (5) years prior to the date of the proposed election for the entire city or the entire county, the voters within each limited sale precinct shall be presented with the question, "Are you in favor of continuing the sale of alcoholic beverages in (official name and designation of precinct) as a limited sale precinct?". No other question shall be presented to the voters of any limited sale precinct.
 - (c) The votes of each limited sale precinct shall be counted separately, and, if a majority of the votes cast in the limited sale precinct are in favor of continuing the sale of alcoholic beverages in the precinct as a limited sale precinct, then the status shall continue within the precinct, except that if the city or the county in which the limited sale precinct is located votes wet in the remainder of

the city or the county, the limited sale precinct status of any precinct may be terminated by the governing body of the city or the county and the status of the precinct shall be the same as that in effect for the remainder of the city or the county.

- (11) Any precinct located entirely within any city meeting the population requirements of subsection (1) of this section that is dry in all or part of the city shall be designated as a limited sale precinct by the governing body of the city if:
- (a) The governing body determines to its satisfaction that the general trade, business, and economy of one (1) or more of the precincts within the city is substantially, adversely affected by the legal sale of alcoholic beverages in any neighboring or adjoining state, county, city, town, district, or precinct. For the purpose of making this determination, the governing body may hold hearings, examine witnesses, or receive evidence as it believes necessary or desirable for the purpose; or
 - (b) The governing body receives a petition signed by a number of constitutionally qualified voters of a precinct equal to thirty-three percent (33%) of the votes cast in the precinct at the last preceding general election requesting the governing body of the city to designate the precinct as a limited sale precinct. The petition may consist of one (1) or more separate units and shall be filed with the mayor of the city. In addition to the name of the voter, the petition shall also state the voter's post office address and the correct date upon which the voter's name is signed. Upon receipt of the petition, the mayor shall present it to the governing body of the city at its next regularly scheduled meeting and, after verifying that the petition is in compliance with the requirements of this section, the governing body shall by ordinance immediately designate the precinct to be a limited sale precinct.

242.1294 Statement of proposition submitted in election

The proposition to be voted on in any election held pursuant to KRS 242.1292 and this section shall be: "Are you in favor of the sale of distilled spirits, wine and malt beverages by the drink for consumption on the premises in (name of county or city) by hotels, motels and inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons and in restaurants having dining facilities for not less than one hundred (100) persons?" Each voter shall designate his vote by a "yes" or a "no" vote.

242.1296 Requisites for subsequent elections

If the sense of the people in an election held pursuant to the provisions of KRS 242.1292 and 242.1294 is "yes," no other local option election shall be held in that county or city, unless an additional election is first held pursuant to the provisions of KRS 242.1292 and 242.1294 in which the sense of the people is "no."

242.1298 Moist territory resulting from a special limited local option election to remain dry except for specific type of sales authorized by the election proposition; limited local option election to return moist territory to dry status at later date

- (1) After a special limited local option election that establishes a territory as moist, the territory shall remain dry in every other respect that it was dry before that election, except for the specific moist status authorized by the election proposition.
- (2) If any territory votes to become moist under any limited local option election authorized under this chapter, the citizens of that territory may hold a limited local option election on the same moist proposition at a later date to disapprove limited alcohol sales and its moist status.

Prohibition

242.190 Effective date of establishment of dry territory; effect of annexation

- (1) When a majority of the votes cast at a local option election are in favor of establishing dry territory, the territory shall be dry at the expiration of sixty (60) days from the date of the entry of the certificate of the county board of election commissioners in the order book of the county judge/executive.
- (2) Upon the annexation of any local option territory by a city, either before July 15, 1980, or subsequent thereto, the annexed territory shall assume the same local option status as the local option status of the annexing city. Nothing in this section shall impair the right of any precinct in the annexed territory to determine its own status with respect to the legal sales of alcoholic beverages in accordance with the provisions of KRS Chapter 242.

242.195 Vote for prohibition in precinct of a city with population of 12,000 or more to be applied precinct-wide; exemptions

- (1) Notwithstanding KRS 242.125, when the voters of any precinct located either partially or entirely within a qualifying city make KRS 242.220 to 242.430 apply to the precinct, the provisions of KRS 242.220 to 242.430 shall apply throughout the entire territory of the precinct, except in any area exempted under subsection (2) of this section. For purposes of this section, a “qualifying city” means a city that contains a total population of twelve thousand (12,000) or greater within its municipal boundaries, based on the most recent decennial census.
- (2) The provisions of KRS 242.220 to 242.430 shall not apply to any of the following that existed in a precinct prior to the submission of a petition under KRS 242.020 for that precinct:
 - (a) An entertainment destination center project meeting the qualifications of KRS 148.853(2)(b);
 - (b) A theme restaurant destination attraction project meeting the qualifications of KRS 148.853(2)(c);
or
 - (c) Within the established boundaries of a district of special interest created by the city pursuant to the provisions of KRS 100.203(1)(e) that:
 1. Is designated as an entertainment district; and
 2. Has a minimum direct investment by the city government in infrastructure or other public space of at least five million dollars (\$5,000,000).
- (3) The boundaries of a district of special interest meeting the qualifications of subsection (2)(c) of this section shall not be enlarged or modified to include any additional territory at any time after the submission of a petition under KRS 242.020 unless the voters of the precinct do not make KRS 242.220 to 242.430 apply to the precinct.

242.200 Discontinuance of dry status in a territory; effective date

When a majority of the votes cast at an election are in favor of establishing wet or moist territory, the territory shall be wet or moist at the expiration of sixty (60) days from the date of the entry of the certificate of the county board of election commissioners in the order book of the county judge/executive.

242.220 Invalidity of certain licenses previously issued in wet territory that has become dry or moist; recovery of money paid for unexpired period of license; issuance of retail alcoholic beverage license in any dry territory prohibited

- (1) After a territory becomes dry or moist, any previously issued license that is no longer available in that territory shall become invalid, but the licensee shall be entitled to recover from the county or city to which the license money was paid, a part of the license money proportionate to the unexpired period of the license.
- (2) No retail alcoholic beverage license shall be issued in any dry territory.

242.230 Traffic in alcoholic beverages in dry territory prohibited; unauthorized traffic in alcoholic beverages in moist territory prohibited; unlawful possession prohibited; exception for private residence or event

- (1) No person in dry territory shall sell, barter, loan, procure for, or provide another, or keep or transport for sale, barter, or loan, directly or indirectly, any alcoholic beverage.
- (2) No person in moist territory shall sell, barter, loan, procure for, or provide another, or keep or transport for sale, barter, or loan, directly or indirectly, any alcoholic beverage unless the sale of that alcoholic beverage has been specifically authorized in that moist territory under a limited local option election.
- (3) No person shall possess any alcoholic beverage unless it has been lawfully acquired and is intended to be used lawfully, and in any action the defendant shall have the burden of proving that the alcoholic beverages found in his or her possession were lawfully acquired and were intended for lawful use.
- (4) (a) It shall not be a violation of this section for a person to possess or consume, or to provide alcoholic beverages to others in dry or moist territory, if:
 1. The alcoholic beverages were lawfully purchased in wet or moist territory;
 2. The alcoholic beverages are not sold to any person in dry or moist territory;
 3. Any person possessing or consuming alcohol is twenty-one (21) years of age or older;
 4. The possession, consumption, or provision occurs at a private residence or private event, regardless of whether the venue is a public place; and
 5. The possession, consumption, or provision does not occur at a public place in violation of KRS Chapter 222.
- (b) For purposes of this section, an event is public, not private, if any member of the public is permitted to enter or attend the event upon payment of consideration.

242.240 Sale or gift of articles not classed as alcoholic beverages restricted

A person shall not sell or give any of the articles listed in KRS 241.010(2)(a) to (e) and (h) as not within the definition of alcoholic beverages, knowing that, or under such circumstances that, the seller or giver might reasonably deduce that the purchaser or person to whom the article is given intends to use it for beverage purposes.



242.250 Distributing, soliciting or receiving contracts or orders in dry territory prohibited, when; same prohibition on contracts or orders to any moist territory unless sale of alcoholic beverages specifically authorized under limited local option election; immunity for licensed common carriers; absolute defense

- (1) No person, while representing either the buyer or seller, shall distribute, solicit, or receive contracts, proposals, or orders for the purchase or sale of any alcoholic beverages, or distribute any handbills or posters advertising them in dry territory.
- (2) Each act of distributing, soliciting, or receiving contracts, proposals, or orders as denounced in subsection (1), and each day in which advertising matter is distributed, shall constitute a separate offense.
- (3) This chapter shall not prevent any manufacturer of or wholesale dealer in alcoholic beverages, or any authorized agent of either from making contracts of barrel, case, or package lots in any dry or moist territory, if his or her distilleries, breweries, wineries, or warehouses are located in that territory and his or her products are to be shipped into territory, either within or without the state, where alcoholic beverages may lawfully be sold.
- (4) Subsections (1) and (2) of this section shall also apply to moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.
- (5) No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.
- (6) Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery, or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.

242.260 Transportation and delivery in dry or moist territory prohibited; exception for any moist territory where sale of alcoholic beverages specifically authorized under limited local option election; immunity for common carriers; absolute defense; exception for private residence or event

- (1) It shall be unlawful for any person to bring into, transfer to another, deliver, or distribute in any dry or moist territory, except as provided in subsection (2) of this section, any alcoholic beverage, regardless of its name. Each package of such beverage so brought, transferred, or delivered in such territory shall constitute a separate offense. Nothing in this section shall be construed to prevent any distiller or manufacturer or any authorized agent of a distiller, manufacturer, or wholesale dealer from transporting or causing to be transported by a licensed carrier any alcoholic beverage to their distilleries, breweries, wineries, or warehouses where the sale of such beverage may be lawful, either in or out of the state.
- (2) Subsection (1) of this section shall also apply to any moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.
- (3) No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.

- (4) Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery, or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.
- (5) It shall not be a violation of this section for a person to bring alcoholic beverages that were lawfully purchased in wet or moist territory into dry or moist territory to a private residence, or to a private event regardless of whether the venue is a public place, for personal consumption or consumption by others so long as the possession, consumption, or provision does not occur at a public place in violation of KRS Chapter 222. For purposes of this subsection, an event is public, not private, if any member of the public is permitted to enter or attend the event upon payment of consideration.

242.270 C.O.D. shipments of alcoholic beverages in dry territory prohibited; same prohibition on C.O.D. shipments to any moist territory unless sale of alcoholic beverages specifically authorized under limited local option election; immunity for common carriers; absolute defense

- (1) No person shall sell or deliver any alcoholic beverages that are to be paid for on delivery, in dry territory.
- (2) Such transactions shall be deemed sales at the place where the money is paid or the goods delivered.
- (3) This section shall also apply to the sale or delivery of any alcoholic beverages that are to be paid for on delivery in moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.
- (4) No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.
- (5) Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery, or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.

242.280 Receiving alcoholic beverages from carrier in dry territory prohibited; exception for receiving or accepting alcoholic beverages to be sold in lawful territory within or without state; same prohibition on receiving alcoholic beverages in any moist territory unless sale of alcoholic beverages specifically authorized under limited local option election

- (1) It shall be unlawful for any person of dry territory to receive or accept any alcoholic beverage from a common carrier or from any person who has transported the beverage in or into such territory for compensation, hire, or profit of any kind whatsoever either directly or indirectly. Each and every package of said alcoholic beverage so received or accepted shall constitute a separate offense. Nothing in this section shall be construed to prevent any distiller or manufacturer of alcoholic beverages or any authorized agent of a distiller or manufacturer or wholesale dealer from receiving or accepting any alcoholic beverages which are to be sold in a territory where the sale of such beverages may be lawful either in or out of the state.
- (2) Subsection (1) of this section shall apply to any moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.

242.290 Shipments across county and out of dry or moist territory not affected

KRS 242.260 and 242.280 shall not apply to the transportation of alcoholic beverages through dry or moist territory to a point in some other state, or to a point in this state where alcoholic beverages may be lawfully sold; or to the receipt or acceptance by a common carrier from a manufacturer for transportation to a point in another state or to a point in this state where alcoholic beverages may lawfully be sold.

242.300 Manufacture of small quantities not prohibited in dry territory

The normal restrictions applicable in dry territory shall not apply to any manufacturer who in good faith and in the usual course of trade sells alcoholic beverages of the manufacturer's own make, at his or her manufactory, in quantities of not less than three (3) gallons delivered at one time for immediate transportation, to a point in some other state, or to a point in this state where alcoholic beverages may be lawfully sold.

242.310 Renting of property, or hiring vehicle for transportation is nuisance; forfeiture

- (1) Any person knowingly or intentionally renting or permitting the use of, or using, any premises, or part thereof, or any vehicle for the purpose of unlawfully selling or transporting or possessing intoxicating liquors in dry territory, shall be guilty of a nuisance and of a violation of this chapter.
- (2) Any property so used shall be forfeited to the state. The forfeiture shall extend to the whole of the premises or vehicle owned by the defendant, or to his interest in said property, including all land and buildings in one boundary.

242.320 Action for forfeiture

- (1) Any Commonwealth's attorney, county attorney, mayor of a city, or any private citizen may maintain an action in equity in the name of the state upon relation of said officers or citizen against the owner to forfeit property declared a nuisance by KRS 242.310.
- (2) If the petition is filed by a private citizen, it shall not be dismissed except upon a sworn statement made by the citizen and his attorney, setting forth the reasons why same should be dismissed, and except upon approval in writing in open court by the Commonwealth's attorney or the county attorney.

242.320 Action for forfeiture

- (1) Any Commonwealth's attorney, county attorney, mayor of a city, or any private citizen may maintain an action in equity in the name of the state upon relation of said officers or citizen against the owner to forfeit property declared a nuisance by KRS 242.310.
- (2) If the petition is filed by a private citizen, it shall not be dismissed except upon a sworn statement made by the citizen and his attorney, setting forth the reasons why same should be dismissed, and except upon approval in writing in open court by the Commonwealth's attorney or the county attorney.

242.340 Action to enjoin nuisance

- (1) Any Commonwealth's attorney, county attorney or private citizen may maintain an action in equity in the name of the state to enjoin any nuisance described by KRS 242.310.
- (2) No bond shall be required in instituting proceedings under this section.

242.350 Court may enjoin nuisance

- (1) If it is made to appear to the satisfaction of the court that a nuisance described by KRS 242.310 exists, a temporary injunction shall forthwith issue, restraining the defendant from conducting or permitting the continuance of the nuisance until the conclusion of the trial. If a temporary injunction is prayed for, the court may issue an order restraining all persons from interfering in any way with the alcoholic beverages, fixtures or other things used in connection with the nuisance.
- (2) It shall not be necessary for the court to find the property involved is being unlawfully used as described in KRS 242.310 at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no alcoholic beverages shall be sold, bartered or stored on the premises or vehicle, or any part thereof. Upon judgment of the court ordering the nuisance abated, the court may order that the premises or vehicle shall not be occupied or used for six (6) months.
- (3) The court may permit the premises or vehicle to be used if the owner, lessee, tenant or occupant gives bond with sufficient surety, to be approved by the court making the order, in the sum of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), payable to the state and conditioned that alcoholic beverages will not thereafter be sold, bartered, kept or otherwise disposed of on or in the premises or vehicle, and that he will pay all fines, costs and damages that may be assessed for any violation of this chapter on or in the premises or vehicle.

242.360 Illegal transportation of liquor; seizure of property

- (1) When a peace officer discovers any person in dry territory in the act of illegally possessing or transporting alcoholic beverages in any vehicle, he shall at once seize the vehicle and any and all alcoholic beverages found in it and arrest any person or persons in charge thereof.
- (2) Upon conviction of a person arrested under subsection (1), the court shall order the vehicle seized sold at public auction unless the owner of the vehicle proves that it was being used without his knowledge, consent or approval.
- (3) The expenses of keeping and selling the vehicle and all valid recorded liens that are established by intervention at a hearing as being bona fide shall be paid out of the proceeds of the sale. The lienor must prove that the property was being used without his knowledge, consent or approval.
- (4) After the satisfaction of expenses and liens, the court shall direct that the balance of the proceeds be paid to the circuit clerk, who shall transmit the balance as in the case of other forfeitures. The court shall order all sales to be made by the sheriff, who shall receive and be allowed the same fees as allowed for sales under execution.

242.370 Search and seizure

- (1) When an officer or any reputable citizen files an affidavit with any Circuit or District Judge, describing premises or a vehicle, where alcoholic beverages are sold, disposed of or possessed in violation of this chapter, the judge shall by his warrant cause the premises or vehicle to be searched for the detection of any alcoholic beverages which are possessed, or kept for disposition, in violation of this chapter.
- (2) Any officer receiving such a warrant shall immediately execute it on the day it is received.
- (3) If admission is not given on demand, the officers enforcing the warrant shall force an entrance into the premises or vehicle. If the officer finds that alcoholic beverages are being illegally sold, disposed of or possessed, he shall seize the alcoholic beverages, arrest the keeper or person in charge of the premises,

vehicle or alcoholic beverages and carry the person arrested and the alcoholic beverages before the judge that has issued the warrant.

- (4) No search warrant as provided for in this section shall be quashed if it and the affidavit on which it is based are sufficient on the face. If the search warrant is quashed no property taken by virtue of it shall be ordered returned unless the person from whose possession the property was taken both alleges and proves that he was in lawful possession of the property.

242.380 Illegal beverages; no property rights in; exception; destruction

- (1) No property rights other than those in the court of appropriate jurisdiction pursuant to KRS 244.195 shall exist in any alcoholic beverages obtained, possessed, held or used in violation of this chapter.
- (2) The court, upon conviction of the person arrested, shall order the alcoholic beverages to be destroyed by the sheriff for the county in which the alcoholic beverages were seized.

242.410 Bond for good behavior upon conviction

- (1) On a first or second conviction for violation of any of the provisions of this chapter, the court shall require the defendant, in addition to the penalty provided by subsection (1) of KRS 242.990, to execute bond of not less than five hundred (\$500) nor more than one thousand dollars (\$1,000) to be of good behavior for twelve (12) months and not violate any of the provisions of this chapter. If the bond is not executed, the defendant shall be imprisoned in the county jail for sixty (60) days.
- (2) The order of the trial court, requiring the execution of the peace bond, shall not be subject to appeal and shall not be considered as punishment.

242.420 Witness may not refuse to answer

No witness before a grand jury, court of inquiry or on a trial for any violation of this chapter shall be permitted to refuse to answer any question because the answer will incriminate him, but this evidence shall not be used against him in any subsequent action and he shall not be prosecuted for any offense disclosed in his testimony.

242.430 Allegations of indictment

The indictment charging the commission of an offense under this chapter need not allege that a vote was taken or an election held in the territory where the offense is alleged to have been committed, but it may simply allege that the act charged was committed in dry or moist territory and was a violation of this chapter.

Penalties

242.990 Penalties

- (1) Any person who violates any of the provisions of this chapter, for which no other penalty is herein provided, shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense, he shall be guilty of a Class A misdemeanor; for the third and each subsequent offense, he shall be guilty of a Class D felony.
- (2) Any officer who violates subsection (2) of KRS 242.370 shall be guilty of a violation.

CHAPTER 243 – ALCOHOLIC BEVERAGES; LICENSES AND TAXES

243.015 Definitions for chapter

As used in this chapter, unless the context otherwise requires, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010.

Licenses to Traffic in Alcoholic Beverages

243.020 License required; federal license presumptions; operator of unlicensed place not to permit drinking; licenses permitted in moist territory

- (1) A person shall not do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless the person holds or is an independent contractor, agent, servant, or employee of a person who holds the kind of license that authorizes the act, or is a third party utilized by a direct shipper licensee as set forth in Section 1 of this Act.
- (2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a rebuttable presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.
- (3) Except as permitted by KRS 243.033, 243.036, 243.155, 243.157, and 243.260, a person, conducting a place of business patronized by the public, who is not a licensee authorized to sell alcoholic beverages, shall not permit any person to sell, barter, loan, give away, or drink alcoholic beverages on the premises of the place of business.
- (4) A licensee shall not permit any consumer to possess, give away, or drink alcoholic beverages on the licensed premises that are not purchased from the licensee.
- (5) In a moist territory, the only types of licenses that may be issued are those that directly correspond with the types of sales approved by the voters through moist elections within the territory, unless otherwise specifically authorized by statute.

243.025 Fees to be used for administration and enforcement of alcoholic beverage laws

- (1) All of the fees paid into the State Treasury for state licenses shall be credited to a revolving trust and agency account, as provided in KRS 45.253, for the Department of Alcoholic Beverage Control.
- (2) All fees associated with the department's server training program shall be collected on a cost recovery basis and shall be credited to the revolving trust and agency account established under subsection (1) of this section.
- (3) These moneys shall be used solely for the administration and enforcement of KRS Chapters 241 to 244. The moneys in the account shall not lapse at the close of the fiscal year.



243.027 KRS 243.027 to 243.029 supersedes any conflicting provision of KRS Chapters 241 to 244; licensing of direct shippers of alcoholic beverages; duties of direct shipper licensees; administrative regulations

- (1) KRS 243.027 to 243.029 shall supersede any conflicting statute in KRS Chapters 241 to 244.
- (2) A direct shipper license shall authorize the holder to ship alcoholic beverages to consumers. The department shall issue a direct shipper license to a successful applicant that:
 - (a) Pays an annual license fee of one hundred dollars (\$100);
 - (b) Is a manufacturer located in this state or any other state or an alcoholic beverage supplier licensed under KRS 243.212 or 243.215; and
 - (c) Holds a current license, permit, or other authorization to manufacture or supply alcoholic beverages in the state where the applicant is located. If an applicant is located outside of Kentucky, proof of its current license, permit, or other authorization as issued by its home state shall be sufficient proof of its eligibility to hold a direct shipper license in Kentucky.
- (3)
 - (a) A manufacturer applicant shall only be authorized to ship alcoholic beverages that are sold under a brand name owned or exclusively licensed to the manufacturer, provided the alcoholic beverages were:
 1. Produced by the manufacturer;
 2. Produced for the manufacturer under a written contract with another manufacturer; or
 3. Bottled for or by the manufacturer.
 - (b) An applicant licensed under KRS 243.212 or 243.215 shall only be authorized to ship alcoholic beverages for which it is the primary source of supply.
- (4) The department shall establish the form for a direct shipper license application through the promulgation of an administrative regulation. These requirements shall include only the following:
 - (a) The address of the manufacturer or supplier; and
 - (b) If the applicant is located outside this state, a copy of the applicant's current license, permit, or other authorization to manufacture, store, or supply alcoholic beverages in the state where the applicant is located.
- (5) For purposes of this section, the holder of a direct shipper license may utilize the services of a third party to fulfill shipments, subject to the following:
 - (a) The third party shall not be required to hold any alcoholic beverage license, but no licensed entity shall serve as a third party to fulfill shipments other than the holder of a storage license or transporter's license;
 - (b) The third party may operate from the premises of the direct shipper licensee or from another business location; and



- (c) The direct shipper licensee shall be liable for any violation of KRS 242.250, 242.260, 242.270, or 244.080 that may occur by the third party.
- (6) A direct shipper licensee shall:
- (a) Agree that the Secretary of State shall serve as its registered agent for service of process. The licensee shall agree that legal service on the agent constitutes legal service on the direct shipper licensee;
 - (b) Maintain the records required under KRS 243.027 to 243.029 and provide the department and the Department of Revenue access to or copies of these records;
 - (c) Allow the department or the Department of Revenue to perform an audit of the direct shipper licensee's records or an inspection of the direct shipper licensee's licensed premises upon request. If an audit or inspection reveals a violation, the department or the Department of Revenue may recover reasonable expenses from the licensee for the cost of the audit or inspection;
 - (d) Register with the Department of Revenue, and file all reports and pay all taxes required under KRS 243.027 to 243.029; and
 - (e) Submit to the jurisdiction of the Commonwealth of Kentucky for any violation of KRS 242.250, 242.260, 242.270, 244.080 or for nonpayment of any taxes owed.
- (7) (a) Each direct shipper licensee shall submit to the department and the Department of Revenue a quarterly report for that direct shipper license showing:
- 1. The total amount of alcoholic beverages shipped into the state per consumer;
 - 2. The name and address of each consumer;
 - 3. The purchase price of the alcoholic beverages shipped and the amount of taxes charged to the consumer for the alcoholic beverages shipped; and
 - 4. The name and address of each common carrier.
- (b) The Department of Revenue shall create a form through the promulgation of an administrative regulation for reporting under paragraph (a) of this subsection.
- (c) The department shall provide a list of all active direct shipper licensees to licensed common carriers on a quarterly basis to reduce the number of unlicensed shipments in the Commonwealth.
- (8) A direct shipper licensee shall submit a current copy of its alcoholic beverage license from its home state along with the one hundred dollar (\$100) license fee every year upon renewal of its direct shipper license.
- (9) Notwithstanding any provision of this section to the contrary, a manufacturer located and licensed in Kentucky may ship by a common carrier holding a Kentucky transporter's license samples of alcoholic beverages produced by the manufacturer in quantities not to exceed one (1) liter of any particular product in one (1) calendar year of distilled spirits or wine, or ninety-six (96) ounces of any particular product in one (1) calendar year of malt beverages, to the following:

- (a) Marketing or media representatives twenty-one (21) years of age or older;
- (b) Distilled spirits, wine, or malt beverage competitions or contests;
- (c) Wholesalers or distributors located outside of Kentucky;
- (d) Federal, state, or other regulatory testing labs; and
- (e) Third-party product formulation and development partners. Such samples shall be marked by affixing across the product label, a not readily removed disclaimer with the words “Sample-Not for Sale” and the name of the manufacturer.

243.028 Limitations on shipments of alcoholic beverages by direct shipper licensees; notice and labeling requirements; recipient age verification and signature required; penalty for consumer who attempts illegal receipt; shipping mode requirements

- (1) A direct shipper licensee may sell or ship to a consumer all types of alcoholic beverages that the licensee is authorized to sell, with the following aggregate limits:
 - (a) Distilled spirits, in quantities not to exceed ten (10) liters per consumer per month;
 - (b) Wine, in quantities not to exceed ten (10) cases per consumer per month; and
 - (c) Malt beverages, in quantities not to exceed ten (10) cases per consumer per month.
- (2) The direct shipper licensee shall notify the consumer placing the order that the shipment shall not be left unless the recipient of the shipment provides a valid identification document at the time verifying that the recipient is at least twenty-one (21) years of age. All alcoholic beverage containers shipped to the consumer shall be conspicuously labeled with the words “CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY”.
- (3) At the time of delivery, the recipient of the shipment shall present to the individual delivering the package a valid identification document. Prior to transferring possession of the package, the individual delivering the package shall visually inspect the document and verify the identity of the recipient and, by visual examination or by using age verification technology, that the recipient is at least twenty-one (21) years of age.
- (4) Before transferring possession of the package, the individual delivering the package shall obtain the signature of the recipient of the shipment. The individual who receives and signs for the alcoholic beverages is not required to be the consumer who purchased the alcoholic beverages.
- (5) A consumer who intentionally causes shipment to an address deemed unlawful shall, for the first offense, be guilty of a violation punishable by a fine of two hundred fifty dollars (\$250), and for each subsequent offense, be guilty of a violation punishable by a fine of five hundred dollars (\$500). In this instance, the direct shipper licensee and the common carrier shall be held harmless.
- (6) A direct shipper licensee may not sell or ship alcoholic beverages to a consumer from its licensed premises if the consumer’s address is located in an area in which alcoholic beverages may not be sold or received.



- (7) Shipments made pursuant to this section shall be made through a common carrier.
- (8) If a common carrier is unable to complete delivery, then the alcoholic beverages shall be returned to the consignor.

243.029 Taxes on sales of alcoholic beverages owed by direct shipper licensees - Effective March 12, 2021 to June 30, 2021

- (1) For purposes of this section, “taxes” associated with the purchase of alcoholic beverages includes any applicable:
 - (a) Sales tax;
 - (b) Use tax;
 - (c) Excise tax;
 - (d) Wholesale tax as established in KRS 243.884;
 - (e) Regulatory license fees; and
 - (f) Other assessments.
- (2) For purposes of this section and for other tax purposes, each sale and delivery of alcoholic beverages under a direct shipper license is a sale occurring at the address of the consumer. For each tax remittance or collected group of tax remittances, the direct shipper licensee shall include its federal tax identification number.
- (3) A direct shipper licensee that sells alcoholic beverages under its direct shipper license for shipment to a consumer shall charge the consumer all applicable taxes and shall sell the alcoholic beverages with all applicable taxes included in the selling price. The applicable taxes shall be separately identified on the consumer’s invoice. The taxes shall be collected by the direct shipper licensee from the consumer.
- (4) The amount of the taxes to be paid by the direct shipper licensee under this section shall be calculated based on the sale of the alcoholic beverages occurring at the location identified as the consumer’s address on the shipping label.
- (5) For taxes owed by a direct shipper licensee under this section, the direct shipper licensee shall meet the standards of the destination state, including filing a return that contains its license number and federal tax identification number.

243.029 Taxes on sales of alcoholic beverages owed by direct shipper licensees - Effective July 1, 2021

- (1) For purposes of this section, “taxes” associated with the purchase of alcoholic beverages includes any applicable:
 - (a) Sales tax;
 - (b) Use tax;



- (c) Excise tax;
 - (d) Wholesale tax as established in KRS 243.884;
 - (e) Regulatory license fees; and
 - (f) Other assessments.
- (2) For purposes of this section and for other tax purposes, each sale and delivery of alcoholic beverages under a direct shipper license is a sale occurring at the address of the consumer. For each tax remittance or collected group of tax remittances, the direct shipper licensee shall include its federal tax identification number.
 - (3) Except for the regulatory license fee imposed under Section 27 of this Act, the applicable taxes shall be collected by the direct shipper licensee from the consumer. The regulatory license fee and all other applicable taxes shall be separately stated on the invoice, bill of sale, or similar document given to the consumer.
 - (4) The amount of the taxes to be paid by the direct shipper licensee under this section shall be calculated based on the sale of the alcoholic beverages occurring at the location identified as the consumer’s address on the shipping label.
 - (5) For taxes owed by a direct shipper licensee under this section, the direct shipper licensee shall meet the standards of the destination state, including filing a return that contains its license number and federal tax identification number.

243.030 Distilled spirits and wine licenses; kinds; fees

The following licenses that authorize traffic in distilled spirits and wine may be issued by the distilled spirits administrator. Licenses that authorize traffic in all alcoholic beverages may be issued by both the distilled spirits administrator and malt beverages administrator. The licenses and their accompanying fees are as follows:

- (1) Distiller’s license:
 - (a) Class A, per annum \$3,090.00
 - (b) Class B (craft distillery), per annum \$1,000.00
- (2) Rectifier’s license:
 - (a) Class A, per annum \$2,580.00
 - (b) Class B (craft rectifier), per annum \$825.00
- (3) Winery license, per annum \$1,030.00
- (4) Small farm winery license, per annum \$110.00
 - (a) Small farm winery off-premises retail license, per annum \$30.00



KENTUCKY LEAGUE OF CITIES

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(5) Wholesaler's license, per annum	\$2,060.00
(6) Quota retail package license, per annum	\$570.00
(7) Quota retail drink license, per annum	\$620.00
(8) Transporter's license, per annum	\$210.00
(9) Special nonbeverage alcohol license, per annum	\$60.00
(10) Special agent's or solicitor's license, per annum	\$30.00
(11) Bottling house or bottling house storage license, per annum	\$1,030.00
(12) Special temporary license, per event	\$100.00
(13) Special Sunday retail drink license, per annum	\$520.00
(14) Caterer's license, per annum	\$830.00
(15) Special temporary alcoholic beverage auction license, per event	\$100.00
(16) Extended hours supplemental license, per annum	\$2,060.00
(17) Hotel in-room license, per annum	\$210.00
(18) Air transporter license, per annum	\$520.00
(19) Sampling license, per annum	\$110.00
(20) Replacement or duplicate license	\$25.00
(21) Entertainment destination center license:	
(a) When the licensee is a city, county, urban-county government, consolidated local government, charter county government, or unified local government, per annum	\$2,577.00
(b) All other licensees, per annum	\$7,730.00
(22) Limited restaurant license, per annum	\$780.00
(23) Limited golf course license, per annum	\$720.00
(24) Small farm winery wholesaler's license, per annum	\$110.00
(25) Qualified historic site license, per annum	\$1,030.00
(26) Nonquota type 1 license, per annum	\$4,120.00
(27) Nonquota type 2 license, per annum	\$830.00



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| (28) Nonquota type 3 license, per annum | \$310.00 |
| (29) Distilled spirits and wine storage license, per annum | \$620.00 |
| (30) Out-of-state distilled spirits and wine supplier's license, per annum | \$1,550.00 |
| (31) Limited out-of-state distilled spirits and wine supplier's license, per annum | \$260.00 |
| (32) Authorized public consumption license, per annum | \$250.00 |
| (33) Direct shipper license, per annum | \$100.00 |
- (34) A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045.
- (35) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In establishing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.
- (36) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary retail drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

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

243.0305 Souvenir package sales by licensed distillers; direct transfer of souvenir packages to distillery visitors and consumers; direct shipment to visitors; sampling and sale of alcoholic beverages on premises of distillery; sale of alcoholic beverages by the drink at certain events; sale of products in collaboration with a brewer

- (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under KRS 242.1243 and that has a gift shop or other retail outlet on its premises may conduct the activities permitted under this section as a part of its distiller's license.
- (2) (a) For purposes of all retail drink and package sales that occur pursuant to subsection (3), (8), or (9) of this section, the distillery shall:
 1. Be permitted to transfer its products from the distillery proper to the location where those sales occur without having to transfer physical possession of those distilled spirits to a licensed wholesaler; and
 2. Effective January 1, 2022, without otherwise reporting those distilled spirits to a licensed wholesaler, report and pay all taxes required to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its powers under KRS 131.130(3).



- (b) 1. Effective January 1, 2022, a distiller selling distilled spirits in accordance with this subsection shall pay all wholesale sales taxes due under Section 13 of this Act. For the purposes of this subsection, “wholesale sales” means a sale of distilled spirits made by a distiller under subsection (3)(b), (8), and (9) of this section, if required by Section 13 of this Act.
 - 2. Effective January 1, 2022, a distiller shall pay the excise tax on distilled spirits in accordance with KRS 243.720 and 243.730.
- (c) All other distilled spirits that are produced by the distillery shall be sold and physically transferred in compliance with all other relevant provisions of KRS Chapters 241 to 244.
- (3) A distiller may sell souvenir packages at retail:
 - (a) To consumers in accordance with KRS 243.027 to 243.029 if it holds a direct shipper license; and
 - (b) To distillery visitors of legal drinking age, in quantities not to exceed an aggregate of four and one-half (4- ½) liters per purchaser per day for sales prior to January 1, 2021, and in quantities not to exceed an aggregate of nine (9) liters per purchaser per day on and after January 1, 2021.
- (4) Hours of sale for souvenir packages sold to distillery visitors at retail shall be in conformity with KRS 244.290(3).
- (5) Except as provided in this section, souvenir package sales to distillery visitors shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.
- (6) Souvenir packages sold to distillery visitors under section (3)(b) of this section shall be registered with the department pursuant to KRS 244.440 and made available to a Kentucky licensed wholesaler.
- (7) Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding a sampling license may allow visitors to sample distilled spirits under the following conditions:
 - (a) Sampling shall be permitted only on the licensed premises during regular business hours;
 - (b) A distillery shall not charge for the samples; and
 - (c) A distillery shall not provide more than one and three-fourths (1- ¾) ounces of samples per visitor per day.
- (8) Notwithstanding the provisions of KRS 243.110, in accordance with this section, a distillery located in wet territory or in any territory that has authorized the limited sale of alcoholic beverages under an election held pursuant to KRS 242.1243 may:
 - (a) Hold an NQ2 retail drink license for the sale of alcoholic beverages on the distillery premises; and
 - (b) Employ persons to engage in the sale or service of alcohol under an NQ2 license, if each employee completes the department’s Server Training in Alcohol Regulations program within thirty (30) days of beginning employment.
- (9) A distiller may sell to consumers at fairs, festivals, and other similar types of events located in wet territory alcoholic beverages by the drink, containing spirits distilled or bottled on the premises of the distillery.



- (10) A distiller may offer for sale in its gift shop products that were produced in collaboration with a brewer or microbrewer except that:
 - (a) These packages shall not be exclusive to the distiller's gift shop; and
 - (b) The distiller shall purchase the jointly branded souvenir package only from a licensed malt beverage distributor.
- (11) Except as expressly stated in this section, this section does not exempt the holder of a distiller's license from:
 - (a) The provisions of KRS Chapters 241 to 244;
 - (b) The administrative regulations of the board; and
 - (c) Regulation by the board at all the distiller's licensed premises.
- (12) Nothing in this section shall be construed to vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages.

243.0307 Sampling license; sampling and sale of alcoholic beverages on premises of licensed retailer

- (1) A sampling license may be issued to the holder of:
 - (a) A quota retail drink license;
 - (b) A quota retail package license;
 - (c) A nonquota retail malt beverage package license;
 - (d) An NQ1 license;
 - (e) An NQ2 license;
 - (f) An NQ4 retail malt beverage drink license; or
 - (g) A distiller's license.
- (2) A sampling license shall authorize the licensee to allow customers to sample, free of charge, distilled spirits, wine, and malt beverages under the following conditions:
 - (a) Sampling shall be permitted only on licensed premises and by licensees holding a sampling license, during regular business hours;
 - (b) A distillery shall provide samples as authorized by KRS 243.0305;
 - (c) All other licensees shall limit a customer to:
 1. One (1) ounce of distilled spirits samples per day;

2. Six (6) ounces of wine samples per day; or
 3. Twelve (12) ounces of malt beverage samples per day; and
- (d) A brewer, microbrewery, or out-of-state malt beverage supplier may conduct a sampling of malt beverages as permitted by this section at the licensed premises of a retailer licensee holding a sampling license.
- (3) Retailers holding a sampling license shall:
- (a) Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a free sampling event; and
 - (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.
- (4) In addition to free sampling, a quota retail package licensee holding a sampling license may also sell sample distilled spirits and wine under the following conditions:
- (a) Paid samples may be sold only on licensed premises and by licensees holding a sampling license, during regular business hours; and
 - (b) A licensee shall limit a customer to purchased samples totaling no more than:
 1. Two (2) ounces of distilled spirits per day; and
 2. Nine (9) ounces of wine per day.
- (5) A quota retail package licensee holding both a sampling license and a nonquota retail malt beverage package license may also sell samples of malt beverages under the following conditions:
- (a) Paid samples may be sold only on licensed premises and by licensees holding a sampling license, during regular business hours;
 - (b) A licensee shall limit a customer to no more than sixteen (16) ounces of malt beverages per day; and
 - (c) The retail price of a sample shall not be less than a licensee's purchase cost of the sample.
- (6) No customer shall be allowed to receive a combination of free and purchased samples totaling more than:
- (a) Two (2) ounces of distilled spirits per day; and
 - (b) Nine (9) ounces of wine per day.
- (7) Free and paid samples provided under this section shall not constitute drink sales.

243.033 Caterer's license

- (1) A caterer's license may be issued as a supplementary license to a caterer that holds a quota retail package license, a quota retail drink license, an NQ1 license, an NQ2 license, or a limited restaurant license.
- (2) The caterer's license may be issued as a primary license to a caterer in any wet territory or in any moist territory under KRS 242.1244 for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall authorize alcoholic beverage sales at a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.
- (3) The caterer's license shall authorize the caterer to:
 - (a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and 244.260;
 - (b) Transport, sell, serve, and deliver alcoholic beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and the customer's guests, in:
 1. Cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;
 2. Wet cities and counties in which quota retail drink licenses are not available if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or
 3. All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages;
 - (c) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and
 - (d) Receive payment for alcoholic beverages served at a catered event on a by-the-drink, cash bar, or by-the-event basis. The caterer may bill the customer for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
- (4) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a fundraising event for which a special temporary alcoholic beverage auction license has been issued under KRS 243.036.
- (5) A caterer licensee shall not cater alcoholic beverages on Sunday except in territory in which the Sunday sale of alcoholic beverages is permitted under the provisions of KRS 244.290 and 244.480.
- (6) A caterer licensee shall not cater alcoholic beverages at an event hosted by the caterer licensee or hosted as a joint venture of the caterer licensee.



- (7) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.
- (8) The caterer licensee shall post a copy of the licensee's caterer's license at the location of the function for which alcoholic beverages are catered.
- (9) All restrictions and prohibitions applying to a quota retail drink licensee and an NQ4 retail malt beverage drink licensee not inconsistent with this section shall apply to the caterer licensee.
- (10) The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.
- (11) Notwithstanding subsection (3)(b) of this section, a caterer may serve alcoholic beverages to guests who are twenty-one (21) years of age or older at a private event in dry territory if:
 - (a) The alcoholic beverages were lawfully purchased in a wet or moist territory:
 1. By an individual; or
 2. At the caterer's licensed premises in wet or moist territory; and
 - (b) The alcoholic beverages are not sold in dry territory to guests at the private residence or private event regardless of whether the venue is a public place.

243.034 Business authorized by limited restaurant license within wet territory or certain moist precincts; prohibition against sale of alcohol without meal; package sales prohibited

- (1) A limited restaurant license may be issued to an establishment meeting the definition criteria established in KRS 241.010(36) as long as the establishment is within:
 - (a) Any wet territory; or
 - (b) Any moist precinct that has authorized the sale of alcoholic beverages under KRS 242.1244.
- (2) A limited restaurant license shall authorize the licensee to purchase, receive, possess, and sell alcoholic beverages at retail by the drink for consumption on the licensed premises or off-premises consumption pursuant to Section 1 of this Act. The licensee shall purchase alcoholic beverages only from licensed wholesalers or distributors. The license shall not authorize the licensee to sell alcoholic beverages by the package.
- (3) The holder of a limited restaurant license shall maintain at least seventy percent (70%) of its gross receipts from the sale of food and maintain the minimum applicable seating requirement required for the type of limited restaurant license.
- (4) A limited restaurant as defined by KRS 241.010(36)(a) shall:
 - (a) Only sell alcoholic beverages incidental to the sale of a meal; and



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

243.0341 Proposal of ordinance authorizing by the drink sales of alcoholic beverages in restaurants and dining facilities containing seating for at least fifty persons; qualifications; conditions; limited effect of ordinance

- (1) Notwithstanding any other provision of law, any city or county that conducted an election under KRS 242.1244(2) prior to January 1, 2016, for by the drink sales of alcoholic beverages in restaurants and dining facilities seating one hundred (100) persons or more or any city with limited sale precincts created pursuant to KRS 242.1292 may elect to act under this section.
- (2) Upon a determination by the legislative body of a city or county that:
 - (a) An economic hardship exists within the city or county; and
 - (b) Expanded sales of alcoholic beverages by the drink could aid in economic growth; the city or county may, after conducting a public hearing that is noticed to the public in accordance with the KRS Chapter 424, adopt an ordinance authorizing by the drink sales of alcoholic beverages in restaurants and dining facilities containing seating for at least fifty (50) persons and meeting the requirements of subsection (3) of this section.
- (3) The ordinance enacted by a city or county pursuant to subsection (2) of this section shall authorize the sale of alcoholic beverages under the following limitations:
 - (a) Sales shall only be conducted in restaurants and other dining facilities meeting the requirements of KRS 241.010(36)(a); and
 - (b) The provisions of KRS 243.034 shall apply to any restaurant or dining facility operating under a license issued pursuant to this section.
- (4) A city or county acting under this section may allow limited restaurant sales as defined in KRS 241.010(36).
- (5) The enactment of an ordinance under this section shall not:
 - (a) Modify the city's or county's ability to issue a limited restaurant license to restaurants or other dining facilities meeting the requirements of KRS 241.010(36)(b); or
 - (b) Affect, alter, or otherwise impair any license previously issued to a restaurant or dining facility meeting the requirements of KRS 241.010(36)(b).

243.035 Bottling house or bottling house storage license

The distilled spirits administrator may issue a bottling house or bottling house storage license only to persons who are authorized under this chapter to store or warehouse distilled spirits or wine. The bottling house or bottling house storage license shall authorize the licensee to bottle and store distilled spirits on the premises designated in the license. The holder of a bottling house or bottling house storage license may also hold a distilled spirits and wine storage license.

243.036 Special temporary alcoholic beverage auction license

- (1) A special temporary alcoholic beverage auction license may be issued to a charitable or nonprofit organization.
- (2) A special temporary alcoholic beverage auction license shall authorize the holder to:
 - (a) Purchase, transport, receive, possess, store, sell, and deliver alcoholic beverages to be sold by auction or raffle or consumed at charity or nonprofit events;
 - (b) Purchase, transport, receive, possess, store, sell, and deliver limited specially labeled bottles of alcoholic beverages to be sold at charity or nonprofit events;
 - (c) Obtain alcoholic beverages from distillers, rectifiers, wineries, small farm wineries, brewers, microbreweries, wholesalers, distributors, retailers, or any other person, by gift or donation, for the purpose of charity or nonprofit events; and
 - (d) Receive payment for alcoholic beverages sold at events.
- (3) Each alcoholic beverage auction or raffle conducted by a charitable organization shall be subject to all restrictions and limitations contained in KRS Chapters 241 to 244 and the administrative regulations issued under those chapters and shall be authorized only on the days and only during the hours that the sale of alcoholic beverages is otherwise authorized in the county or municipality.
- (4) The location at which the alcoholic beverages are auctioned, raffled, or consumed under this section shall not constitute a public place for the purpose of KRS Chapter 222. Charitable or nonprofit events may be conducted on licensed or unlicensed premises. The charitable organization possessing a special temporary alcoholic beverage auction license shall post a copy of the license at the location of the event.
- (5) A special temporary alcoholic beverage auction license shall not be issued for any period longer than thirty (30) days.
- (6) Notwithstanding any other provision of KRS Chapters 241 to 244, a distiller, rectifier, winery, small farm winery, brewer, microbrewery, wholesaler, distributor, or retailer may donate, give away, or deliver any of its products to a charitable or nonprofit organization possessing a special temporary alcoholic beverage auction license under this section.
- (7) All restrictions and prohibitions applying to an alcoholic beverage retail package and alcoholic beverage by the drink license, not inconsistent with this section, shall apply to a special temporary alcoholic beverage auction license.

243.037 Supplemental bar license; main bar and service bars; fees

- (1) Except as where specifically authorized by statute, a retailer licensed to sell distilled spirits or wine by the drink shall only be permitted to sell or serve distilled spirits and wine by the drink at one (1) main bar, counter, or similar contrivance at the licensed premises.
- (2) A retailer may have necessary service bars, if they are not located in any room in which the members or guests or patrons of the place are invited or permitted to come. No distilled spirits or wine shall be served at service bars.



- (3) A supplemental bar license shall authorize the licensee to sell and serve distilled spirits and wine by the drink at retail from an additional location other than the main bar. A supplemental bar license is a nonquota license and shall not be transferable to other premises.
- (4) The fee for a supplemental license shall be the same as the fee for the primary license authorizing retail distilled spirits and wine drink sales for each of up to five (5) supplemental bar licenses. There shall be no fee for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
- (5) A license authorizing retail malt beverage sales, by the drink or by the package, authorizes the licensee to sell and serve malt beverages at any location on the licensed premises without obtaining a supplemental bar license.

243.038 Agreement of golf course to comply with the provisions of KRS Chapter 344

- (1) The Department of Alcoholic Beverage Control shall not issue a license to an applicant authorized to apply for a license to sell alcoholic beverages by the drink under KRS 243.039 unless the applicant and the golf course, if different from the applicant, agree to voluntarily comply with the provisions of KRS Chapter 344, whether or not the applicant and the golf course would otherwise be covered by the provisions of KRS Chapter 344.
- (2) The department shall revoke or suspend any license issued under KRS 243.039 if the department or the Kentucky Commission on Human Rights makes a finding that the applicant or the golf course, if different from the applicant, has violated a requirement specified in this section.

243.039 Business authorized by limited golf course license within wet territory or certain moist precincts; package sales prohibited

- (1) A limited golf course license may be issued to an establishment that is a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course as long as the establishment is within:
 - (a) Any wet territory; or
 - (b) Any moist precinct that has specifically authorized the sale of distilled spirits, wine, and malt beverages at that establishment under KRS 242.123.
- (2) A limited golf course license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits, wine, and malt beverages only from licensed wholesalers or distributors. The license shall not authorize the licensee to sell distilled spirits, wine, and malt beverages by the package.



243.040 Malt beverage licenses; kinds; fees

The following kinds of malt beverage licenses may be issued by the malt beverages administrator, the fees for which shall be:

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| (1) Brewer's license, per annum | \$2,580.00 |
| (2) Microbrewery license, per annum | \$520.00 |
| (3) Distributor's license, per annum | \$520.00 |
| (4) Nonquota retail malt beverage package license, per annum | \$210.00 |
| (5) Out-of-state malt beverage supplier's license, per annum | \$1,550.00 |
| (6) Malt beverage storage license, per annum | \$260.00 |
| (7) Replacement or duplicate license, per annum | \$25.00 |
| (8) Limited out-of-state malt beverage supplier's license, per annum | \$260.00 |
| (9) Nonquota type 4 malt beverage drink license, per annum | \$210.00 |
| (10) Direct shipper license, per annum | \$100.00 |
| (11) The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50). | |
| (12) A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045. | |
| (13) Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241 to 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board. | |

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application for a license under this section. The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the department.

243.042 Qualified historic site license

- (1) A qualified historic site license may be issued to any establishment meeting the criteria established in KRS 241.010 as long as the establishment is within:
 - (a) Any wet territory; or
 - (b) Any precinct that has authorized the sale of alcoholic beverages under KRS 242.1242.
- (2) A qualified historic site license shall authorize the licensee to:

- (a) Sell alcoholic beverages by the drink at one (1) or more permanent or nonpermanent locations on the premises over which the licensee, by lease or ownership, has exclusive control without obtaining additional supplemental bar licenses prescribed by KRS 243.037;
- (b) Sell alcoholic beverages by the drink to patrons at public or private functions held on the premises; and
- (c) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250, and 244.260.

243.045 Issuance of transitional license by state administrator or administrators; limitations on use

- (1) A transitional license may be issued by the state administrator or administrators during the time a transfer of an ongoing business is being processed under the following conditions:
 - (a) The purchaser shall file an application for a permanent license with the appropriate local alcoholic beverage authority and with the department;
 - (b) The purchaser shall advertise its intention to apply for a license pursuant to KRS 243.360; and
 - (c) The purchaser shall pay all application fees for the permanent license.
- (2) If the above requirements are met, the state administrator or administrators, as appropriate, may issue a transitional license with a term of up to sixty (60) days, plus one (1) thirty (30) day renewal license, to the purchaser for a processing fee set forth in KRS 243.030 to 243.040. All transitional licenses immediately expire upon the issuance to the purchaser of one (1) or more permanent licenses.
- (3) Upon completion of the sale of the business, the purchaser shall not operate the business on the seller's license.
- (4) The transitional license shall not be transferable or used for an application to move a business from one (1) location to another location.
- (5) The transitional license shall entitle the holder to the same privileges and restrictions of the permanent license or licenses for which the holder applied under subsection (1)(a) of this section.

243.050 Extended hours supplemental license; Sunday retail drink license

- (1) The state administrators may issue an extended hours supplemental license for the retail sale of alcoholic beverages by the drink to the holder of an NQ1 retail drink license, a qualified historic site license, or a license located in a commercial airport. The board may, by administrative regulation or special conditions of an extended hours supplemental license, establish the days when the supplemental license will be valid, including Sundays, and establish any restrictions on the use of the license to ensure that it will be primarily for the benefit of holders of NQ1 retail drink licenses, qualified historic site licenses, and visitors at large commercial airports.
- (2) (a) A licensee located in territory which has authorized Sunday retail distilled spirits and wine drink sales under KRS 244.290, either by local option election or by local government ordinance, shall obtain a Sunday retail drink license in order to sell distilled spirits and wine on Sunday.



- (b) A retail licensee holding a Sunday retail drink license is authorized to remain open and sell distilled spirits and wine by the drink for consumption on the premises only during those times and hours permitted by local government ordinance.
- (c) A licensee located in territory that has authorized Sunday retail distilled spirits and wine package sales under KRS 244.290 or retail malt beverage package or drink sales under KRS 244.480 is not required to hold a Sunday retail drink license to authorize these sales.

243.055 Hotel in-room service license

- (1) As used in this section, the following definitions shall apply:
 - (a) “Hotel” means any hotel, motel, inn, or other establishment which offers overnight accommodations to the public for hire;
 - (b) “In-room service” means the delivery of alcoholic beverages in unbroken packages by an employee of the hotel to a registered guest’s room when the alcoholic beverages have been ordered by a guest and when the guest shall be billed for the cost of the alcoholic beverages at the time of delivery, with all sales of the alcoholic beverages being completed upon delivery; and, additionally, the provision of a cabinet or other facility located in a hotel guest’s room which contains alcoholic beverages and which is provided upon written request of the guest and which is accessible by lock and key or remote control device only to the guest, with the sale of the alcoholic beverages contained therein being final at the time requested, except for a credit which may be given to the guest for any unused portion. The licensee may stock a cabinet or other facility located in a hotel guest’s room pursuant to this section, with fifty (50) milliliter containers of distilled spirits.
- (2) The department may issue a hotel in-room service license to any hotel which is licensed to sell distilled spirits, wine, and malt beverages upon the payment of the fee set forth in KRS 243.030. The license shall authorize the licensee to sell distilled spirits, wine, and malt beverages by in-room service. The sale of alcoholic beverages by in-room service shall be subject to all restrictions and limitations contained in KRS Chapters 241 to 244, and the administrative regulations issued under those chapters, and shall be authorized only on the days and only during the hours as the sale of alcoholic beverages is otherwise authorized in the county or municipality. All alcoholic beverages sold pursuant to this section shall be considered by the drink sales and shall be subject to all state and local taxes imposed on alcoholic beverages and shall be purchased from a licensed wholesaler and distributor.

243.060 County and consolidated local government licenses; kinds; fees; restrictions on increase of fees

- (1) The fiscal court of any county or a consolidated local government in which traffic in alcoholic beverages is permitted under KRS Chapter 242 may only issue the following alcoholic beverage licenses and corresponding maximum fees. The license fees are subject to the provisions of subsections (2) to (4) of this section, and shall not exceed the following:
 - (a) Quota retail package license, per annum:
 - 1. In counties containing a consolidated local government \$1,200.00
 - 2. In all other counties \$1,000.00
 - (b) Quota retail drink license, per annum:



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| 1. | In counties containing a consolidated local government | \$1,600.00 |
| 2. | In all other counties | \$1,000.00 |
| (c) | Nonquota type 2 retail drink license, per annum: | |
| 1. | In counties containing a consolidated local government | \$1,800.00 |
| 2. | In all other counties | \$1,000.00 |
| (d) | Nonquota type 3 retail drink license, per annum | \$300.00 |
| (e) | Special temporary license, per event: | |
| 1. | In counties containing a consolidated local government | \$266.66 |
| 2. | In all other counties | \$166.66 |
| (f) | Special Sunday retail drink license, per annum | \$300.00 |
| (g) | Nonquota retail malt beverage package license, per annum | \$400.00 |
| (h) | Nonquota type 4 retail malt beverage drink license, per annum | \$400.00 |
| (i) | Limited restaurant license, per annum: | |
| 1. | In counties containing a consolidated local government | \$2,000.00 |
| 2. | In all other counties | \$1,400.00 |
| (j) | Limited golf course license, per annum: | |
| 1. | In counties containing a consolidated local government | \$2,000.00 |
| 2. | In all other counties | \$1,400.00 |
| (k) | Authorized public consumption license, per annum | \$250.00 |
| (l) | Qualified historic site license, per annum | \$1,030.00 |
- (2) The fee for the following license types may not be increased by more than five percent (5%) above the January 1, 2013, fee for the current license or the former license type listed beside it, during any five (5) year period. The fees for the licenses described in this subsection are still subject to the maximum amounts listed for those licenses in subsection (1) of this section:
- (a) Quota retail package license: retail package liquor license;
 - (b) Quota retail drink license: retail drink license;
 - (c) Nonquota type 2 retail drink license: restaurant drink license;



- (d) Nonquota retail malt beverage package license: retail malt beverage license;
 - (e) Nonquota type 4 retail malt beverage drink license: retail malt beverage license;
 - (f) Limited restaurant license; and
 - (g) Limited golf course license.
- (3) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
- (4) The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).
- (5) A county shall not issue county licenses or impose fees under this section to any person who holds a city license issued under KRS 243.070.

243.070 City and consolidated local government licenses; kinds; fees; restriction on increase of fees

- (1) The legislative body of any city or a consolidated local government in which traffic in alcoholic beverages is permitted under KRS Chapter 242 may only issue the following alcoholic beverage licenses and corresponding maximum fees. The license fees are subject to the provisions of subsections (2), (3), and (4) of this section, and shall not exceed the amounts specified in this subsection:
- (a) Distiller's license, per annum \$500.00
 - (b) Rectifier's license:
 - 1. Class A, per annum \$3,000.00
 - 2. Class B (craft rectifier), per annum \$960.00
 - (c) Wholesaler's distilled spirits and wine license, per annum \$3,000.00
 - (d) Quota retail package license, per annum:
 - 1. In counties containing a consolidated local government \$1,200.00
 - 2. In all other counties \$1,000.00
 - (e) Quota retail drink license, per annum:
 - 1. In counties containing a consolidated local government \$1,600.00
 - 2. In all other counties \$1,000.00



(f) Special temporary license, per event:	
1. In counties containing a consolidated local government	\$266.66
2. In all other counties	\$166.66
(g) Nonquota type 1 retail drink license, per annum	\$2,000.00
(h) Nonquota type 2 retail drink license, per annum:	
1. In counties containing a consolidated local government	\$1,800.00
2. In all other counties	\$1,000.00
(i) Nonquota type 3 retail drink license, per annum	\$300.00
(j) Special temporary alcoholic beverage auction license, per event	\$100.00
(k) Special Sunday retail drink license, per annum	\$300.00
(l) Extended hours supplemental license, per annum	\$2,000.00
(m) Caterer's license, per annum	\$800.00
(n) Bottling house or bottling house storage license, per annum	\$1,000.00
(o) Brewer's license, per annum	\$500.00
(p) Microbrewery license, per annum	\$500.00
(q) Malt beverage distributor's license, per annum	\$400.00
(r) Nonquota retail malt beverage package license, per annum	\$200.00
(s) Nonquota type 4 retail malt beverage drink license, per annum	\$200.00
(t) Limited restaurant license, per annum:	
1. In counties containing a consolidated local government	\$1,800.00
2. In all other counties	\$1,200.00
(u) Limited golf course license, per annum:	
1. In counties containing a consolidated local government	\$1,800.00
2. In all other counties	\$1,200.00
(v) Authorized public consumption license, per annum	\$250.00
(w) Qualified historic site license, per annum	\$1,030.00

- (2) The fee for the following license types may not be increased by more than five percent (5%) above the January 1, 2013, fee for the current license or the former license type listed beside it, during any five (5) year period. The fees for the licenses described in this subsection are still subject to the maximum amounts listed for those licenses in subsection (1) of this section:
 - (a) Quota retail package license: retail package liquor license;
 - (b) Quota retail drink license: retail drink license;
 - (c) Nonquota type 1 retail drink license: convention center or convention hotel complex license;
 - (d) Nonquota type 2 retail drink license: restaurant drink license;
 - (e) Nonquota retail malt beverage package license: retail malt beverage license;
 - (f) Nonquota type 4 retail malt beverage drink license: retail malt beverage license;
 - (g) Limited restaurant license; and
 - (h) Limited golf course license.
- (3) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
- (4) The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

243.075 Eligible city or county may impose regulatory license fee up to five percent on gross receipts of each establishment's sale of alcoholic beverages; annual levies; credits; applicability of county regulatory license fee if city levies license fee; enactment of fee within two years following election; administrative regulations; use of revenue received from regulatory license fee; penalties for violation; party suing city or county for violation responsible for attorney fees if city or county found not to be in violation; regulatory fee imposed before 2019 permitted to continue at existing rate; applicability to direct shipper licensee; report to department

- (1)
 - (a) A city with a population of less than twenty thousand (20,000) based upon the most recent federal decennial census, a county that does not contain a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census, or a county that contains a city authorized to impose a fee under subsection (9) of this section, that is wet through a local option election held under KRS Chapter 242 is authorized to impose a regulatory license fee not to exceed five percent (5%) upon the gross receipts of the sale of alcoholic beverages of each establishment located in the city or county licensed to sell alcoholic beverages.
 - (b) The regulatory license fee may be levied at the beginning of each budget period at a percentage rate that is reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county.



- (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:
 - 1. A credit against a regulatory license fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070; and
 - 2. In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (2) (a) A city or county that is moist through a local option election held under KRS 242.1244 may by ordinance impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment located in the city or county and licensed to sell alcoholic beverages by the drink for consumption on the premises.
 - (b) The regulatory license fee may be levied annually at a rate that is reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses.
 - (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070.
 - (d) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (3) (a) For any election held after July 15, 2014, any new fee authorized under subsection (1) or (2) of this section shall be enacted by the city or county no later than two (2) years from the date of the local option election held under KRS Chapter 242.
 - (b) Notwithstanding paragraph (a) of this subsection, any city or county that held a local option election between July 15, 2014, and July 15, 2018, may enact a regulatory licensing fee in accordance with subsection (1) of this section within two(2) years of the effective date of this Act.
- (4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section shall be established at a rate that will generate revenue that does not exceed the total of the reasonable expenses actually incurred by the city or county in the immediately previous fiscal year for the additional cost, as demonstrated by reasonable evidence, of:
 - (a) Policing;
 - (b) Regulation; and
 - (c) Administration; as a result of the sale of alcoholic beverages within the city or county.
- (5) (a) The Alcoholic Beverage Control Board shall promulgate administrative regulations which set forth the process by which a city or county, in the first year following the discontinuance of prohibition, may estimate any additional policing, regulation, and administrative expenses by a city or county directly and solely related to the discontinuance of prohibition. This subsection shall apply to any discontinuance of prohibition occurring after the promulgation of administrative regulations required by this subsection.



- (b) After the first year, the regulatory license fee for each subsequent year shall conform to the requirements of subsection (4) of this section.
- (6) The revenue received from the imposition of the regulatory license fee authorized under subsections (1) and (2) of this section shall be:
 - (a) Deposited into a segregated fund of the city or county;
 - (b) Spent only in accordance with the requirements of subsections (1) and (2) of this section; and
 - (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810, and 91A.040.
- (7) Any city or county found by a court to have violated the provisions of this section shall:
 - (a) Provide a refund as determined by the court to any licensee that has been harmed in an amount equal to its prorated portion of the excess revenues collected by the city or county that are directly attributable to a violation occurring after July 15, 2014;
 - (b) Be responsible for the payment of the reasonable attorney fees directly incurred by a party to a litigation in an amount ordered by the court upon its finding of an intentional and willful violation of this section by a city or county occurring after July 15, 2014; and
 - (c) Upon the finding by a court of a second intentional and willful violation of the provisions of this section, lose the ability to impose the regulatory fee provided by this section for a period of five (5) years and, upon the finding by a court of a third intentional and willful violation, forfeit the right to impose the regulatory license fee authorized by this section.
- (8) Any party bringing suit against a city or county for an alleged violation of this section occurring after July 15, 2014, shall be responsible for the payment of the reasonable attorney fees of the city or county in an amount determined by the court upon a finding by the court that the city or county did not violate this section.
- (9)
 - (a) Any city that does not meet the population requirements of subsection (1) of this section, and any county that has a city exceeding the population requirements of subsection (1) of this section, that imposed a regulatory license fee pursuant to this section as of January 1, 2019, shall be deemed to meet the requirements for doing so set out in this section and may continue to impose the regulatory license fee previously established pursuant to this section.
 - (b) Any city or county that is authorized to impose the regulatory license fee under subsection (1) of this section, or under paragraph (a) of this subsection, that imposed the regulatory license fee at a rate higher than five percent (5%) prior to June 27, 2019, may continue to impose the regulatory license fee at a rate that exceeds five percent (5%). The rate shall continue to be calculated annually pursuant to the requirements of this section and shall not exceed the rate that was imposed by the city or county on January 1, 2019.
- (10) A direct shipper licensee shall be subject to and remit the regulatory license fee imposed by this section as though it were an establishment located in a city or county licensed to sell alcoholic beverages. This fee shall be considered a tax as defined in KRS 243.029.
- (11) Any city or county imposing a regulatory license fee under this section shall file with the department a report showing the applicable fee amount and remittance address for each affected license type in its



jurisdiction on or before August 1, 2020. Any adoption of this fee after July 15, 2020, or modification of the applicable fee amount or remittance address for each affected licensee shall be reported to the department within thirty (30) days of adoption by the city or county imposing the fee. Within twenty (20) days after receipt of the information, the department shall compile and publish the information so that it is readily available to the public.

243.082 Nonquota type 1 or NQ1 retail drink license; issuance to a convention center or convention hotel complex, horse racetrack, automobile racetrack, railroad system, commercial airline system or charter flight system, or state park; privileges, duties, and restrictions for eligible entities

- (1) A “Nonquota type 1” or “NQ1” retail drink license may be issued to an applicant operating as, or in:
 - (a) A convention center or a convention hotel complex;
 - (b) A horse racetrack;
 - (c) An automobile racetrack;
 - (d) A railroad system;
 - (e) A commercial airlines system or charter flight system; or
 - (f) A state park.
- (2) Any licensee holding an NQ1 retail drink license located in a qualifying convention center or a convention hotel complex, horse racetrack, an automobile racetrack, or state park may purchase, receive, possess, and sell alcoholic beverages at retail by the drink for consumption on the licensed premises. The license shall permit all alcoholic beverage sales on the premises without additional supplemental licenses. The licensee shall purchase alcoholic beverages only from licensed wholesalers or distributors. The holder of an NQ1 retail drink license under this section shall store alcoholic beverages in the manner prescribed in KRS 244.260.
- (3) A qualifying convention center or a convention hotel complex holding an NQ1 retail drink license may also hold a supplemental hotel in-room service license.
- (4) A qualifying railroad system holding an NQ1 retail drink license may purchase, receive, possess, and sell alcoholic beverages at retail by the drink or by the package, upon any train that includes a dining car and is operated by the licensee in the state. Sales shall be made only while the train is in motion. A railroad system holding an NQ1 retail drink license may sell alcoholic beverages in unbroken packages smaller than two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine and may purchase alcoholic beverages from nonresidents.
- (5) A qualifying commercial airlines system or charter flight system holding an NQ1 retail drink license may purchase, receive, possess, and sell alcoholic beverages at retail by the drink, and by miniature bottle, for consumption upon regularly scheduled or charter flights of the licensee, in and out of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application.



- (6) An NQ1 retail drink license may be issued to any qualifying applicant within a state park meeting the criteria established in KRS 241.010 so long as the state park is located, in whole or in part, within:
 - (a) Any wet territory; or
 - (b) Any precinct that has authorized the sale of alcoholic beverages under KRS 242.022.

243.084 Nonquota type 2 or NQ2 retail drink license; issuance to certain hotels, certain restaurants, airports, or riverboats; privileges, duties, and restrictions for eligible entities

- (1) A “Nonquota type 2” or “NQ2” retail drink license may be issued to an applicant operating as, or in:
 - (a) A hotel that:
 - 1. Contains at least fifty (50) sleeping units; and
 - 2. Receives from its total food and alcoholic beverage sales at least fifty percent (50%) of its gross receipts from the sale of food;
 - (b) A restaurant;
 - (c) An airport;
 - (d) A riverboat;
 - (e) A distiller; or
 - (f) A business located within, or adjacent to, an entertainment destination center licensed premises.
- (2) A holder of an NQ2 retail drink license may purchase, receive, possess, and sell alcoholic beverages at retail by the drink for consumption on the licensed premises or off-premises consumption pursuant to Section 1 of this Act. The licensee shall purchase alcoholic beverages only from licensed wholesalers or distributors. A distiller may purchase its own products for retail drink sales under KRS 243.0305. The holder of an NQ2 retail drink license shall store alcoholic beverages in the manner prescribed in KRS 244.260.
- (3)
 - (a) To qualify for an NQ2 license, a riverboat shall have a regular or alternative place of mooring in a wet county or city of this state.
 - (b) If a riverboat moors or makes landfall in a location other than its regular or alternate regular place of mooring, all alcoholic beverages shall be kept locked.
 - (c) A riverboat licensed under this subsection shall not take on or discharge passengers when mooring or making landfall in dry option territory.



243.086 Nonquota type 3 or NQ3 retail drink license; issuance to private club, dining car, or bed and breakfast; varying restrictions and authorizations for eligible entities

- (1) A “Nonquota type 3” or “NQ3” retail drink license may be issued to an applicant operating as, or in:
 - (a) A private club;
 - (b) A dining car; or
 - (c) A bed and breakfast.
- (2) The holder of an NQ3 retail drink license may purchase, receive, possess, and sell alcoholic beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase alcoholic beverages only from licensed wholesalers or distributors. The holder of an NQ3 retail drink license shall store alcoholic beverages in the manner prescribed in KRS 244.260.
- (3) A qualifying private club holding an NQ3 retail drink license shall exclude the general public from the licensed premises.
- (4) A qualifying bed and breakfast holding an NQ3 retail drink license shall only sell alcoholic beverages by the drink to paid overnight guests of the licensee.

243.088 Nonquota type 4 or NQ4 retail malt beverage drink license; issuance to holders of quota retail drink license, microbrewery license, small farm winery license, or other businesses selling for consumption on premises; permitted activities; sales at service stations

- (1) A “Nonquota type 4” or “NQ4” retail malt beverage drink license may be issued to the holder of a quota retail drink license, microbrewery license, small farm winery license, or any other business wishing to sell malt beverages by the drink for consumption on the premises only.
- (2) An NQ4 retail malt beverage drink license shall authorize the licensee to:
 - (a) Sell malt beverages at retail by the drink from only the licensed premises for consumption at the licensed premises only; and
 - (b) Purchase malt beverages only from a distributor.
- (3) The holder of an NQ4 retail malt beverage drink license may also hold a nonquota retail malt beverage package license.
- (4) A nonquota retail malt beverage drink license shall not be issued to any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted, unless there is maintained in inventory on the premises for sale at retail not less than five thousand dollars (\$5,000) of food, groceries, and related products valued at cost. For purposes of this subsection, the term “food and groceries” has the meaning provided in KRS 243.280. This section shall not apply to any licensed premises that sells no fuel other than marine fuel.



243.089 Authorized public consumption license issued in wet territory to commercial quadricycle business

- (1) An “authorized public consumption” license or “APC” license may be issued in wet territory to an applicant operating as, or in a commercial quadricycle business.
- (2) The following qualifications are required before an APC license may be issued to a commercial quadricycle business for the operation of quadricycles on a public highway:
 - (a) The applicant shall have a business office;
 - (b) The applicant shall maintain general liability insurance of at least two million dollars (\$2,000,000). No license shall be issued or renewed without written documentation of this insurance;
 - (c) The applicant shall possess a permit issued by the local government that has jurisdiction to grant rights to the applicant to operate its business on public roadways and highways within a specific designated operational area as its premises; and
 - (d) If the local government that has jurisdiction for the premises as described in paragraph (c) of this subsection chooses to issue permits under this section, that local government shall adopt an ordinance for operation of a commercial quadricycle business that contains:
 1. Hours of operation;
 2. Local licensing requirements;
 3. Any additional insurance requirements;
 4. Standards for the approval of authorized travel routes;
 5. Safety and equipment standards;
 6. Local inspection requirements;
 7. Standards for vehicle operation; and
 8. Standards for loading and unloading passengers.
- (3) A holder of an APC license that operates as a commercial quadricycle business:
 - (a) May permit patrons to bring unopened packages of alcoholic beverages onto the licensed premises and open and drink them in nondescriptive plastic cups after boarding, and while riding, the quadricycle;
 - (b) Shall not permit patrons to bring or possess any glass containers of alcoholic beverages on the quadricycle;
 - (c) Shall not permit patrons to bring opened packages or drinks of alcoholic beverages from retail premises on the quadricycle;

- (d) Shall only permit patrons to drink and consume alcoholic beverages in nondescriptive plastic cups while riding the quadricycle; and
 - (e) Shall not sell, permit, offer for sale, or provide or offer any samples of alcoholic beverages.
- (4) An employee driver of a commercial quadricycle business holding an APC license shall:
- (a) Be certified by the department's server training in alcohol regulations (STAR) education program;
 - (b) Not consume or be under the influence of alcoholic beverages or controlled substances while driving and operating a quadricycle; and
 - (c) Not be convicted of any criminal offense or violation related to alcoholic beverages or controlled substances for a minimum period of two (2) years prior to employment.
- (5) Any local licensing fee imposed under KRS 243.060 or 243.070 for an APC license shall not exceed the amount imposed under KRS 243.030 for an APC license.
- (6) This section does not exempt the holder of an APC license from KRS Chapters 241 to 244 or any administrative regulation promulgated by the board, except as expressly stated in this section.

243.090 Date licenses expire; reduction in fee for licenses less than six months; renewals not to affect proceedings for violations; term of renewals; denial of renewal to delinquent tax payer

- (1) All licenses issued by the department, except special event licenses, temporary licenses, or licenses listed in subsection (5) of this section, shall be valid for a period of no more than a year. The board shall promulgate administrative regulations establishing the year-round system for renewal of licenses. The system shall be designed to distribute the workload as uniformly as possible within the offices of the local administrators and the Department of Alcoholic Beverage Control.
- (2) (a) Except for licenses listed in paragraph (b) of this subsection, all licenses issued after January 1, 2017, by a local administrator shall be valid for a period of no more than a year and shall be renewable upon the date established by the department for the expiration of state licenses issued for premises located in that county or city. During the first year following July 15, 2016, if the new date for renewal for the licensee does not occur on the date established by the department for the expiration of the licensee's state license, the local administrator shall either:
- 1. Prorate the cost of the renewed license by proportionally reducing the cost of the renewed license if the new date for the renewal occurs prior to the expiration of a previous license; or
 - 2. Provide a prorated provisional local license to cover any period of time between the expiration of the previous license and the new date for renewal if the new date for renewal occurs after the expiration of the licensee's previous license.
- (b) Paragraph (a) of this subsection shall not apply to licenses issued by a consolidated local government, special event licenses, temporary licenses, or licenses listed in subsection (5) of this section.
- (3) When any person applies for a new license authorized under KRS Chapters 241 to 244, the person shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half ($\frac{1}{2}$) the fee if less than six (6) months remain

before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

- (4) The renewal by the department of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.
- (5) All alcoholic beverage producers, wholesalers, or distributors may obtain or renew their licenses for either a one (1) year term or a two (2) year term.
- (6) The department may deny license renewal if the licensee is a delinquent taxpayer as defined in KRS 131.1815.

243.100 Persons who may not be licensed; evasion of license disqualification by certain persons

An individual shall not become a licensee if the individual:

- (1)
 - (a) Has been convicted of any felony until five (5) years have passed from the date of conviction, release from custody or incarceration, parole, or termination of probation, whichever is later;
 - (b) Has been convicted of any misdemeanor involving a controlled substance that is described in or classified pursuant to KRS Chapter 218A in the two (2) years immediately preceding the application;
 - (c) Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two (2) years immediately preceding the application;
 - (d) Is under the age of twenty-one (21) years; or
 - (e) Has had any license relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any statute within KRS Chapters 241 to 244, until the expiration of two (2) years from the date of the revocation or conviction.
- (2) A partnership, limited partnership, limited liability company, corporation, governmental agency, or other business entity recognized by law shall not be licensed if:
 - (a) Each principal owner, partner, member, officer, and director does not qualify under subsection (1) (a), (b), (c), (d), and (e) of this section;
 - (b) It has had any license relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any statute within KRS Chapters 241 to 244, until the expiration of two (2) years from the date of the revocation or conviction; or
 - (c) Any principal owner, partner, member, officer, or director, or any business entity in which they were directly or indirectly interested, has had any license revoked for cause or has been convicted of a violation of any statute within KRS Chapters 241 to 244, until the expiration of the later of two (2) years from the date of the revocation or two (2) years from the date of conviction.



- (3) The provisions of subsection (1)(a) and (b) shall apply to anyone applying for a new license under this chapter after July 15, 1998, but shall not apply to those who renew a license that was originally issued prior to July 15, 1998, or an application for a supplemental license where the original license was issued prior to July 15, 1998.
- (4) A person shall not evade license disqualification by applying for a license through or under the name of a different person. The state administrators shall examine the ownership, membership, and management of all license applicants, and shall deny the application if a disqualified person has a direct or indirect interest in the applicant's business. The department may issue administrative subpoenas and summonses to determine ownership of an applicant or to investigate alleged violations by a licensee.
- (5) A direct shipper license applicant shall be exempt from the requirements of this section, and shall instead follow the requirements set forth in Section 1 of this Act.

243.110 Incompatible licenses

- (1) Except as provided in subsection (3) of this section, each kind of license listed in KRS 243.030 shall be incompatible with every other kind listed in that section and no person or entity holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.
- (2) (a) Each kind of license listed in KRS 243.040(1), (3), or (4) shall be incompatible with every other kind listed in KRS 243.040(1), (3), or (4), and no person holding a license of any of those kinds shall apply for or hold a license of any other kind listed in KRS 243.040(1), (3), or (4).

(b) A brewery holding a license listed in KRS 243.040(5) or (8) shall not apply for or hold a license listed in KRS 243.040(3) or (4).
- (3) (a) The holder of a quota retail package license may also hold a quota retail drink license, an NQ1 retail drink license, an NQ2 retail drink license, an NQ3 retail drink license, or a special nonbeverage alcohol license.

(b) The holder of a transporter's license may also hold a distilled spirits and wine storage license.

(c) The holder of a distiller's license may also hold a rectifier's license, a special nonbeverage alcohol license, a winery license, or a small farm winery license.

(d) A commercial airline system or charter flight system retail license, a commercial airline system or charter flight system transporter's license, and a retail drink license if held by a commercial airline or charter flight system may be held by the same licensee.

(e) A Sunday retail drink license and supplemental license may be held by the holder of a primary license.

(f) The holder of a distiller's, winery, small farm winery, brewer, microbrewery, distilled spirits and wine supplier's, or malt beverage supplier's license may also hold a direct shipper license.
- (4) Any person may hold two (2) or more licenses of the same kind.
- (5) A person or entity shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license through or under the name of a different person or entity. The state administrator shall examine the ownership, membership, and management of applicants, and shall



deny the application for a license if the applicant is substantially interested in a person or entity that holds an incompatible license.

243.115 Removal of partially consumed bottle of wine from restaurant licensed under KRS 243.030

- (1) A restaurant licensed under KRS 243.030 may permit a patron of the restaurant to remove one (1) opened container of wine from the restaurant's premises for consumption off the premises if the patron has purchased and partially consumed the bottle of wine with a meal on the restaurant's premises.
- (2) A partially consumed bottle of wine that is removed from the premises shall be securely resealed by the restaurant licensee or its employee before the bottle is removed from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in a manner that makes it visibly apparent if the container has been subsequently opened or tampered with, and the licensee shall provide a dated receipt for the wine to the patron.

243.117 Placement of resealed bottle of wine during transport

If a patron removes a resealed bottle of wine from the premises of a restaurant as provided for in KRS 243.115, any resealed bottle of wine that is transported in a motor vehicle shall be placed in a locked glove compartment or the trunk or other area that is not a passenger area under KRS 189.530(5).

243.120 Business authorized by distiller's, rectifier's, or winery license; Class A and Class B distiller's and rectifier's licenses; distiller's sale of distilled spirits by the drink

- (1) A distiller's, rectifier's, or winery license shall authorize the licensee to engage in the business of distiller, rectifier, or winery at the premises specifically designated in the license, to maintain aging warehouses, and to transport for himself or herself only any alcoholic beverage which he or she is authorized under the license to manufacture or sell. The licensee shall transport alcoholic beverages only by a vehicle operated by himself or herself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee.
- (2) (a) 1. A licensee holding a distiller's license, Class A license, or Class B license, shall distill no less than six hundred (600) gallons in one (1) year at the distillery's licensed premises.
 2. A licensee that engages in the distilling process for the exclusive purpose of providing training and education, conducting research, or teaching about the distilling process, aging, or bottling of distilled spirits, shall be exempt from subparagraph 1. of this paragraph, so long as the licensee does not produce spirits for sale to the general public.
- (b) Distillers that produce more than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class A.
- (c) Distillers that produce fifty thousand (50,000) gallons or less of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class B (craft distillery).
- (3) (a) Rectifiers that rectify more than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises shall obtain a rectifier's license, Class A.

- (b) Rectifiers that rectify fifty thousand (50,000) gallons or less of distilled spirits per calendar year at the premises shall obtain a rectifier's license, Class B (craft rectifier).
- (4) (a) A distiller that is located in wet territory, or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under KRS 242.1243, may sell distilled spirits by the drink or by the package at retail to consumers in accordance with KRS 243.0305.
 - (b) Any distilled spirits sold under this subsection shall be taxed and distributed in the same manner as sales under KRS 243.0305(2).
 - (c) Except as provided in this subsection, sales under this subsection shall be governed by all of the statutes and administrative regulations governing the retail sale of distilled spirits by the drink.
- (5) Nothing in this section shall be construed to:
 - (a) Vitate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages; or
 - (b) Allow delivery or shipment of alcohol into dry or moist territory.

243.130 Transactions permitted to distillers, rectifiers, and wineries

- (1) Sales and deliveries of distilled spirits and wine may be made at wholesale, and from the licensed premises only:
 - (a) By distillers to rectifiers, wineries, holders of special nonbeverage alcohol licenses so far as they may make the purchases, or other distillers;
 - (b) By rectifiers to wineries or to distillers if distilled spirits sold to distillers are packaged in retail containers;
 - (c) By wineries to rectifiers or other wineries, or to the holders of special nonbeverage alcohol licenses;
 - (d) By distillers, rectifiers, or wineries to wholesalers; or
 - (e) By distillers, rectifiers, or wineries for export out of the state.
- (2) No distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any alcoholic beverages to any person who is not authorized by the law of the state of the person's residence, and of the United States government if located in the United States, to receive and possess those alcoholic beverages. Except as provided in KRS 243.027 to 243.029 and KRS 243.0305, no distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any of its products to any retailer or consumer in Kentucky.
- (3) Employees of distillers, rectifiers, and wineries may sample the products produced by that manufacturer for purposes of education, quality control, and product development.
- (4) Distillers may purchase distilled spirits only from other licensed distillers in this state or in another state or province, but distillers may purchase from rectifiers licensed in Kentucky, distilled spirits which are packaged in retail containers.



- (5) Rectifiers may purchase malt, distilled spirits and wine only from licensed brewers, distillers or wineries in Kentucky, or from nonresident brewers, distillers or wineries authorized by the law of the state of their residence and by the United States government, if the brewers, distillers or wineries are located in or outside the United States, to make the sales.
- (6) Wineries may purchase distilled spirits or wine only from licensed distillers or wineries in Kentucky, or from nonresident distillers or wineries authorized by law of the state of their residence, and by the United States government if located in the United States, to make the sales.
- (7) Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but this subsection does not authorize the owner of a warehouse receipt to accept delivery of any distilled spirits unless the owner is a person who is permitted by law to receive the distilled spirits.
- (8) Nothing in this section shall be construed to:
 - (a) Vitate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages; or
 - (b) Allow delivery or shipment of alcohol into dry or moist territory.

243.150 Business authorized by brewer's license; sale and service of malt beverages; sampling by employees

- (1) A brewer's license shall authorize the licensee to engage in the business of a brewer at the premises specifically designated in the license, and to transport for itself only any malt beverage which the licensee is authorized by its license to manufacture or sell, but the licensee shall transport any malt beverages in accordance with the requirements provided by KRS 243.120 for distillers.
- (2) A brewer may sell any malt beverage produced under its license to:
 - (a) A licensed wholesaler from the licensed premises;
 - (b) Any of its employees for home consumption;
 - (c) Charitable or fraternal organizations holding group meetings, picnics, or outings;
 - (d) A customer, strictly limited to the following types of sales on the premises of a brewery located in wet territory:
 1. By the drink sales for consumption on the premises only, to be conducted in a taproom or similar space that is located at the licensed brewery; and
 2. Package sales for off-premises consumption only by using a refillable, resealable growler; and
 - (e) Consumers, if the brewer holds a direct shipper license under KRS 243.027 to 243.029.
- (3) A licensed brewer may buy malt beverages from another licensed brewer in this state or nonresident brewer authorized by the law of the state of its residence, and by the United States government if located in the United States, to make these sales;

- (4) Employees of a licensed brewer may sample the products produced by that manufacturer for purposes of education, quality control, and product development.
- (5) A brewer may serve on the licensed premises of its brewery complimentary samples of malt beverages produced at the brewery in an amount not to exceed sixteen (16) ounces per patron per day, if the brewery is located in wet territory.

243.154 Business authorized by small farm winery wholesaler's license; licensed premises on small farm winery

- (1) A small farm winery wholesaler's license shall authorize the licensee:
 - (a) To purchase, receive, store, or possess wine produced by small farm winery licensees;
 - (b) To sell the wine at wholesale from the licensed premises only; and
 - (c) To transport from the licensed premises for himself or herself only any wine produced by small farm winery licensees that the small farm winery wholesaler's license authorizes him or her to sell.
- (2) A small farm winery wholesaler licensed under this section shall:
 - (a) Transport the wine in the manner provided for manufacturers in KRS 243.120; and
 - (b) Transport the wine from a small farm winery's licensed premises or another wholesaler's premises to the small farm winery wholesaler's premises.
- (3) A small farm winery wholesaler licensed under this section shall not purchase, receive, store, possess, sell, or transport wine or distilled spirits, except as provided in this section, and shall comply with all provisions of the Kentucky Revised Statutes applicable to wholesalers licensed under KRS 243.030, to the extent the provisions are not inconsistent with this section.
- (4) A small farm winery wholesaler licensed under this section shall be allowed to have its licensed premises on or in the licensed premises of a small farm winery.

243.155 Small farm winery license; eligibility and application process; business authorized by license; direct shipment of wine; custom crushing services; off-premise retail sales outlet in wet territory; other permitted licenses; renewal of license; sampling by employees

- (1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The board shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.
- (2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:



- (a) Engage in the business of a winery under the terms and conditions of KRS 243.120 and 243.130. The manufacture of wine at the small farm winery shall not be less than two hundred fifty (250) gallons, and shall not exceed five hundred thousand (500,000) gallons, in one (1) year;
 - (b) Bottle wines produced by that small farm winery and other licensed small farm wineries;
 - (c) Enter into an agreement with another licensed small farm winery under which it crushes, processes, ferments, bottles, or any combination of these services, the grapes, fruits, or other agricultural products of the other small farm winery for a production year. The resulting wine shall be considered the product of the small farm winery that provides the fruit. The small farm winery providing the custom crushing services may exclude the wine produced under this paragraph from its annual production gallonage;
 - (d) If the licensed small farm winery or off-premises retail site premises is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under KRS 242.124:
 - 1. Serve complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day; and
 - 2. Sell by the drink for on-premises consumption or off-premises consumption pursuant to Section 1 of this Act, or by the package wine produced by it or by another licensed small farm winery, at retail to consumers;
 - (e) Sell by the drink or by the package, at fairs, festivals, and other similar types of events, wine produced by it or by another licensed small farm winery, at retail to consumers if all sales occur in a wet territory;
 - (f) Sell and transport wine produced by it to consumers, licensed small farm winery off-premises retail sites, wholesale license holders, and small farm winery license holders;
 - (g) Consume on the premises wine produced by the small farm winery or a licensed small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm winery is located in wet territory; and
 - (h) A small farm winery may sell wine at retail to consumers in accordance with KRS 243.027 to 243.029 if it holds a direct shipper license.
- (3) If the requirements of KRS 242.1241 or 244.290(5) relating to Sunday sales on the licensed premises of a small farm winery are met, a small farm winery within that territory may sell alcoholic beverages on Sunday only in accordance with this section during the hours and times as permitted in the local ordinance for that locality.
- (4) A small farm winery license holder may also hold an NQ2 retail drink license or an NQ4 retail malt beverage drink license if:
- (a) The small farm winery is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under KRS 242.124; and
 - (b) The issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise

designed to promote viticulture, enology, and tourism.

- (5) This section shall not exempt the holder of a small farm winery license from the provisions of KRS Chapters 241 to 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small farm winery, except as expressly stated in this section.
- (6) Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.
- (7) Upon the approval of the department, a small farm winery license may be renewed after the licensee submits to the department the winery's federal basic permit and proof of its annual wine production.
- (8) An employee of a small farm winery may sample the products produced by that small farm winery for purposes of education, quality control, and product development.

243.157 Business authorized by a microbrewery license; microbrewery permitted to sell malt beverages produced on the premises for on-premises or off-premises purposes without transferring physical possession to a distributor if the microbrewery meets reporting requirements and has both a retail drink license and a retail package license; microbrewery to pay wholesale and excise taxes on sales of malt beverages; sampling by employees

- (1) A microbrewery license shall authorize the licensee to perform the following functions:
 - (a) Engage in the business of a brewer under the terms and conditions of KRS 243.150, provided that production of malt beverages at the microbrewery shall not exceed fifty thousand (50,000) barrels in one (1) year;
 - (b) Serve on the premises complimentary samples of malt beverages produced by the microbrewery in amounts not to exceed sixteen (16) ounces per patron, provided the microbrewery is located in wet territory or a precinct that has authorized the sale of alcoholic beverages at microbreweries under KRS 242.1239;
 - (c) Sell malt beverages produced on the premises of the microbrewery to licensed distributors;
 - (d) Sell malt beverages produced on the premises of the microbrewery for on- and off-premises purposes in accordance with subsection (3)(b) and (c) of this section, pursuant to the following:
 1. Without restriction on the amount of malt beverages sold by the drink for on-premises consumption provided the microbrewery is located in wet territory or a precinct that has authorized the sale of alcoholic beverages at microbreweries under KRS 242.1239; and
 2. With a restriction on the amount of malt beverages sold for off-premises consumption, in an aggregate amount not to exceed thirty-one (31) gallons per person per day that shall not include more than three (3) cases in case format;
 - (e) Sell:
 1. Unlimited amounts of malt beverages by the drink; and
 2. Not more than one (1) case of packaged malt beverages; produced on the premises of the



microbrewery to consumers at fairs, festivals, and other similar types of events located in wet territory, in accordance with subsection (3)(b)2. and (c)2. of this section; and

- (f) Sell and deliver up to two thousand five hundred (2,500) barrels of malt beverages annually to any retail license holder, provided that:
 - 1. Any products sold and delivered under this paragraph that are not otherwise registered by a licensed distributor shall be registered with the department by the microbrewery; and
 - 2. The microbrewer notifies the distributor of any self-distribution delivery by electronic or other means.
- (2) A microbrewery license shall not be deemed to be incompatible with any other license except for a distributor's license under the provisions of KRS 243.180.
- (3) In accordance with the provisions of this section, a microbrewery license holder may:
 - (a) Hold retail drink and package licenses both on and off the premises of the microbrewery. The holder of a microbrewery license is exempt from the provisions of KRS 244.570 and 244.590 as applied to any retail licenses held by the microbrewery license holder, and from any other sections which would restrict the co-ownership of the microbrewery license and any retail licenses described in this section;
 - (b) Sell malt beverages produced on the premises of the microbrewery for on-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided:
 - 1. The microbrewery possesses a retail drink license for those premises; and
 - 2. The microbrewery reports and pays all taxes required by subsection (5)(a) and (b) of this section to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its powers under KRS 131.130(3); and
 - (c) Sell malt beverages produced on the premises of the microbrewery for off-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided that:
 - 1. The microbrewery possesses a retail package license for those premises; and
 - 2. The microbrewery reports and pays all taxes required by subsection (5)(a) and (b) of this section to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its powers under KRS 131.130(3).
- (4) The provisions of subsection (3)(b) and (c) of this section shall apply only to malt beverages that are produced by the microbrewery at its licensed premises and:
 - (a) Offered for sale by the microbrewery at that same premises under the microbrewery's retail drink or package license; or
 - (b) Offered for sale by the microbrewery at a fair, festival, or other similar type of event as authorized under subsection (1)(e) of this section.

All other malt beverages produced by the microbrewery which are offered for retail sale shall be sold and physically transferred to a licensed distributor in compliance with all other relevant provisions of KRS Chapters 241 to 244, and a licensed microbrewery shall not otherwise affect sales of malt beverages directly to retail customers except as provided in subsection (3)(b) and

- (c) of this section under KRS 243.027 to 243.029 if the microbrewery holds a direct shipper license.
- (5) (a) A microbrewery selling malt beverages in accordance with subsection (1)(f) or (3)(b) and (c) of this section shall pay all wholesale sales taxes due under KRS 243.884. For the purposes of this subsection, “wholesale sales” means a sale of malt beverages made by a microbrewery under subsection (1)(f) or (3)(b) and (c) of this section, as applicable.
 - (b) A microbrewery shall pay the excise tax on malt beverages in accordance with KRS 243.720(3) and 243.730 and shall be entitled to the credit set forth in KRS 243.720(3)(b).
- (6) A microbrewery shall not be located in dry territory.
- (7) An employee of a microbrewery may sample the products produced by that microbrewery for purposes of education, quality control, and product development.
- (8) This section does not exempt the holder of a microbrewery license from the provisions of KRS Chapters 241 to 244, nor from any rules of the board as established by administrative regulations, nor from regulation by the board, except as expressly stated in this section. The provisions of this section shall not be deemed inconsistent with the provisions of KRS 244.602.
- (9) Nothing in this section shall be construed to vitiate the policy of this Commonwealth, as set forth in KRS 244.167 and 244.602, supporting an orderly three (3) tier system for the production and sale of malt beverages.

243.160 Business authorized by wholesaler’s license

- (1) A licensed wholesaler may purchase, receive, store, or possess distilled spirits and wine to sell at wholesale, from the licensed premises only, and to transport to and from the licensed premises only alcoholic beverages that the wholesaler’s license authorizes the licensee to sell. The wholesaler may transport:
 - (a) Beverages in the manner provided for manufacturers in KRS 243.120; and
 - (b) Distilled spirits and wine from a manufacturer’s warehouse or from another licensed wholesaler’s premises to the licensed wholesaler premises.
- (2) The holder of a wholesaler’s license may sell and transport its products to the holder of a special nonbeverage alcohol license.

243.170 Transactions permitted to wholesalers

- (1) A wholesaler may sell, deliver, and transport distilled spirits and wine at wholesale, and from the licensed premises only, to:
 - (a) Other wholesalers;

- (b) Retailers; or
 - (c) A point out of the state to persons authorized by the law of the state of their residence, and by the United States government if located in the United States, to receive the distilled spirits and wine.
- (2) A wholesaler may purchase distilled spirits and wine at wholesale from licensed distillers, rectifiers, wineries, or other wholesalers and from nonresidents authorized by the law of the states of their residence, and by the United States government if located in the United States, to make the sales. A wholesaler may not transport distilled spirits and wine from any point to its own licensed premises, except as provided in KRS 243.200.
- (3) No wholesaler shall sell or contract to sell, give away, or deliver any distilled spirits or wine to any person in Kentucky who is not licensed to receive, possess, distribute, or sell distilled spirits and wine, and no wholesaler shall sell or contract to sell, give away, or deliver any distilled spirits or wine to any consumer. This section does not permit sales or deliveries of distilled spirits in Kentucky by licensed wholesalers to nonresidents who are not licensed by their own states.
- (4) A wholesaler may extend credit on distilled spirits and wine sold to retail licensees for a period not to exceed thirty (30) days from the date of invoice, with the date of invoice included in the total number of days. When the thirty (30) day period has passed without payment in full, no wholesaler shall sell to the licensee except for cash on delivery.

243.180 Business authorized by distributor's license

- (1) A distributor's license shall authorize the licensee to:
- (a) Purchase malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located;
 - (b) Import a non-United States brand malt beverage from an importer or wholesaler registered with the Kentucky Department of Revenue;
 - (c) Sell his or her products to the holder of a special nonbeverage alcohol license; or
 - (d) Store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employees for home consumption, and to charitable or fraternal organizations holding group meetings, picnics, or outings.
- (2) A distributor shall transport malt beverages only by a vehicle owned, rented, or leased and operated by the distributor, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of such truck or vehicle holds a wholesaler's license.
- (3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber, or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

243.200 Transporter's license, authority for issuance to certain motor carriers or to common carrier; holder's privileges, duties, and restrictions; delivery or shipment of alcoholic beverages with adult-signature-only service; authority to examine vehicle and cargo; when transporter's license not required; conveyances to be made in properly marked vehicle; required maintenance of books and records

- (1) A transporter's license may be issued as a primary license to a motor carrier authorized to transact business in the Commonwealth by the Transportation Cabinet or the Federal Motor Carrier Safety Administration or to another person engaged in business as a common carrier. A person holding a transporter's license may transport alcoholic beverages to or from the licensed premises of any licensee under this chapter to an individual consumer if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, deliver, ship, or receive the alcoholic beverages.
- (2) A transporter may deliver or ship to consumers over twenty-one (21) years of age in packages clearly marked "Alcoholic Beverages, adult signature (21 years of age or over) required," and shall request adult-signature-only service from the carrier. Deliveries or shipments of alcoholic beverages shall only be made into areas of the state in which alcoholic beverages may be lawfully sold. When the shipper requests adult-signature-only service, it shall be a violation for a common carrier not to inspect government-issued identification for proof of age. No properly licensed common carrier or any of its employees acting on behalf of a consignor in the course and scope of a delivery or shipment of alcoholic beverages to a consumer shall be liable for a violation of this subsection or any provision of KRS 242.250, 242.260, or 242.270 prohibiting the delivery or shipment of alcoholic beverages into areas of the state in which alcoholic beverages are not lawfully sold.
- (3) Except for a common carrier that has been assigned a USDOT number issued by the Federal Motor Carrier Safety Administration, the holder of a transporter's license shall cause each truck or vehicle to display the name of the licensee and the state license numbers in a manner prescribed by an administrative regulation promulgated by the board.
- (4) Except for an application by a common carrier that has been assigned a USDOT number issued by the Federal Motor Carrier Safety Administration, an application for a transporter's license shall include a statement that the applicant, if issued a license, shall allow any authorized investigators of the department to stop and examine the cargo of any truck or vehicle in which alcoholic beverages are being transported within the boundaries of the Commonwealth of Kentucky.
- (5) A licensee may move, within the same county, alcoholic beverages from one (1) of the licensee's licensed premises to another without a transporter's license. A licensee may move alcoholic beverages from one (1) of the licensee's licensed premises located in one (1) county to a licensed premises located in another county, without a transporter's license, with prior written approval of the administrator for good cause shown. The licensee shall keep and maintain, in one (1) of its licensed premises, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed premises to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Department of Revenue upon request.
- (6) Distilled spirits and wine may be transported by any licensed retailer selling distilled spirits or wine, by the package or by the drink, from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the board. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.



243.212 Distilled spirits and wine supplier's license authorizing importation of distilled spirits and wine; nonresident entities eligible for license; licenses and limited licenses; exemption from notice requirements of KRS 243.360

- (1) An out-of-state distiller, wholesaler, rectifier, winery, small farm winery, importer for a distillery, winery, or small farm winery, or importer of a non-United States brand of distilled spirits or wine, who is the primary source of supply, may obtain a distilled spirits and wine supplier's license for importing distilled spirits and wine into Kentucky if it is:
 - (a) Licensed to do business in the state in which it is located; and
 - (b) Registered with the Kentucky Department of Revenue.
- (2) An entity listed in subsection (1) of this section who wishes to import more than fifty thousand (50,000) gallons of distilled spirits or wine shall:
 - (a) Apply for an out-of-state distilled spirits and wine supplier's license on an application provided by the department;
 - (b) Submit documentation required by the application; and
 - (c) Pay the annual fee required by KRS 243.030.
- (3) An entity listed in subsection (1) of this section who wishes to import less than fifty thousand (50,000) gallons of distilled spirits or wine shall:
 - (a) Apply for a limited out-of-state distilled spirits and wine supplier's license on an application provided by the department;
 - (b) Submit documentation required by the application; and
 - (c) Pay the annual fee required by KRS 243.030.
- (4) An out-of-state applicant shall be exempt from the notice requirements of KRS 243.360.

243.215 Malt beverage supplier's license authorizing importation of malt beverages; nonresident entities eligible for license; licenses and limited licenses; exemption from notice requirements of KRS 243.360

- (1) An out-of-state brewer, distributor, importer for a brewer, or importer of a non-United States brand of malt beverage, who is the primary source of supply, may obtain a malt beverage supplier's license for importing a malt beverage product into Kentucky if it is:
 - (a) Licensed to do business in the state in which it is located; and
 - (b) Registered with the Kentucky Department of Revenue.
- (2) An entity listed in subsection (1) of this section who wishes to import more than twenty-five thousand (25,000) barrels or seven hundred seventy-five thousand (775,000) gallons of malt beverage shall:

- (a) Apply for an out-of-state malt beverage supplier's license on an application provided by the department;
 - (b) Submit documentation required by the application; and
 - (c) Pay the annual fee required by KRS 243.040.
- (3) An entity listed in subsection (1) of this section who wishes to import less than twenty-five thousand (25,000) barrels or seven hundred seventy-five thousand (775,000) gallons of malt beverage shall:
- (a) Apply for a limited out-of-state malt beverage supplier's license on an application provided by the department;
 - (b) Submit documentation required by the application; and
 - (c) Pay an annual fee required by KRS 243.040.
- (4) An out-of-state applicant shall be exempt from the notice requirements of KRS 243.360.

243.217 Business authorized by air transporter's license; commercial airline system, charter flight system, or commercial cargo system eligible for license upon payment of fee; annual renewal

The department may issue an air transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits, wine, and malt beverages, into and out of Kentucky, upon regularly scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of distilled spirits, wine, and malt beverages at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the distilled spirits, wine, and malt beverages.

243.220 Premises that may not be licensed for sales at retail

No license shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written agreement or a permit for a term of not less than the license period. A direct shipper license applicant shall be exempt from the requirements of this section, and shall instead follow the requirements as set forth in Section 1 of this Act.

243.230 Premises for which retail package, drink, and malt beverage licenses may be issued

- (1) Except as limited by subsection (2) of this section, quota retail drink licenses may be issued for premises located within urban-county governments, incorporated cities, or elsewhere in counties if those cities and counties maintain an adequate police force.
- (2) Quota retail drink licenses may not be issued to premises located within a city or a county that has enacted an ordinance preventing the issuance of these licenses within the jurisdiction of the local government.
- (3) (a) Quota retail package licenses may be issued only for premises located within:

1. Incorporated cities; or
 2. Elsewhere in counties containing an urban-county government or a city with a population equal to or greater than eight thousand (8,000) if those counties maintain an adequate police force.
- (b) If one (1) or more quota retail package licenses have been issued to establishments in a county that does not contain a city meeting the population requirements of paragraph (a) of this subsection prior to January 1, 2015, then that county shall continue to be treated in a manner as if the county meets the qualifications of paragraph (a) of this subsection.
- (4) Notwithstanding subsection (3) of this section, the department may, after a field investigation, issue a quota retail package license to premises not located within any city if the county maintains an adequate police force under KRS 70.540 and 70.150 to 70.170, and if:
- (a) Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;
 - (b) The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and malt beverages, where applicable, and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store, or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed.
- (5) No quota retail package license or quota retail drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

243.232 Sale and resale of vintage distilled spirits

- (1) A person holding a license to sell distilled spirits by the drink or by the package at retail may sell vintage distilled spirits purchased from a nonlicensed person upon written notice to the department in accordance with administrative regulations promulgated by the department.
- (2) Vintage distilled spirits may be resold only:
 - (a) By the drink by a person holding a license to sell distilled spirits by the drink; and
 - (b) By the package by a person holding a license to sell distilled spirits by the package.

243.240 Business authorized by quota retail package license; delivery of alcoholic beverages purchased on premises by consumers

- (1) A quota retail package license shall authorize the licensee to:
 - (a) Purchase, receive, possess, and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises; and
 - (b) Deliver to the consumer, at the consumer's request, alcoholic beverages that are purchased from the licensed premises, in quantities not to exceed four and one-half (4 ½) liters of distilled spirits



and four (4) cases of wine per consumer per day for sales prior to January 1, 2021, and in quantities not to exceed an aggregate of nine (9) liters of distilled spirits and four (4) cases of wine per consumer per day on and after January 1, 2021.

- (2) The licensee shall purchase distilled spirits and wine in retail packages only and only from:
 - (a) Licensed wholesalers;
 - (b) Those licensees authorized to sell distilled spirits and wine by the package at retail, but only if the distilled spirits and wine have first gone through the three (3) tier system; or
 - (c) From a distillery souvenir gift shop.

243.241 Quota retail package licensee assumes business risk of subsequent increase of quota licenses in territory

A quota retail package licensee assumes the business risk that the number of quota licenses available in a city or county may be increased at a later time.

243.250 Business authorized by quota retail drink license

A quota retail drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises, or off-premises consumption pursuant to Section 1 of this Act. The licensee shall purchase distilled spirits and wine only from licensed wholesalers.

243.260 Special temporary license for qualifying event; activities permitted and prohibited

- (1) A special temporary license may be issued in wet territory to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the board a necessity for the license exists. Unless inconsistent with this section, a special temporary licensee shall have the same privileges and restrictions of a quota retail drink licensee and an NQ4 retail malt beverage drink licensee at the designated premises, not to exceed thirty (30) days.
- (2) A nonprofit organization holding an NQ4 retail malt beverage drink license may be issued a special temporary license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The temporary license may be issued in conjunction with any public or private event, including but not limited to weddings, receptions, reunions, or similar occasions.
- (3) The holder of a special temporary license may sell, serve, and deliver alcoholic beverages by the drink, for consumption only at the designated premises and the date and times for the qualifying event.
- (4) A special temporary license shall not be issued for an event held in dry or moist territory.

243.262 Licensed horse racetrack may be issued temporary alcoholic beverage license

Any person in wet territory licensed by the Kentucky Racing Commission under KRS 230.300 may be issued a license by the department and may hold a special temporary license as provided in KRS 243.260. When issued, the license shall be valid and effective only upon premises licensed by the racing commission and upon the dates and hours for which racing or intertrack wagering has been authorized by the racing commission. A temporary

license may be issued for the period the racing or intertrack wagering has been authorized, even if the period exceeds thirty (30) days as provided in KRS 243.260.

243.265 Licensed horse racetrack may be issued Nonquota type 1 license

In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, the department may issue an NQ1 retail drink license under KRS 243.030 to a horse racetrack that is licensed under KRS 230.300 and is located in a wet or moist city under KRS 242.1238. The license issued under this section shall be in effect only for horse racetrack premises where live racing meets were held in 2006. Nothing in this section shall be construed as authorizing the issuance of any alcoholic beverage license on any part of the horse race track's premises that is located outside the city's limits.

243.280 Business authorized by nonquota malt beverage package license; compatible licenses; certain premises not to be licensed

- (1) A nonquota retail malt beverage package license shall authorize the licensee to:
 - (a) Sell malt beverages at retail by the package from the licensed premises only for consumption off the licensed premises only; and
 - (b) Purchase malt beverages only from a distributor.
- (2) The holder of a quota retail package license under KRS 243.240 may also obtain a license under this section.
- (3) The holder of a nonquota retail malt beverage package license may also hold a NQ4 retail malt beverage drink license.
- (4) A nonquota retail malt beverage package license shall not be issued to sell malt beverages at retail for any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted, unless there is maintained in inventory on the premises for sale at retail not less than five thousand dollars (\$5,000) of food, groceries, and related products valued at cost.
- (5) The term "food and groceries" means:
 - (a) Any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption;
 - (b) Seeds and plants to grow food for personal consumption.
- (6) The provisions of this section shall not apply to any licensed premises which sells no fuel other than marine fuel.

243.320 Business authorized by special nonbeverage alcohol license; issuance to certain charitable, public, or private institutions; federal ethanol permit

- (1) A special nonbeverage alcohol license shall authorize the holder to purchase alcohol for nonbeverage purposes only from the holder of a distiller's license, wholesaler's license, or distributor's license and possess alcohol for use in the manufacture and sale of any of the following products, when they are unfit for beverage purposes:
 - (a) Denatured alcohol produced, and sold pursuant to Acts of Congress and regulations promulgated thereunder;
 - (b) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
 - (c) Flavoring extracts, syrups, and food products; and
 - (d) Scientific, chemical, mechanical, and industrial products.
- (2) KRS Chapter 242 shall not prevent the issuance of special nonbeverage alcohol licenses to persons located in dry or moist territory nor prevent licensees from exercising the privileges granted in the license.
- (3) A special nonbeverage alcohol license may also be issued to any duly authorized and bona fide hospital, museum, laboratory, charitable, educational, or similar public or private institution, to a drug store employing a licensed pharmacist, or to a licensed physician. The license shall authorize the licensee to purchase or possess alcohol and to use it only for nonbeverage purposes.
- (4) The holder of a special nonbeverage alcohol license may produce, possess, and use alcohol in the manufacture of nonbeverage fuel ethanol if the holder also holds a basic permit from the applicable federal agency authorizing ethanol production.

243.340 Business authorized by special agent's or solicitor's license; issuance to nonresident; form

- (1) A special agent's or solicitor's license may be issued to a duly authorized representative, employee, or agent of, or solicitor for a distiller, rectifier, winery, or wholesaler licensed in Kentucky or by the state of his or her residence and by the United States if a resident therein. The license shall authorize the licensee to offer for sale and to solicit orders for the sale of any alcoholic beverage sold by a distiller, rectifier, winery, or wholesaler who is licensed in Kentucky or who is a nonresident. The license shall set forth the name, address, and, unless the vendor is a nonresident, the license numbers of the vendors the agent or solicitor represents, as well as the name, address, and license number of the agent or solicitor. An agent or solicitor shall not represent any vendor or licensee whose name does not appear upon the license or the application for the license.
- (2) A special agent's or solicitor's license may be issued to a nonresident of this state. The license shall authorize the nonresident to represent a manufacturer, winery, or wholesaler who is licensed by another state and by the federal government, if the nonresident has been issued a license by another state conferring privileges similar to a special agent's or solicitor's license authorized by subsection (1) of this section. If the state of residence of the applicant does not issue a similar license, the application filed with the department shall not be accepted without the approval of the alcoholic beverage control agency of the state of the applicant's residence.

243.353 Business authorized by malt beverage storage license; issuance of temporary storage license in case of emergency

- (1) A malt beverage storage license may be issued as a supplementary license to a distributor's license, a nonquota retail malt beverage package license, or a Nonquota type 4 retail malt beverage drink license. A malt beverage storage license may also be issued as a primary or supplementary license in conformity with administrative regulations promulgated by the department.
- (2) The holder of a malt beverage storage license may:
 - (a) Store malt beverages at the storage licensed premises convenient to his or her regular retail malt beverage licensed premises;
 - (b) Transport the malt beverages as belonging to the holder of the license to and from the warehouse by way of the nearest route to his or her regular licensed retail malt beverage premises, if the licensee sells no malt beverages except at his or her regular malt beverage licensed premises;
 - (c) Transport and store malt beverages belonging to the distributor to, from, and at the storage licensed premises; and
 - (d) Conduct business as authorized by the department through the promulgation of administrative regulations.
- (3) The malt beverage administrator may issue a temporary storage license to a licensed distributor for storage of malt beverages if there is an emergency. The malt beverage administrator shall have sole discretion to determine the existence of any emergency.

243.355 Business authorized by distilled spirits and wine storage license; application of federal law

- (1) A distilled spirits and wine storage license may be issued as a primary license or as a supplementary license to the holder of a distiller's license, rectifier's license, or quota retail package license.
- (2) A distilled spirits and wine storage license may be issued to any person operating a bonded warehouse for distilled spirits, and who does not at the same time, and for the same premises, hold a federal operating permit for distilling purposes, but who possesses only a federal operating permit for a bonded warehouse for distilled spirits as defined by federal law and the Internal Revenue Code.
- (3) A licensee under this section may operate a bonded warehouse or warehouses for premises specifically designated, but this license shall become void if a federal operating permit for distilling purposes is issued for the same premises, and shall remain void while the federal permit remains in effect. Upon the granting of a federal operating permit for distilling purposes, the licensee of the premises previously licensed under this section shall obtain a license as set out in KRS 243.030(1).
- (4) A distilled spirits and wine storage license may be issued to persons or entities not otherwise entitled under Kentucky law to store or warehouse distilled spirits or wine, but who are so authorized by the federal government. The license shall authorize the licensee to operate a warehouse or place of storage for distilled spirits or wine on the premises specifically designated.



- (5) A quota retail package licensee holding a supplemental distilled spirits and wine storage license may store distilled spirits and wine at the storage licensed premises convenient to the licensee's regular retail package licensed premises.

243.360 Notice of intention to apply for license; protest; sufficiency of substantial compliance

- (1) All persons shall, before applying for a license, advertise by publication their intention to apply for a license in the newspaper for legal notices under KRS 424.120 for the county or city whose local administrator has local jurisdiction over the proposed premises. This requirement shall not apply to an applicant for the same license for the same premises, or an applicant for any of the following licenses:
 - (a) Out-of-state malt beverage supplier's license;
 - (b) Limited out-of-state malt beverage supplier's license;
 - (c) Out-of-state distilled spirits and wine supplier's license;
 - (d) Limited out-of-state distilled spirits and wine supplier's license;
 - (e) Supplemental bar license;
 - (f) Extended hours supplemental license;
 - (g) Special agent or solicitor's license;
 - (h) Special nonbeverage alcohol license;
 - (i) Transporter's license;
 - (j) Special Sunday drink license;
 - (k) Hotel in-room license;
 - (l) Sampling license;
 - (m) Direct shipper license; or
 - (n) Special temporary drink license.
- (2) The notice shall contain the following information:
 - (a) The notice shall state: the name and address of the applicant and the name and address of each principal owner, partner, member, officer, and director if the applicant is a partnership, limited partnership, limited liability company, corporation, governmental agency, or other business entity recognized by law;
 - (b) The notice shall specifically state the location of the premises for which the license is sought, the type of business, and the type of license being requested; and
 - (c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person may protest the approval of the license by writing the Department of

Alcoholic Beverage Control within thirty (30) days of the date of legal publication.”

- (3) Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.
- (4) Substantial compliance with the information listed in subsection (2) of this section shall be sufficient to comply with this section.

243.380 Applications for state licenses; requirements for entity owning more than two licensed premises

- (1) Applications for distilled spirit and wine licenses shall be made to the distilled spirits administrator. Applications for malt beverage licenses shall be made to the malt beverages administrator. Applications for distilled spirits, wine, and malt beverage licenses shall be made to the distilled spirits administrator and to the malt beverages administrator.
- (2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail all information concerning the applicant and the premises submitted for licensing as the board requires through the promulgation of an administrative regulation. Each application shall be accompanied by payment. Payment of the license fee may be by certified check, a postal or express money order, or any other method of payment approved in writing by both the Finance and Administration Cabinet and the Office of the State Treasurer. Promptly upon receipt of the payment the board shall pay it into the State Treasury, giving the Department of Revenue copies of the pay-in vouchers and any other supporting data as the Department of Revenue requires for revenue control purposes.
- (3) (a) A business entity that owns more than two (2) licensed premises may initially submit common information about ownership, officers, directors, managerial employees, and shall provide current criminal background checks once for all separately licensed premises in one (1) master file.

(b) Any business qualifying under this subsection shall only be required to amend its master file information for material changes under KRS 243.390(2) or ownership transfers under KRS 243.630.

(c) A direct shipper license applicant shall be exempt from the requirements of this subsection and shall instead meet the requirements for its license type as set forth in Section 1 of this Act.

243.390 Sworn information to be contained in applications; verified supplemental statement; presumption of reliability of supplied information

- (1) The board may require through the promulgation of an administrative regulation that license applications contain the following information, given under oath:
 - (a) The name, age, Social Security number, address, residence, and citizenship of each applicant;
 - (b) If the applicant is a partner, the name, age, Social Security number, address, residence, and citizenship of each partner and the name and address of the partnership;
 - (c) The name, age, Social Security number, address, residence, and citizenship of each individual or partner interested in the business for which the license is sought, together with the nature of that interest, and, if the applicant is a corporation, limited partnership company, limited liability



company, or other business entity recognized by law, the name, age, Social Security number, and address of each principal owner, member, officer, and director of the applicant. The department may require the names of all owners and the ownership percentage held by each;

- (d) The premises to be licensed, stating the street and number, if the premises has a street number, and a description that will reasonably indicate the location of the premises;
 - (e) 1. A statement that neither the applicant nor any other person referred to in this section has been convicted of:
 - a. Any misdemeanor directly or indirectly attributable to alcoholic beverages;
 - b. Any violation involving a controlled substance that is described in or classified pursuant to KRS Chapter 218A within the two (2) years immediately preceding the application;
 - c. Any felony, within five (5) years from the later of the date of parole or the date of conviction;or
 - d. Providing false information to the department preceding the application; and
 - 2. A statement that the applicant or any other person referred to in this section has not had any license that has been issued under any alcoholic beverage statute revoked for cause within two (2) years prior to the date of the application;
 - (f) A statement that the applicant will in good faith abide by every state and local statute, regulation, and ordinance relating to the manufacture, sale, use of, and trafficking in alcoholic beverages; and
 - (g) Any other information necessary for the department to administer KRS Chapters 241 to 244.
- (2) If, after a license has been issued, there is a change in any of the facts required to be set forth in the application, a verified supplemental statement in writing giving notice of the change shall be filed with the department within ten (10) days after the change.
- (3) In giving any notice or taking any action in reference to a license, the department may rely upon the information furnished in the application or in the supplemental statement connected with the application. This information, as against the licensee or applicant, shall be conclusively presumed to be correct. The information required to be furnished in the application or supplemental statement shall be deemed material in any prosecution for perjury.
- (4) A direct shipper license applicant shall be exempt from the requirements of this section and shall instead meet the requirements for its license type as set forth in Section 1 of this Act.

243.430 Denial of application for license; time frame for denial, approval, or issuance of license

- (1) The state administrator may deny any application for a license if the application is incomplete or the correct fee has not been remitted with the application.
- (2) A license shall not be approved or issued until the thirty (30) day period in which a protest is permissible has expired. Any license for which public notice under KRS 243.360 is required may conditionally be issued in less than thirty (30) days from the date the application is received if the premises has previously operated under the same type of license within the last twelve (12) months.
- (3) The state administrator shall deny, approve, or issue licenses when, in the sound discretion of the administrator, all of the information necessary has been obtained or the applicant has refused to provide requested information.

243.440 Form of licenses

All licenses shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of the license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The expiration date of the license; and
- (6) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

243.450 Causes for denial of license

- (1) A license shall be denied:
 - (a) If the applicant or the premises for which the license is sought does not comply fully with all alcoholic beverage control statutes and the administrative regulations of the board;
 - (b) If the applicant has not obtained approval from the local ABC administrator for a county or city license required at the proposed premises;
 - (c) If the applicant has done any act for which a revocation of license would be authorized; or
 - (d) If the applicant has made any false material statement in its application.
- (2) A license may be denied by a state administrator for any reason that the administrator, in the exercise of the administrator's sound discretion, deems sufficient. Among those factors that the administrator shall consider in the exercise of this discretion are:
 - (a) Public sentiment in the area;



- (b) Number of licensed outlets in the area;
 - (c) Potential for future growth;
 - (d) Type of area involved;
 - (e) Type of transportation available;
 - (f) Financial potential of the area; and
 - (g) Applicant's status as a delinquent taxpayer as defined in KRS 131.1815.
- (3) A direct shipper license applicant shall be exempt from the requirements of this section and shall instead meet the requirements for its license type as set forth in Section 1 of this Act.

243.470 Applicant may have hearing before license is denied; refund of payments made

- (1) If a state administrator denies a license application, the administrator shall notify the applicant in writing of the denial and reasons by registered or certified mail at the address given in the application or supplement.
- (2) The applicant may, within thirty (30) days after the date of the mailing of the notice from the state administrator, file a request with the board for an administrative hearing on the application. The hearing shall be conducted by the board as a de novo review of the application in compliance with the requirements of KRS Chapter 13B.
- (3) If the state administrator denies an application and the applicant does not timely request a board hearing on its application under subsection (2) of this section, the department shall refund payment of the license fee to the applicant if requested. The department shall also refund payment of any license fee erroneously paid by an applicant.

243.480 Suspension of licenses; payments in lieu of suspension; appeal

- (1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows:
 - (a) Except for violations arising from retail sales activities, including sales under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305:
 - 1. Distillers, rectifiers, wineries, and brewers, one thousand dollars (\$1,000) per day;
 - 2. Wholesale liquor licensees, four hundred dollars (\$400) per day; and
 - 3. Wholesale beer licensees, four hundred dollars (\$400) per day;
 - (b) 1. Retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink, fifty dollars (\$50) per day; and

2. Distillers, wineries, and brewers for violations arising from their retail sales activities, including sales by distillers under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305, fifty dollars (\$50) per day; and
 - (c) All remaining licensees, fifty dollars (\$50) per day.
- (2) Payments in lieu of suspension or for board-ordered agency server training, collected on a cost recovery basis, collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.
- (3) In addition to or in lieu of a suspension of a license, the board may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in the department's server training program.
- (4) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS Chapter 13B.

243.490 Causes for which licenses may be revoked or suspended

A license may be revoked or suspended by the board for a violation of any of the following:

- (1) Any of the provisions of KRS Chapters 241 to 244;
- (2) Any administrative regulation of the board relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages;
- (3) Any rule or administrative regulation of the Department of Revenue relating to the taxation of alcoholic beverages;
- (4) Any Act of Congress or any rule or regulation of any federal board, agency, or commission;
- (5) Any local ordinance relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages;
- (6) Any of the laws, regulations, or ordinances referred to in this section when an agent, servant, or employee of the licensee committed the violation, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of the licensee's instructions;
- (7) Any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient; or
- (8) Any of the reasons for which the state administrator would have been required to deny a license if existing material facts had been known.

243.500 Causes for which licenses may be revoked or suspended

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

- (1) Conviction of the licensee or the licensee's agent, servant, or employee for selling any illegal alcoholic beverages on the licensed premises.
- (2) Making any false, material statements in an application or renewal application for a license or supplemental license.
- (3) Conviction of the licensee or any of the licensee's agents, servants, or employees of:
 - (a) Two (2) violations of the terms and provisions of KRS Chapters 241 to 244, or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;
 - (b) Two (2) misdemeanors directly or indirectly attributable to the use of alcoholic beverages within two (2) consecutive years; or
 - (c) Any felony.
- (4) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any related administrative regulations promulgated by the Department of Revenue.
- (5) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages.
- (6) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This subsection shall not apply to:
 - (a) The sale of lottery tickets sold under the provisions of KRS Chapter 154A;
 - (b) The operation of a pari-mutuel system for betting, where authorized by law;
 - (c) The conduct of charitable gaming by a charitable organization licensed or permitted under KRS Chapter 238; or
 - (d) Special temporary raffles of alcoholic beverages under KRS 243.036.
- (7) Conviction of the licensee, the licensee's agents, servants, or employees for:
 - (a) The trafficking or possession upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs;
 - (b) Knowingly permitting the trafficking or possession by patrons upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs; or



- (c) Knowingly receiving stolen property upon the licensed premises.
- (8) Failure to comply with the terms of a final order of the board.

243.502 Restrictions on possession and use of alcohol vaporizing device

- (1) Except as provided in subsection (2) of this section, a person shall not sell, purchase, deliver, give away, possess, use, or offer for sale or use an alcohol vaporizing device or assist another in selling or using an alcohol vaporizing device.
- (2) The provisions of subsection (1) of this section shall not apply to:
 - (a) A hospital that operates primarily for the purpose of conducting scientific research;
 - (b) A public institution that is a member of the postsecondary education system or an independent institution as defined in KRS 164.001 that is conducting bona fide research;
 - (c) A pharmaceutical or biotechnology company conducting bona fide research;
 - (d) A manufacturer or distributor that sells an alcohol vaporizing device to one (1) of the entities set out in this subsection; or
 - (e) A device used by a manufacturer in the manufacturing process.
- (3) Persons holding an alcohol vaporizing device in accordance with subsection (2)(a) to (d) of this section shall retain the alcohol vaporizing device in a secure location such that it is used only for research purposes. They shall not transfer the device to an entity or institution other than one covered by subsection (2) of this section and shall destroy the device when it is no longer of use. The department may promulgate administrative regulations authorizing additional reports if the department deems the reports reasonably necessary.

243.520 Institution of revocation proceedings; notice; hearing; suspension under emergency order

The department may, on its own initiative or on the complaint of any person, institute administrative proceedings before the board to revoke or suspend any license. A license may be revoked or suspended only after the licensee has been afforded the opportunity for a hearing conducted in accordance with KRS Chapter 13B. The department may issue an emergency order pursuant to KRS 13B.125 to summarily suspend a license upon finding that continued operation of the license holder pending a hearing would constitute a threat to the public health, safety, or welfare.

243.530 License to be surrendered upon revocation; police chief or sheriff to return license

Within three (3) days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender its license to the department. If the license revoked is for premises located in any city that has a police force of its own, the department, immediately upon mailing notice of the revocation of the license to the licensee, shall mail to the chief of the police department of that city a written notice stating the fact of the revocation, the name of the licensee whose license was revoked, the address of the premises that had been licensed under the revoked

license, and the date of the revocation. If the license revoked is for premises that are not located in any city with a police force of its own, the department shall in like manner and at like time mail a similar notice to the sheriff of the county in which the premises are located. If the revoked license is not surrendered at once by the licensee, the chief of the police department or sheriff shall, at the request of the department, immediately cause one of its officers to take physical possession of the license and return it to the department.

243.540 Scope of section; disposition of stock upon revocation, surrender, court disposition, or nonrenewal of license; disposition upon bankruptcy; disposal of alcoholic beverages by secured creditor or landlord; administrative regulations

- (1) The provisions of this section shall apply to any licensee who is unable to continue in business at the licensed premises because of:
 - (a) An act of God;
 - (b) A casualty;
 - (c) An acquisition by a federal, state, city, or other governmental agency under the power of eminent domain granted to the government or agency;
 - (d) A voluntary or involuntary acquisition by any corporation or other business entity recognized by law through the power of eminent domain;
 - (e) A loss of lease because the landlord fails to renew an existing lease;
 - (f) Court action;
 - (g) Default under a security agreement;
 - (h) Default under a lease; or
 - (i) Other verifiable business reason.
- (2) If a license issued by the department has been revoked, the former licensee may, under the supervision of the state administrator, dispose of and transfer the former licensee's stock to another licensee if the disposition is completed within ninety (90) days and the licensee is a distiller, rectifier, winery, or brewer. The disposition shall be completed within thirty (30) days if the licensee is a wholesaler or distributor or within twenty (20) days if the licensee is a retailer.
- (3) A retail licensee in good standing with the department who voluntarily ceases to operate the licensed business for any reason other than revocation by the board or a court order shall dispose of all alcoholic beverage inventory within thirty (30) days of the event. The following requirements shall apply to the disposition of the licensee's inventory:
 - (a) If the premises is still open to the public and the licensee has not yet surrendered the license, the licensee shall sell alcoholic beverages only to the public and shall not sell below costs;
 - (b) If a licensee has terminated the licensed business, the licensee shall submit a written request for approval from the state administrator within ten (10) days in advance of the sale to dispose of the licensee's remaining inventory. The request shall identify the retailer who is purchasing the inventory, the proposed date of the sale, and the quantity, types, and brands of alcohol to be sold;

and

- (c) If a licensee has more than one (1) licensed retail premises and closes one (1) or more retail premises and seeks to transfer the inventory to another licensed retail premises the licensee owns, the licensee shall submit a request in writing to the state administrator at least ten (10) days before the inventory is transferred. The request shall identify the premises to which the alcohol is being transferred, the proposed date of the transfer, and the quantity, types, and brands of alcohol to be sold.
- (4) If a licensee files for bankruptcy or is directed by a court to dispose of inventory to satisfy a lien or judgment, the inventory may be sold only to a licensee holding any license that authorizes the possession and sale of those alcoholic beverages. The bankrupt licensee or the licensee subject to the court order shall notify the department of the sale and shall attach a copy of the court order or the judgment directing the sale and a list of the quantity, types, and brands of alcohol to be sold, but if the licensee fails to do so, the notification may be made by the bankruptcy trustee, the lienholder, or the judgment creditor. Any licensee who purchases the inventory shall notify the department within five (5) days after the transfer of the specific inventory sold.
- (5) A secured creditor or landlord that is in possession, custody, or control of any alcoholic beverages owned by a licensee may dispose of those alcoholic beverages in the following manner:
 - (a) The secured creditor or landlord shall submit a written request for approval from the state administrator, within twenty (20) days in advance of the sale or destruction of the licensee's remaining inventory. The request shall identify the:
 - 1. Licensee who is purchasing the inventory or the business to destroy the inventory;
 - 2. Proposed date of the sale or destruction; and
 - 3. Quantity, types, and brands of alcohol to be sold or destroyed;
 - (b) The proposed transferee or transferees may be any person or persons holding any license that authorizes the possession and sale of those alcoholic beverages, or a business authorized to dispose of alcoholic beverages;
 - (c) A copy of the written request shall be mailed by the department to the licensee's registered agent or last known address on file with the department by certified mail. Within ten (10) days after the department's mailing of this request, the licensee shall file with the department and applicant any objection the licensee has to the request, or be permanently barred from objecting; and
 - (d) If a sale is approved, the licensee who purchases the inventory shall notify the department within five (5) days after the transfer of that specific inventory.
- (6) The board may promulgate administrative regulations for additional means for the transfer or disposal of alcoholic beverage inventory.

243.550 Conduct of hearing by board

Hearings upon appeals from orders of a local administrator, a license determination of a state administrator, or upon proceedings initiated by the department for license revocation or suspension shall be held by the board. The board may, at its discretion, hold the hearing in Frankfort, or in the county where the licensed premises, or the premises to be licensed, are located. Decisions shall be made and final orders entered only upon the vote of a majority of the board. The hearings shall be conducted in accordance with the provisions of KRS Chapter 13B.

243.560 Appeal to Circuit Court from order of board; how taken; necessary parties; final order, when effective; power of court to dissolve stay

- (1) All final orders of the board may be appealed to the Circuit Court of the county where the appellant resides or the county containing the appellant's licensed premises, if any, notwithstanding KRS Chapter 13B.
- (2) A party to the administrative action may institute an appeal by filing a petition in the office of the clerk of the Circuit Court of the county where the appellant resides or the county containing the appellant's licensed premises, if any, within thirty (30) days after the final order of the board is mailed or delivered by personal service.
- (3) The board, department, licensee or applicant, and any other parties to the administrative action shall be necessary parties to all appeals.
- (4) No final order of the board issuing a license shall become effective, and no license under that final order shall be issued, until the expiration of the appeal period contained in KRS Chapter 13B. If an appeal from a final order has been filed as provided under KRS 13B.140, the final order shall not become effective until the appeal has been finally determined by the courts. During the pendency of any appeal, a court may dissolve the stay under this section for good cause shown.

243.590 Appeal to Court of Appeals

Any party aggrieved by a judgment of the Circuit Court may appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.

243.600 Issuance of county licenses

- (1) The clerk of a county whose fiscal court has imposed license fees under KRS 243.060 shall immediately notify the board of the amount of the fees fixed. The county licenses shall be issued and the fees collected by the county clerk, who may charge a fee of fifty cents (\$0.50) for his services for each license issued. The county clerk shall report and pay to the county treasurer at the end of each month such fees as he has collected. No license shall be issued without the approval of the county administrator, if there is one in the county. The licenses shall be issued in such form as may be prescribed by the county administrator, if there is one in the county, or by the board, if there is no county administrator.
- (2) If any part of this section is held invalid, all of this section and of KRS 243.060 shall also be considered invalid.

243.610 Issuance of city licenses

The clerk of a city whose legislative body has imposed license fees under KRS 243.070 shall immediately notify the board of the amount of the fees fixed. The city licenses shall be issued and the fees collected by such municipal official as may be designated by ordinance. That official shall report and pay to the city treasurer at the end of each month such license fees as he has collected. No license shall be issued by the clerk without the approval of the city administrator, if there is one in the city. The licenses shall be issued in such form as may be prescribed by the city administrator, if there is one in the city, or by the board if there is no city administrator.

243.620 Posting of licenses

- (1) Before commencing or doing any business for the time for which a license has been issued, all licenses shall be posted and at all times displayed in a conspicuous place in the room or principal room where the business is carried on, so that all persons visiting the place may readily see the license.
- (2) No licensee shall post the license or permit it to be posted, upon premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy, or alter the license in any respect.

243.630 Transfer of license or acquisition of interest without authorization prohibited

- (1) For purpose of this section, "transfer" means:
 - (a) The transfer to a new person or entity of ten percent (10%) or more ownership interest in any licensed business or license;
 - (b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business; or
 - (c) The transfer of a business or license to a different premises.
- (2) Any license issued to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the state administrator in the exercise of sound discretion.
- (3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the state administrator. The state administrator shall treat a transfer applicant as a new applicant for qualification and discretion purposes.
- (4) Any acquisition of interest in a license without prior authorization shall be void.
- (5) All applications for approval of a transfer shall be made in writing to the state administrator having jurisdiction over the license.
- (6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain any other information prescribed by the department.
- (7) The appropriate state administrator shall deny or approve the application when, in the sound discretion of the administrator, all of the necessary information has been obtained or the applicant has refused to

provide requested information, but it shall not be acted upon before the end of the public protest period outlined in KRS 243.360.

- (8) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise without the written consent of the state administrator of malt beverages or the state administrator of distilled spirits or both.
- (9) A licensee shall not transfer its license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or administrative regulation which may result in the suspension or revocation of the license are pending.
- (10) A licensee shall not transfer its license or any interest it has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.
- (11) A licensee shall not transfer its license or any interest in the license if the licensee owes the Commonwealth of Kentucky for taxes as defined in KRS 243.500. A transfer shall not take place until the department is notified by the Kentucky Department of Revenue that the licensee's indebtedness has been paid or resolved to the satisfaction of the Department of Revenue. This section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

243.640 Continuance in business by representative of defunct licensee

- (1) If a corporation, limited liability company, limited partnership, partnership, or other business entity recognized by law that holds a license is dissolved, or if a receiver, assignee for the benefit of creditors, or a guardian or conservator for the property of a licensee is appointed during the time for which a license was approved, or if a licensee dies during the time for which the license was issued and a personal representative is appointed for the licensee's estate, that corporation, limited liability company, limited partnership, partnership, other business entity recognized by law, receiver or assignee, or the personal representative of the estate of the deceased or individual adjudged to be mentally disabled, may be permitted to continue the business upon the licensed premises for the balance of the term for which the license was effective, and any renewed license approved by the state administrator, with the same rights and subject to the same restrictions and liabilities as if they had been the original licensee.
- (2) Before continuing the business the receiver, assignee, personal representative, or committee shall file a statement with the state administrator or administrators setting forth the facts and circumstances by which they have succeeded to the rights of the original licensee. The administrator or administrators may, in the exercise of the administrator's sound discretion, permit or refuse to permit the continuance of the business.
- (3) If the administrator permits the continuance of the business, the license shall be submitted to the administrator, and the administrator shall write or stamp across the face of the license the words: "... is permitted to exercise the rights and privileges of the original licensee as (assignee, receiver, personal representative, or committee, as the case may be) of the original licensee for the unexpired term of this license." The endorsement on the face of the license shall be dated and signed by the person making it.

243.650 Transfer of license to other premises

In case of destruction by an act of God or casualty for which the licensee was not responsible, of premises for which a license has been issued, the state administrator may, if in the administrator's discretion the action is necessary to attain justice, change the license to authorize continuance of business at other premises. No transfer shall be made unless the licensee has filed a written verified statement of the reasons for the necessity of transfer. If the transfer is made the state administrator shall endorse a description of the new premises upon the license and shall date and sign the endorsement.

243.660 Pledging or granting of security interest in any licenses prohibited

No person shall pledge or grant a security interest in any license. This type of pledge or security interest and any contract providing for the pledge or security interest shall be void.

243.670 Applicant to pay for own license

The license fee for every license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued.

243.675 Injunctive or other judicial proceedings by board; priority of cases

The board may compel obedience to its lawful orders by injunction or other proper proceedings in Franklin Circuit Court or any other court of competent jurisdiction, and the proceedings shall have priority over all pending cases.

Wholesaler's Tax

243.710 Wholesaler's tax on distilled spirits

Each wholesaler shall pay to the Department of Revenue five cents (\$0.05) per case on each case of distilled spirits sold by him in the state. This tax shall be computed each month according to the report required to be filed by KRS 243.850 and shall be paid on or before the date in each succeeding month when reports are required to be filed.

Excise Taxes

243.720 Rate of tax

- (1) (a) There is levied upon the use, sale, or distribution by sale or gift of distilled spirits a tax of one dollar and ninety-two cents (\$1.92) on each wine gallon of distilled spirits, and a proportional rate per gallon on all distilled spirits used, sold, or distributed in any container of more or less than one (1) gallon, but the rate of the excise tax on spirits in retail containers of one-half (1/2) pint shall be twelve cents (\$0.12); and
- (b) Notwithstanding the provisions of paragraph (a) of this subsection, distilled spirits placed in containers for sale at retail, where the distilled spirits represent six percent (6%) or less of the total volume of the contents of such containers, shall be taxed at the rate of twenty-five cents (\$0.25) per gallon.

- (2) There is levied upon the use, sale, or distribution by sale or gift of wine, a tax of fifty cents (\$0.50) on each gallon of wine, and a proportional rate per gallon on the wine used, sold, or distributed in any container of more or less than one (1) gallon, but the tax shall not be less than four cents (\$0.04) on the sale or distribution of any retail container of wine.
- (3)
 - (a) There is levied upon the sale or distribution by sale or gift of malt beverages an excise tax of two dollars and fifty cents (\$2.50) on each barrel of thirty-one (31) gallons and a proportional rate per gallon on malt beverages sold or distributed in any container of more or less than thirty-one (31) gallons;
 - (b) Each brewer producing malt beverages in this state shall be entitled to a credit of fifty percent (50%) of the tax levied on each barrel of malt beverages sold in this state, up to three hundred thousand (300,000) barrels per annum.
- (4) This section shall not apply to:
 - (a) Wine manufactured, sold, given away, or distributed and used solely for sacramental purposes; or
 - (b) Distilled spirits and wine purchased by holders of special licenses provided for in KRS 243.320 and purchased and used in the manner authorized by those licenses.

243.730 Reports by wholesalers and distributors or retailers; applicability of brewers' tax credit; due date of tax; advance payments

- (1)
 - (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720(1) and (2) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits and wine is transferred from the wholesaler to retailers or consumers in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
 - (b) Distributors or retailers of malt beverages, who purchase malt beverages directly from a brewer, shall pay and report the tax levied by KRS 243.720(3) on or before the twentieth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to the distributor or retailer, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth. The credit allowed brewers in this state, under the provisions of KRS 243.720(3)(b), shall flow through to the distributor or retailer who purchases malt beverages directly from the brewer. If a brewer sells, transfers, or passes title to malt beverages to any of its employees for home consumption or to any charitable or fraternal organization pursuant to the provisions of KRS 243.150, the brewer shall be responsible for paying and reporting the tax levied by KRS 243.720(3) in accordance with the provisions of subsection (c) of this section.
 - (c) Every brewer selling, transferring, or passing title to malt beverages to any person in this state other than a distributor or retailer, and every other person selling, transferring, or passing title of distilled spirits, wine, or malt beverages to distributors, retailers, or consumers shall report and pay the tax levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine, or malt beverages is transferred to a distributor, retailer, or consumer in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.



- (d) Every distributor, retailer, or consumer possessing, using, selling, or distributing distilled spirits, wine, or malt beverages in this state upon which the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the Department of Revenue.
 - (e) Notwithstanding the provisions of paragraph (a) of this subsection, every owner of a small farm winery shall pay and report the tax levied by KRS 243.720 (1) and (2) on a quarterly basis, in accordance with administrative regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by sale or gift distilled spirits and wine shall qualify with the Department of Revenue.
 - (3) Every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the Department of Revenue in such manner as the Department of Revenue may require.

243.790 No tax when to be shipped and consumed out of state; conditions of exemption

The sale or distribution of alcoholic beverages manufactured in or imported into this state for shipment permanently out of the state to be sold without the state and consumed without the state shall not be subject to the tax imposed by KRS 243.720. Provided, however, the Department of Revenue may, when necessary for the purpose of control enforcement or protection of revenue, prescribe the conditions under which containers of such alcoholic beverages for shipment permanently out of the state to be sold without the state and consumed without the state may be kept and trafficked in without payment of the tax.

243.850 Licensee to report to Department of Revenue on trafficking in alcoholic beverages

For the purpose of assisting in the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof, every licensee, except retailers, whether subject to the payment of taxes imposed by said sections or any amendments thereof, shall, on or before the twentieth day of each month, render to the Department of Revenue a statement, in writing, of all his trafficking in alcoholic beverages during the preceding month. Such statement shall be taken directly from the records of the reporting licensee, and shall set forth on forms furnished by the Department of Revenue such information as shall be required by it. Such statement shall include alcohol destined for sale outside the state, as well as alcoholic beverages subject to the tax imposed by KRS 243.720 to 243.850 and 243.884 or any amendments thereof. Provided, that the Department of Revenue shall have authority to require from retail licensees and other licensees, other reports and statements at such times as are necessary for the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof.

243.882 Definitions for KRS 243.884 to 243.890

For the purposes of KRS 243.884 to 243.890:

- (1) "Distributor" means a person required to be or who is a licensee authorized to do business pursuant to KRS 243.180;
- (2) "Microbrewery" means a person required to be or who is a licensee authorized to do business pursuant to KRS 243.157;



- (3) “Wholesale sale” or “sale at wholesale” means:
 - (a) A sale made for the purpose of resale in the regular course of business of beer, wine, or distilled spirits, except as provided in KRS 243.884(3); or
 - (b) A sale of malt beverages made by a microbrewery as authorized by KRS 243.157; and
- (4) “Wholesaler” means a person required to be or who is a licensee authorized to do business pursuant to KRS 243.160 and 243.170.

243.884 Wholesale sales tax imposed; rate; report and payment; exemptions

- (1) (a) For the privilege of making “wholesale sales” or “sales at wholesale” of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits, all distributors of beer, all direct shipper licensees shipping alcohol to a consumer at a Kentucky address, all distillers making sales pursuant to subsections (3)(b), (8), and (9) of Section 12 of this Act, and all microbreweries selling malt beverages under KRS 243.157.
- (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent (11%) of the gross receipts of any such wholesaler or distributor derived from “sales at wholesale” or “wholesale sales” made within the Commonwealth, except as provided in subsection (3) of this section. For the purposes of this section, the gross receipts of a microbrewery making “wholesale sales” shall be calculated by determining the dollar value amount that the microbrewer would have collected had it conveyed to a distributor the same volume sold to a consumer as allowed under KRS 243.157 (3) (b) and (c).
- (c) On and after July 1, 2015, the following rates shall apply:
 - 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at wholesale; and
 - 2. For wine and beer:
 - a. Ten and three-quarters of one percent (10.75%) for wholesale sales or sales at wholesale made on or after July 1, 2015, and before June 1, 2016;
 - b. Ten and one-half of one percent (10.5%) for wholesale sales or sales at wholesale made on or after June 1, 2016, and before June 1, 2017;
 - c. Ten and one-quarter of one percent (10.25%) for wholesale sales or sales at wholesale made on or after June 1, 2017, and before June 1, 2018; and
 - d. Ten percent (10%) for wholesale sales or sales at wholesale made on or after June 1, 2018.
- (d) On and after the effective date of this Act, the following rates shall apply for direct shipper sales:
 - 1. For distilled spirits shipments, eleven percent (11%) for wholesale sales or sales at wholesale; and
 - 2. For wine and beer shipments, ten percent (10%) for wholesale sales or sales at wholesale.



- (e) For direct shipper sales, if a wholesale price is not readily available, the direct shipper licensee shall calculate the wholesale price to be seventy percent (70%) of the retail price of the alcoholic beverages.
- (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, microbreweries, distillers, and direct shipper licensees shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine, or malt beverages is transferred from the wholesaler or distributor to retailers, or by microbreweries, distillers, or direct shipper licensees to consumers in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (3) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:
 - (a) Sales made between wholesalers or between distributors;
 - (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a small farm winery in a calendar year made by:
 - 1. The small farm winery; or
 - 2. A wholesaler of that wine produced by the small farm winery; and
 - (c) Sales made between a direct shipper licensee and a consumer located outside of Kentucky.

243.886 Reimbursement for collecting and reporting; microbrewery or distiller that pays wholesale sales tax not entitled to reimbursement

To reimburse himself for the cost of collecting and reporting the tax, each person required to pay and report the tax levied by KRS 243.884, other than a microbrewery or a distiller, shall deduct on each report one percent (1%) of the tax due, provided the amount due is not delinquent at the time of payment. A microbrewery or distiller that reports and pays the wholesale sales tax levied by KRS 243.884, in accordance with KRS 243.157 or Section 12 of this Act as applicable, shall not be entitled to deduct one percent (1%) of the tax due.

243.890 Receipts to be used for general fund purposes

Except as provided in KRS 211.285, receipts derived from taxes assessed and collected under the provisions of this chapter shall be appropriated for general fund purposes.

Miscellaneous Provisions

243.895 Warning of dangers of drinking alcoholic beverages during pregnancy to be posted

All licensed retailers of alcoholic beverages, except holders of special temporary licenses, shall post in a prominent place easily seen by patrons a printed sign at least eight and one-half (8- ½) inches by eleven (11) inches in size, with gender-neutral language supplied by the Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

243.897 Prohibition against purchase of metal beer keg except from brewer or representative

No recycler, scrap metal dealer, or scrap yard operator may purchase any metal beer keg, whether damaged or undamaged, except from the brewer or its authorized representative, if:

- (1) The keg is clearly marked as the property of a brewery manufacturer; or
- (2) The keg's identification markings have been made illegible.

Penalties

243.990 Penalties

- (1) Any person who, by himself or herself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.
- (2) Any person who, by himself or herself or through another, directly or indirectly, violates subsection (1) of KRS 243.020 shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense, he or she shall be guilty of a Class A misdemeanor; and for the third and each subsequent offense, he or she shall be guilty of a Class D felony.
- (3) Any person who violates subsection (3) of KRS 243.020 shall be guilty of a violation.
- (4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 or 243.082 shall be guilty of a violation.
- (5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be guilty of a Class A misdemeanor.
- (6) Any person who violates any provision of KRS 243.710 to 243.850 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.
- (7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the due date until the date of payment.
- (8) Any person who, by himself or herself or acting through another, directly or indirectly, violates KRS 243.502(1) shall, for the first offense, be guilty of a Class B misdemeanor, and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the suspension or revocation of the offender's license.
- (9) Any person who violates the provisions of KRS 243.897 shall be subject to a fine not to exceed one thousand dollars (\$1,000).

CHAPTER 244 – ALCOHOLIC BEVERAGES; PROHIBITIONS, RESTRICTIONS, AND REGULATIONS

Alcoholic Beverages Generally

244.010 Definitions

As used in this chapter, unless the context requires otherwise, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010.

244.030 Soliciting orders; when prohibited

- (1) No licensee under KRS Chapters 241 to 244 shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of the consumer, nor shall any such licensee receive or accept any order that has been solicited or received at the residence or place of business of the consumer.
- (2) Subsection (1) of this section shall not prohibit the solicitation by a distiller, rectifier, brewer, or winery of an order from any wholesaler or distributor at the licensed premises of the wholesaler or distributor nor the solicitation by a wholesaler or distributor of an order from any retailer at the licensed premises.

244.040 Sales for cash only

- (1) A brewer or distributor shall not sell alcoholic beverages to any person in this state for any consideration except for cash paid at or before the time of delivery.

For purposes of this section, “cash” includes the sale of malt beverages by electronic transfers if the following conditions are met:

- (a) The use of electronic transfers shall be voluntary and shall be agreed to by the affected brewer, distributor, and retailer;
- (b) The brewer shall not pay or credit back in any way to the distributor any share of the cost that is attributable to the electronic transfer;
- (c) The distributor shall not pay or credit back in any way to the retailer any share of the cost that is attributable to the electronic fund transfer;
- (d) The transfer of funds shall be initiated by the brewer or the distributor;
- (e) The distributor may debit the retailer’s bank account for the exact amount due based on the amount of alcoholic beverages delivered;
- (f) Electronic fund transfers that are rejected or denied at the time of sale for any reason shall be treated in the same manner as checks drawn on insufficient funds; and

- (g) Each participating retail licensee and each distributor maintain accurate records of all electronic fund transfers in accordance with department statutes and administrative regulations.
- (2) A brewer or distributor shall not furnish or deliver any returnable bottled malt beverage without collecting a minimum container charge or deposit of sixty cents (\$0.60) per case of twenty-four (24) twelve-ounce bottles or its equivalent in the same manner that the price of the malt beverage is collected.
- (3) This section shall not prohibit a licensee from crediting to a purchaser the actual prices charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid by the purchaser for containers or as a deposit on containers when the title is retained by the vendor, if the containers or packages have been returned to the brewer or distributor.
- (4) No right of action shall exist to collect any claim for credit extended contrary to this section.
- (5) This section shall not apply to sales by wholesalers or distributors to licensees that are private clubs or voluntary associations.

244.050 “Treating” prohibited; exceptions

A retail licensee shall not sell, give away, or deliver any alcoholic beverage at retail in any quantity for less than paid or current wholesale cost, except upon written request and approval by the administrators, pursuant to a bona fide “close out” sale, or as provided by KRS 243.0305, 243.0307, 243.155, and 243.157.

244.060 Licensee to purchase from and sell only to persons authorized to sell or purchase

- (1) No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder of a special agent’s or solicitor’s license if this license is required.
- (2) No licensee shall sell or agree to sell any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agent’s or solicitor’s license.

244.080 Retail sales to certain persons prohibited; affirmative defense in prosecution for selling to a minor

A retail licensee, or the licensee’s agent, servant, or employee, shall not sell, give away, or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away, possessed by, or delivered to:

- (1) A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that the purchaser’s age could not have been ascertained by any other means and that the purchaser’s appearance and character indicated strongly that the purchaser was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself;
or

- (2) A person who appears to a reasonable person to be actually or apparently under the influence of alcoholic beverages, controlled substances, other intoxicating substances, or any of these substances in combination, to the degree that the person may endanger any person or property, or unreasonably annoy persons in the vicinity.

244.083 Licensee to display notice as to sale to minors

Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100) if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.
2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

244.085 Minors not to possess or purchase liquor nor to misrepresent age; use of fraudulent identification; prohibition against minors remaining on premises where alcoholic beverages sold

- (1) A person under twenty-one (21) years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
- (2) A person under twenty-one (21) years of age shall not possess for personal use or purchase or attempt to purchase or have another purchase for the person any alcoholic beverages. No person shall aid or assist any person under twenty-one (21) years of age in purchasing or being delivered or served any alcoholic beverages.
- (3) A person under twenty-one (21) years of age shall not misrepresent the person's age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.
- (4) A person under twenty-one (21) years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.
- (5) Except as provided in KRS 244.090, a licensee, or the licensee's agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:
 - (a) The usual and customary business of the licensee is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, small farm winery, distillery, brewery, winery, convenience store, grocery store, drug store, entertainment destination center, licensed APC premises, live music or other entertainment or public facility, or any other business type, as determined by the board through the promulgation of administrative regulations, whose operations allow it to adequately monitor and prevent alcohol sales to minors; or
 - (b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises.

- (6) Except as provided in subsection (5) of this section, a licensee or the licensee's agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.
- (7) Except as provided in subsection (5) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless the person under the age of twenty-one (21) is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.
- (8) A violation of subsection (1), (2), (3), (4), or (7) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

244.090 Persons whom licensees may not employ; partial exception

- (1) A person holding any license shall not knowingly employ in connection with the licensed business any person who:
 - (a) Has been convicted of any felony within the last two (2) years;
 - (b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages within the last two (2) years;
 - (c) Is under the age of twenty (20) years, unless the person is employed:
 1. In a bottling house or room of a licensed distiller, winery, brewer, or rectifier;
 2. In an office of a wholesaler or manufacturer that is maintained in a building separate from the warehouses or factory;
 3. At premises licensed only with a nonquota retail malt beverage package license, and the person employed to sell malt beverages is at least eighteen (18) years of age and under the supervision of a person twenty (20) years of age or older; or
 4. In any of the following establishments, if the employment is in a capacity that does not involve the sale or serving of alcoholic beverages:
 - a. A restaurant that derives at least fifty percent (50%) of its food and alcoholic beverage sales from the sale of food for consumption on the licensed premises; or
 - b. Any other establishment with alcoholic beverage sales not exceeding fifty percent (50%) of its gross sales; or
 - (d) Within two (2) years prior to the date of the person's employment, has had any license issued under KRS Chapters 241 to 244 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.
- (2) The provisions of paragraphs (a) and (b) of subsection (1) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.

- (3) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

244.105 Gift card for alcoholic beverages to be redeemed only by persons 21 and older

No person under the age of twenty-one (21) may redeem a gift card or any portion of a gift card for the purchase of alcoholic beverages. A person holding a license under KRS 243.030 or 243.040 may redeem a gift card for the purchase of alcoholic beverages if the person presenting the card is twenty-one (21) years of age or older.

244.110 Retail premises to furnish clear view from sidewalk or entrance

The entrance of any premises for which a quota retail package license or a quota retail drink license has been issued shall be of clear glass and permit an unobstructed view. The premises shall be erected and maintained to furnish a clear view of the premises from the sidewalk, or, if the premises are not on the street level, from the entrance. No partition, box, stall, screen, curtain, or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions, or panels that are not higher than forty-eight (48) inches from the floor shall not be construed as obstructing the view or the general observation of persons.

244.120 Retail premises not to be disorderly; acts constituting disorderly behavior

- (1) A retail licensee, a patron, or the licensee's agents, servants, or employees shall not cause, suffer, or permit the licensed premises to be disorderly.
- (2) Acts which constitute disorderly premises consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents, or employees to cause public inconvenience, annoyance, or alarm, or create a risk through:
 - (a) Engaging in fighting or in violent, tumultuous, or threatening behavior;
 - (b) Making unreasonable noise;
 - (c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency;
 - (d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;
 - (e) Creating a public nuisance;
 - (f) Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or
 - (g) Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or a local government, or by state administrative regulations, for the licensed premises.

244.125 Prohibition against possession of loaded firearm in room where alcoholic beverages are being sold by the drink

- (1) Except as provided in subsection (3) of this section, no person shall be in possession of a loaded, as defined in KRS 237.060, firearm while actually within the room where alcoholic beverages are being sold by the drink of a building on premises licensed to sell distilled spirits and wine at retail by the drink for consumption on the licensed premises pursuant to KRS Chapter 243.
- (2) This section shall not apply to the owner manager, or employee of licensed premises, law enforcement officers, or special local peace officers commissioned pursuant to KRS 61.360.
- (3) This section shall not apply to a bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and which receives less than fifty percent (50%) of its annual food and beverage receipts from the dining facilities by the sale of alcohol.
- (4) Nothing in this section shall be construed as permitting the carrying of a concealed deadly weapon in violation of KRS 527.020.
- (5) Any firearm possessed in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to KRS 237.090.

244.130 Advertising to comply with regulations of board; types of advertising not prohibited

- (1) A licensee may advertise or cause to be advertised in any manner any product that the licensee is licensed to manufacture or sell unless prohibited by administrative regulations promulgated by the board.
- (2) The board shall not prohibit the following forms of advertising:
 - (a) Advertising in newspapers, magazines, or periodicals having a general circulation;
 - (b) Promotional advertising on radio or television limited to no more than the name of the licensee and the products the licensee is permitted to manufacture or sell;
 - (c) Promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams;
 - (d) Promotional advertising mailed or delivered to a consumer's residence; or
 - (e) A distiller from providing visitors who are twenty-one (21) years of age or older, in conjunction with a distillery tour or an event conducted by a bona fide church or charitable organization, free:
 1. Consumer-branded nonalcoholic novelty items whose actual retail cost does not exceed seventy-five dollars (\$75) per item; and
 2. Production by-products.

244.150 Licensee to keep records

Each licensee shall keep and maintain upon the licensed premises, or make readily available upon request of the department or the Department of Revenue, adequate books and records of all transactions involved in the manufacture, distribution, or sale of alcoholic beverages, in the manner required by administrative regulations of the department and the Department of Revenue.

244.160 Presence of alcoholic beverage raises presumption of intention to sell

Whenever any alcoholic beverage, in whatever quantity, is found on any business premises within this state, a prima facie presumption shall arise that the alcoholic beverage was upon the premises for the purpose of sale.

244.165 Unlawful sale and shipment by out-of-state seller directly to a Kentucky consumer; penalty

- (1) Except as provided in KRS 243.027 to 243.029, it shall be unlawful for any person in the business of selling alcoholic beverages in another state or country to deliver or ship or cause to be delivered or shipped any alcoholic beverage directly to any Kentucky consumer who does not hold a valid wholesaler or distributor license issued by the Commonwealth.
- (2) A licensed transporter or common carrier making deliveries or shipments pursuant to this section shall deliver or ship directly to consumers over twenty-one (21) years of age in packages clearly marked “Alcoholic Beverages, adult signature (21 years of age or over) required,” and shall request adult-signature-only service from the carrier. A licensed common carrier shall not knowingly ship unlicensed alcoholic beverage shipments into the Commonwealth. Deliveries or shipments of alcoholic beverages shall only be made into areas of the state in which alcoholic beverages may be lawfully sold. When the shipper requests adult-signature-only service, it shall be a violation for a common carrier not to inspect government-issued identification for proof of age. No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of any provision of KRS 242.250, 242.260, or 242.270 prohibiting the delivery or shipment of alcoholic beverages into areas of the state in which alcoholic beverages are not lawfully sold.
- (3) Any person who violates subsection (1) of this section shall, for the first offense, be mailed a certified letter by the department ordering that person to cease and desist any deliveries or shipments of alcoholic beverages to Kentucky residents, and the department shall mail a copy of the certified letter to the licensing authority where the person is located. Any subsequent violations may result in further legal action.

244.167 Unlawful acts relating to wholesalers or distributors; definition of “primary source of supply”

- (1) It is unlawful:
 - (a) For any distiller, rectifier, winery, brewer, or importer to solicit, accept, or fill any order for any alcoholic beverage from any wholesaler or distributor in the Commonwealth of Kentucky unless the supplier is the primary source of supply for the brand of alcoholic beverage sold or sought to be sold;
 - (b) For any wholesaler, distributor, or any other licensee in this Commonwealth to order, purchase, or receive any alcoholic beverage from any supplier unless the supplier is the primary source of

supply for the brand ordered, purchased, or received;

- (c) For a retailer to order, purchase, or receive any alcoholic beverage from any source other than any of the following:
 - 1. A wholesaler or distributor who has purchased the brand from the primary source of supply; or
 - 2. A wholesaler or distributor who is the designated representative of the primary source of supply in this Commonwealth and who has purchased alcoholic beverages from the designated representative of the primary source of supply within or without this Commonwealth; and
 - (d) For alcoholic beverages to be transported from a wholesaler's or distributor's warehouse within twenty-four (24) hours of the time they are unloaded.
- (2) The Alcoholic Beverage Control Board may suspend for a period not to exceed one (1) year the license of any wholesaler, distributor, or retailer who violates the provisions of this section.
 - (3) Upon determination by the Alcoholic Beverage Control Board that a primary source of supply has violated the provisions of this section, no wholesaler, distributor, or retailer may accept any shipment of alcoholic beverages from the primary source of supply for a period of one (1) year.

244.170 Apparatus for unlawful manufacture prohibited

No person shall buy, bargain, sell, loan, own, possess or knowingly transport any apparatus designed for the unlawful manufacture of alcoholic beverages.

244.180 Contraband defined

The following property, even though found and seized in dry territory, is contraband:

- (1) Any apparatus commonly used or intended to be used in the manufacture of alcoholic beverages and not registered in the office of a collector of internal revenue for the United States. The burden of proof that the apparatus is properly registered shall be on the defendant.
- (2) Any material, equipment, implements, devices, firearms, and other property used or intended for use directly and immediately in connection with the unlawful traffic in alcoholic beverages.
- (3) Any alcoholic beverages in the possession of anyone not entitled by law to possess them.
- (4) Any alcoholic beverages in a container of a size prohibited by law or prohibited to the particular party in whose possession they are found.
- (5) Any vehicle, watercraft, or aircraft in which any person is illegally possessing or transporting alcoholic beverages. "Illegally possessing" means and includes the holding of any alcoholic beverages unless lawfully acquired and intended for lawful uses.

244.190 Seizure of contraband; destruction upon conviction of defendant

Any peace officers, state administrators, and investigators of the department may, upon probable cause, without warrant seize contraband regardless of whether it is in dry territory or not, and hold it subject to the order of the court before which the owner or one in possession of the contraband has been charged with violation of KRS Chapter 242 or KRS 243.020. Upon conviction of the defendant, the court shall enter an order for the destruction of all contraband property, except firearms or ammunition, included in KRS 244.180(1), (2), (3), and (4). Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as provided in KRS 500.090.

244.195 Title to contraband seized in dry territory to be vested in appropriate court; destruction of contraband upon conviction of defendant

- (1) Title to seized contraband included in KRS 244.180(1), (2), (3), and (4) shall be vested in the appropriate court within whose jurisdiction the seizure occurred, irrespective of whether the contraband was seized by peace officers of the city or county or state administrators or investigators of the department, notwithstanding the provisions of KRS 242.380.
- (2) The court shall order the sheriff for the county in which the contraband included in subsection (1) of this section was seized to destroy the contraband, except firearms or ammunition, upon conviction of the defendant.
- (3) Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as provided in KRS 500.090.

244.200 Rights of owner or lienor as to contraband; disposition of contraband

- (1) Contraband property included in subsection KRS 244.180(5) shall be subject to the right of any owner or lienor, whose lien is valid and of record, to intervene and establish the owner or lienor's rights in the property by proving that the property was being used in connection with traffic in alcoholic beverages without the knowledge, consent, or approval of the owner or lienor.
 - (a) If the owner of the property proves the owner's lack of knowledge, consent, or approval, the court shall order the property restored to the owner; or
 - (b) If the lienor proves the lienor's lack of knowledge, consent, or approval, the court shall order a sale of the property at public auction, unless an agreement is made between the lienor and the board, which shall not become final until it has been approved by the court. The board may deliver any property found to be contraband to a lienor whose claim has been established by order of a court of competent jurisdiction, upon payment to the board of the difference between the fair market value of the seized property and the recorded claim of the lienor.
- (2) Where an agreement has been made between the lienor and the board and approved by the court, a public auction shall not be required. If an agreement is not entered into between the board and the lienor or approved by the court, and a public auction is required, the public auction shall be conducted by the sheriff of the county in which the property is seized. The sheriff shall receive and be allowed the same fees as allowed for sales under execution.
- (3) The expenses of keeping and selling the property, and the amount of all valid recorded liens that are established by intervention as being bona fide, shall be paid out of the proceeds of the sales, whether

they are private or public. The balance shall be paid into the State Treasury and be credited to the general fund.

- (4) If the defendant is acquitted, no property seized as contraband in connection with the arrest of the defendant shall be ordered returned or restored unless the person from whose possession the property was taken proves that the person was in lawful possession of the property, and if no other person appears and proves that the other person owns the property or has a valid recorded lien on the property and that the property was being used without that person's knowledge and consent, title shall vest in the board at the end of ninety (90) days.
- (5) If the owners or lienholders of any contraband seized by state administrators or investigators of the department or turned over to the department by other officials, cannot be located within ninety (90) days, and during that time fail to appear and claim the contraband, or if the owner or lienholder appears and agrees, title to the contraband shall immediately vest in the board, which may sell the contraband at a private sale.

Distilled Spirits and Wine

244.210 Nonbeverage alcohol not to be sold for beverage purposes

No person shall knowingly sell any alcoholic product intended for nonbeverage purposes under KRS 243.320, under circumstances from which he or she might reasonably deduce the intention of the purchaser to use it for beverage purposes.

244.220 Regulations of special licenses to be prescribed by board

The prohibitions, restrictions and regulations relating to special licenses shall be those which the board may by its regulations and in the exercise of its sound discretion prescribe. For purposes of this section, a special license shall be one that is not set forth in KRS Chapters 241 to 244.

244.230 Federal regulations adopted relating to labeling and standards of fill; labeling when manufactured outside country

- (1) The regulations of the Bureau of Internal Revenue in the United States Department of the Treasury, with respect to the labeling and standards of fill of distilled spirits and wine in their original sealed packages, are adopted and any distilled spirits and wine shall be deemed to be properly labeled under all the laws of this state, if the labels and standards of fill conform to those regulations.
- (2) Distilled spirits not produced or bottled in the United States shall be labeled in the same manner that distilled spirits produced or bottled in this state are required to be labeled.
- (3) Subsections (1) and (2) of this section shall not prevent the department from promulgating administrative regulations on this subject that are in addition to but not contrary to the regulations of the Bureau of Internal Revenue in the United States Department of the Treasury.

244.235 "Kentucky" wine; minimum requirements for use of Kentucky products

No wine sold in Kentucky shall contain on its label or elsewhere on the wine's retail container or package the word "Kentucky" or any other word or phrase implying that the origin of the wine is Kentucky, except in the name and address of the winery as required by federal laws or regulations, unless seventy-five percent (75%) of

all grapes, grape juice, other fruits, other fruit juices, and honey used in making the wine were produced in the Commonwealth of Kentucky.

244.240 Distiller, rectifier, winery, or wholesaler not to be interested in retail premises; transactions prohibited; discounts in the usual course of business; retailer not to demand violation of this section

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

244.250 Producer or wholesaler not to furnish sign to licensee except under administrative regulations

No distiller, rectifier, winery, or wholesaler shall furnish or cause to be furnished to any licensee any exterior or interior sign, printed, painted, electric or otherwise, except as authorized by the administrative regulations of the board.

244.260 Containers that wholesaler may purchase, keep, or sell in; distilled spirits or wine to be kept by licensees in approved containers

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

- (2) Except as permitted by KRS 243.055 and 243.082(4) and subsection (3) of this section, licensees holding retail distilled spirits and wine drink licenses shall not keep upon their licensed premises any distilled spirits or wine in any container except in the original package as received from the wholesaler and authorized by federal law. Containers of distilled spirits shall not exceed one and seventy-five hundredths (1.75) liters or be less than fifty (50) milliliters of distilled spirits. Containers of wine shall not exceed two hundred twenty (220) liters or be less than one hundred (100) milliliters. All containers shall at all times have affixed to them any labels required by federal law or administrative regulations of the board.
- (3) Licensees holding retail distilled spirits and wine package licenses shall not keep upon their licensed premises any distilled spirits or wine in any container except in the original package as received from the wholesaler and authorized by federal law. Containers of distilled spirits shall not exceed one and seventy-five hundredths (1.75) liters or be less than fifty (50) milliliters of distilled spirits. Containers of wine shall not exceed two hundred twenty (220) liters or be less than one hundred (100) milliliters. Except as permitted by subsection (2) of this section, all containers shall at all times remain sealed and shall have affixed to them any labels required by federal law or administrative regulations of the board.

244.270 Wholesaler to have name and license number on window or building

Each wholesaler shall have painted on the front window of the licensed premises, or, if there is no window, on a sign affixed to the front of the building containing the licensed premises, the name of the licensee together with the inscription: "Kentucky Wholesaler's Liquor License No....." in uniform letters not less than three (3) inches in height.

244.280 Peddling prohibited

No licensee nor any of the licensee's agents, servants, or employees shall peddle any alcoholic beverages from house to house, by any means, where the sale is solicited at the residence or place of business of the consumer.

244.290 Sales of distilled spirits or wine when polls are open permitted in wet or moist territory; power of local governments to regulate; Sunday sales

- (1) (a) A licensee authorized to sell distilled spirits or wine at retail shall be permitted to sell and deliver distilled spirits and wine during the hours the polls are open on any primary, or regular, local option, or special election day unless it is located where the legislative body of a city, urban-county government, consolidated local government, charter county government, unified local government, or the fiscal court of a county adopts an ordinance after June 25, 2013, that prohibits the sale of distilled spirits and wine or limits the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day during the hours the polls are open.
 - (b) This subsection shall only apply in a wet or moist territory.
 - (c) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, the fiscal court of a county shall not by ordinance or any other means:
 1. Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city within that county; or
 2. Impose an action upon a city within that county when that city has taken no formal action pursuant to this subsection.

- (2) In any county containing a city of the first class, or a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.
- (3) Except as permitted by KRS 243.050 and subsection (4) of this section, a licensee authorized to sell distilled spirits or wine at retail shall not sell or deliver distilled spirits and wine between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday.
- (4) A licensee authorized to sell distilled spirits and wine at retail may sell and deliver distilled spirits and wine on Sunday and during the hours and times as permitted by local ordinance of the legislative body of a city, urban-county government, consolidated local government, charter county government, unified local government, or the county with local jurisdiction. These ordinances shall not prohibit the sale, gift, or delivery of distilled spirits or wine between 6 a.m. and 12 midnight any day, except Sunday.
- (5) In any territory containing a licensed small farm winery that is permitted to sell alcoholic beverages under KRS Chapter 242, the sale of alcoholic beverages at the small farm winery on Sunday may be permitted if:
 - (a) The legislative body of the local government having jurisdiction approves by local ordinance the sale of alcoholic beverages on Sunday in strict accordance with the sales permitted by KRS 243.155 on the licensed premises of a small farm winery during the hours and times as permitted in the local ordinance; or
 - (b) A limited sale precinct election on the issue of Sunday sales is approved after meeting the requirements of KRS 242.1241.
- (6) In any county containing a city of the first class or in any city located in that county in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits administrator may issue a license to holders of a quota retail drink license or a special private club license that permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.

244.300 Extension of credit by retailers prohibited; exceptions

No retailer selling distilled spirits and wine by the package or by the drink shall sell, deliver, or give away, or cause, permit or procure to be sold, delivered, or given away any distilled spirits or wine on credit, except that a bona fide licensed private club, restaurant, or hotel may sell on reasonable credit to its members, customers, or registered guests. Sales by any retailer selling distilled spirits or wine by the package or by the drink may be made by use of national or bank credit cards wherein the credit card company has agreed to payment to the licensee for such charges. However, nothing in this section shall be construed to authorize a licensee to issue its own credit cards or extend a personal credit to patrons.

244.370 Whiskey to be aged; exception if not labeled as Kentucky whiskey

No whiskey produced from grains which are cooked, fermented, and distilled in Kentucky, except whiskey the barrel containing which is branded "Corn Whiskey" under the internal revenue laws, shall be bottled in Kentucky or removed from this state unless such whiskey has been aged in oak barrels for a period of not less than one (1) full year; provided, however, that whiskey aged less than one (1) year may be removed from the state and bottled, or bottled in Kentucky, if the word "Kentucky" or any word or phrase implying Kentucky

origin does not appear on the front label or elsewhere on the retail container or package except in the name and address of the distiller as required by federal regulation. For violations of this section, the department shall revoke the permit of the licensee from whose warehouse or premises such whiskey shall have been removed or in which such whiskey shall have been bottled.

244.440 Registration of wholesalers authorized to handle particular brands and product names

- (1) Every resident and nonresident distiller, rectifier, or winery and nonresident wholesaler who owns, is the primary source of supply, or has an exclusive interest in any particular brands, which are intended for sale or sold in this state, shall be licensed in this state and shall register on a form to be provided by the department, the names of the wholesalers in this state to whom distributing rights have been granted for one or more or all of the brands and product names of distilled spirits or wine offered for sale or sold in this state.
- (2) No distiller, rectifier, or winery shall offer to sell or sell, and no wholesaler shall offer to purchase or purchase, any brands and product names that have not been registered as provided by this section.

244.450 Wholesaler not to act until receipt of license and distribution rights and after filing brand registration form with department

- (1) No licensed wholesaler shall import, buy, offer for sale, or sell any brands offered for sale or sold by any out-of-state distiller, rectifier, winery, supplier, or wholesaler without:
 - (a) Having previously been granted distributing rights by a licensed out-of-state distiller, rectifier, winery, supplier, or wholesaler; and
 - (b) Having previously filed with the department a brand registration form signed by the licensed out-of-state distiller, rectifier, winery, supplier, or wholesaler.
- (2) No wholesaler shall file or register a brand belonging to an out-of-state distiller, rectifier, winery, supplier, or wholesaler until the out-of-state distiller, rectifier, winery, supplier, or wholesaler becomes licensed and has granted distributing rights to the wholesaler.

244.461 Use of rebate coupons; redemption; retailers' loyalty cards

- (1) Manufacturers and importers of malt beverages, distilled spirits, and wine may advertise and promote, by specific brand and bottle size, malt beverages, distilled spirits, and wine for off-premises consumption by use of rebate coupons.
- (2) Except as provided in subsection (3) of this section, rebate coupons are redeemable by the consumer at the point of purchase, or by mail-in certificate by which the consumer receives a cash refund or nonalcoholic beverage merchandise from the manufacturer, importer, or clearinghouse acting for the manufacturer or importer, upon submission by the consumer of the required proof of purchase.
- (3) Rebate coupons on malt beverages that are redeemable by the consumer at the point of purchase are prohibited. Manufacturers and importers of malt beverages may provide rebate coupons that are redeemable by mail-in certificate by which the consumer receives a cash refund or nonalcoholic beverage merchandise from the manufacturer, importer, or clearinghouse acting for the manufacturer or importer, upon submission by the consumer of the required proof of purchase. Redemption of permitted rebate coupons on malt beverages shall be funded solely by manufacturers and importers of malt beverages.



- (4) Unless prohibited by KRS 244.050, loyalty cards issued by retailers that reward customers with product discounts for buying goods or services shall not be prohibited by this section.

Malt Beverages

244.480 Sales of malt beverages when polls are open permitted in wet or moist territory; power of local governments to regulate; Sunday sales

- (1) Except as permitted by subsection (4) of this section, no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of midnight and 6 a.m. on any other day.
- (2) Except as permitted by subsection (4) of this section, a licensee authorized to sell malt beverages at retail shall not sell, give away, or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday.
- (3)
 - (a) A licensee authorized to sell malt beverages at retail may sell malt beverages during the hours the polls are open on a primary, or regular, local option, or special election day unless the licensee is located where the legislative body of an urban-county government, consolidated local government, charter county government, unified local government, city, or county, in which traffic in malt beverages is permitted by KRS Chapter 242 has adopted an ordinance after June 25, 2013, that prohibits the sale of alcoholic beverages or limits the hours and times in which alcoholic beverages may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day.
 - (b) This subsection shall only apply in a wet or moist territory.
 - (c) Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the fiscal court of a county shall not by ordinance or any other means:
 1. Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city within that county; or
 2. Impose an action upon a city within that county when that city has taken no formal action pursuant to this subsection.
- (4) A licensee may sell or deliver malt beverages on Sunday and during the times and hours as permitted by a local ordinance of the legislative body of an urban-county government, consolidated local government, charter county government, unified local government, city, or county with local jurisdiction. The ordinance shall not prohibit the sale, gift, or delivery of any malt beverages between 6 a.m. and midnight during any day, except Sunday.

244.490 Sales to persons illegally selling malt beverages prohibited

No person shall sell any malt beverage to any person engaged in selling malt beverages in violation of the provisions of KRS Chapters 242, 243 and 244.

244.500 Malt beverage premium prohibition; exceptions

- (1) Except as permitted by subsection (2) of this section, a licensee shall not offer or give anything tangible of value as a premium, gift, or prize for:



- (a) The return of caps, stoppers, corks, stamps, wrappers, coupons, or labels taken from any bottle, case, barrel, or package containing malt beverages; or
 - (b) Any purpose in connection with the sale of malt beverages.
- (2) The following activities shall be permitted:
- (a) The return of moneys specifically deposited for the return of the original containers to the owners;
 - (b) A premium, gift, or prize by brewers, wholesalers, or distributors to wholesalers, distributors, or their employees in connection with sales incentive programs;
 - (c) Brewer-sponsored national sweepstakes in which major prizes, not including brand-related novelty items, are given to consumers based on certificates found in malt beverage packages or on point of sale materials. Malt beverage distributors, retail licensees, and their employees shall not be eligible to redeem the certificates or participate in the national sweepstakes;
 - (d) The sale of malt beverages packaged in or securely bundled with brand-related novelty items if the price charged for the packaged or bundled malt beverages specifically includes the cost of the brand-related novelty item; and
 - (e) Loyalty cards issued by retailers that reward customers with points or discounts for buying goods or services.

244.510 Adoption of labeling and advertising regulations of Bureau of Internal Revenue

- (1) The department may in its discretion adopt any regulations of the Bureau of Internal Revenue in the United States Department of the Treasury relating to labeling and advertising of malt beverages.
- (2) The adoption of regulations of the Bureau of Internal Revenue in the United States Department of the Treasury shall not become effective as to any brewer or distributor having labels on hand that would be outlawed by adoption of the regulation until a period of ninety (90) days from the date of adoption.

244.540 Advertising malt beverages near school or church prohibited

- (1) No licensee shall advertise any malt beverage by trade name, trade-mark or in any other manner within one hundred (100) feet of the property line of any school or church. The distance shall be by straight line.
- (2) Subsection (1) shall not apply to advertisements placed on the establishment of brewers or distributors in operation prior to March 7, 1938, nor to signs in position on March 7, 1938, nor to signs located in urban-county governments, cities of the first class, or cities containing a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census.

244.550 Adulteration of malt beverages prohibited

No person shall fortify, adulterate, contaminate or in any manner change the character or purity of the malt beverages from that as originally marketed by the brewer or sell, deliver or transport malt beverages except in the original containers.

244.560 Brewer or distributor to make accurate invoice; refund, rebate or discount prohibited

- (1) No brewer or distributor, his agents or employees, shall make any sale or delivery of any malt beverage without a written invoice made concurrently with the sale or delivery, showing prices and conditions upon which the sale or delivery is made; make any invoice which falsely indicates prices and terms of any sale; insert in any invoice any statements which make the invoice a false record, wholly or in part, of the transaction involved or represented on the face of the invoice; or withhold from any invoice any statement which properly should be included in it so that in the absence of such a statement the invoice does not truly reflect the transaction involved.
- (2) No brewer or distributor shall make, directly or indirectly, through any agent or employee, and no retailer shall receive any payment of any allowance, rebate, refund, concession or discount, whether in the form of money or otherwise, that does not conform with the prices and conditions of sale shown on the invoice.

244.570 Brewer or distributor not to be financially interested in retail premises

- (1) No brewer or distributor shall be interested in any manner, either directly or indirectly, in the ownership or leasehold of any property or in any mortgage against the property for which a retail license is issued, nor shall a brewer or distributor either directly or indirectly lend any moneys, credit or the equivalent thereto to any retailer in equipping, fitting out or maintaining and conducting either in whole or in part a malt beverage retail establishment or business.
- (2) Subsection (1) shall not apply to the interest of a brewer or distributor in any mortgage or other lien taken by him to secure the payment in whole or part of any indebtedness due him by any other licensee and incurred prior to March 7, 1938. It shall not prohibit a distributor from owning stock in a brewery.

244.580 Exclusive outlets prohibited

No brewer, distributor or transporter of malt beverages shall require by agreement or otherwise, directly or indirectly or through an affiliate or subsidiary, that any retailer engaged in the sale of malt beverages, purchase malt beverages from him to the exclusion in whole or in part of malt beverages sold or offered for sale by other persons.

244.585 Distributor of malt beverages not to sell outside his designated territory; contract between distributor and supplier

- (1) It shall be unlawful for any distributor to sell any brand or product name of malt beverage in the Commonwealth of Kentucky, except in the territory described in a written agreement between the supplier or brewer and distributor, authorizing sale by the distributor of that brand and product name within a designated area, and within that designated area the distributor shall not refuse to sell or offer reasonable service to licensed retailers during the normal business hours of the distributor. Where a supplier or brewer sells several brands and named products, the agreement need not apply to all brands and named products sold by the supplier or brewer and may apply to only one (1) brand and product name. No supplier or brewer shall provide by the written agreement for the distribution of a brand or named product of malt beverages to more than one (1) distributor for all or any part of the designated territory. Upon request, all territorial agreements shall be filed with the department.
- (2) Each distributor shall comply with current, written quality control standards as determined by the owner of the trademark of the brand of malt beverage, provided those controls are:

- (a) Normal industry practice;
 - (b) Reasonably related to the maintenance of quality control;
 - (c) Consistent with the provisions of this chapter and all administrative regulations promulgated under this chapter; and
 - (d) Communicated to the distributor through written notice of them from the owner.
- (3) A distributor may sell to only those licensed retailers, religious, charitable, or fraternal organizations located within its designated geographical territory as provided in this section and to the distributor's employees and to other distributors of the same brand. No brand or product name of malt beverage may be sold in the Commonwealth of Kentucky without prior written approval of the brewer and supplier filed with the department.
- (4) A territorial designation in any agreement between a distributor and brewer or supplier pursuant to this section shall be modified only in accordance with all the rights and duties of the distributor and brewer or supplier contained in any written agreement between them or by any other action of the brewer, supplier, or distributor that is consistent with the terms of their agreement, and this modification shall be filed pursuant to the provisions of this section. The board shall require each party to verify that the level of service within the designated territory will not be adversely affected by the modification. When a distributor is prevented from selling or servicing retailers within its territory due to natural disasters, labor disputes, or other causes beyond the distributor's control, the distributor may allow another distributor of the same brand or named product of malt beverages to sell and service that brand within its territory upon approval of the brewer or supplier.
- (5) No provisions of any agreement shall expressly or impliedly establish or maintain the resale price of any brand or product name of malt beverage by the distributor.

244.590 Brewer or distributor prohibited from offering certain inducements to retailers; brewer or distributor may furnish advertising matter or cleaning service to retailer; retailer not to demand violation of this section; sampling events not a violation of this section

- (1) No brewer or distributor shall induce through any of the following means any retailer selling malt beverages by the package or drink to purchase any malt beverages from that brewer or distributor to the exclusion in whole or in part of malt beverages sold or offered for sale by other persons:
- (a) By acquiring or holding, after the expiration of any existing license, any interest in any license with respect to the premises of the retailer;
 - (b) By acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of the retailer's business;
 - (c) By furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services, or other things of value, except as the malt beverages administrator, having regard for the public health, the quantity and value of the articles involved, the prevention of monopoly, and the practice of deception, may permit through the promulgation of an administrative regulation;
 - (d) By paying or crediting the retailer for any advertising, display, or distribution service subject to the exceptions that the board may permit through the promulgation of an administrative regulation;

- (e) By guaranteeing any loan or the repayment of any financial obligation of the retailer; or
 - (f) By requiring the retailer to take and dispose of a certain quota of any malt beverages.
- (2) Notwithstanding any provisions in KRS Chapters 241 to 244 and this section, a brewer or distributor may:
- (a) Give, rent, loan, or sell to any retailer selling malt beverages by the package or drink signs, posters, placards, designs, devices, decorations, or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail malt beverage establishment; and
 - (b) Provide or furnish draught-line cleaning or coil-cleaning service to a nonquota retail malt beverage package licensee either directly or indirectly with the consent of the distributor.
- (3) A retailer shall not require or demand that a brewer or distributor violate this section.
- (4) Sampling events conducted under KRS 243.0307(2)(d) shall not be a violation of this section.

244.600 Commercial bribery and other inducements unlawful

No brewer shall induce through any of the following means, any retailer selling malt beverages by the package or drink to purchase any malt beverage products from him or her to the exclusion in whole or in part of malt beverages sold or offered for sale by other persons, if the brewer engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in malt beverages:

- (1) By commercial bribery;
- (2) By offering or giving any bonus, premium, or compensation to any officer, employee, or representative of the retailer; or
- (3) By making or allowing any rebates or refunds to any officer, employee, or representative of the retailer.

244.602 Legislative findings for KRS 244.602 to 244.606

The General Assembly finds that KRS 244.602 to 244.606 are necessary in order to:

- (1) By commercial bribery;
- (2) By offering or giving any bonus, premium, or compensation to any officer, employee, or representative of the retailer; or
- (3) By making or allowing any rebates or refunds to any officer, employee, or representative of the retailer.
- (4) Sampling events conducted under KRS 243.0307(2)(d) shall not be a violation of this section.

244.604 Definitions for KRS 244.602 to 244.606

As used in KRS 244.602 to 244.606, unless the context requires otherwise:

- (1) “Distributor” means any person who distributes or sells at wholesale malt beverages for the purpose of being sold at retail.
- (2) “Existing distributor” means a distributor who distributes a particular brand or brands of malt beverage at the time a successor brewer or importer acquires rights to manufacture or import the particular brand or brands of malt beverage.
- (3) “Good cause” means failure by a distributor to comply with the provisions of an agreement as delineated therein, which provisions are not unconscionable. Good cause shall not include:
 - (a) The failure or refusal of the distributor to engage in any trade practice or activity which would violate federal or state law;
 - (b) The failure or refusal of the distributor to take any action which would be contrary to these provisions;
 - (c) The sale or purchase of a brewer or importer, except as provided under KRS 244.606(2); and
 - (d) The implementation by a brewer or importer of a national or regional policy of consolidation unless the policy:
 1. Is reasonable, nondiscriminatory, and essential;
 2. Results in a contemporaneous reduction in the number of a brewer’s or importer’s distributors not only for a brand in this state, but also for that brand in contiguous states or in a majority of the state in which the brewer or importer sells that brand; and
 3. Was previously disclosed in writing and in reasonable detail by the brewer or importer implementing the policy to all affected distributors at least one hundred eighty (180) days prior to the implementation of the policy.

The term “affected distributor” means distributors who may reasonably be expected to experience a loss or diminishment of a right to distribute a brand, in whole or in part as a consequence of a proposed consolidation policy.

- (4) “Good faith” means honesty in fact and the observance of reasonable commercial standard of fair dealing in the trade, as defined under KRS Chapter 355.
- (5) “Malt beverage” means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, exceeding five-tenths of one percent (0.5%) alcohol by volume.
- (6) “Successor” means a brewer or importer that acquires the right to manufacture or import a particular brand or brands of malt beverage.
- (7) “Successor’s designee” means one (1) or more distributors designated by a successor to replace the existing distributor, for all or part of the existing distributor’s territory, in the distribution of a particular

brand or brands of malt beverage.

244.605 Prohibition against requiring, requesting, or accepting payment of money for right to distribute brewer's or importer's malt beverages; exception for marketing costs

- (1) No brewer or importer of malt beverages shall:
 - (a) Require or request a distributor to pay or convey to the brewer or importer; nor
 - (b) Accept any sum of money; in exchange for the right to distribute the product or products of the brewer or importer in a designated territory.
- (2) Nothing in this section shall prohibit a brewer or importer of malt beverages from requesting a distributor to pay or contribute any sum of money for or toward the cost of marketing the product or products of the brewer or importer so long as the money contributed by the distributor is spent by the brewer or importer in a manner and at such times as agreed to in writing by the brewer or importer and the distributor.

244.606 Contents of agreement among brewer, importer, and distributor; conditions for transfer of brands from brewer or importer; conditions for termination; duties; damages

- (1) Every brewer and importer of malt beverages shall contract and agree in writing with each of its distributors to provide and specify the rights and duties of the brewer, the importer, and the distributor with and in regard to the sale of the products of the brewer or the importer within the Commonwealth of Kentucky. The terms and provisions of the contracts shall comply with and conform to KRS 244.602 to 244.606 and to all other applicable statutes.
- (2) If a particular brand or brands of malt beverage are transferred by purchase or otherwise from a brewer or importer, the successor brewer or importer, and the successor brewer's or importer's designee, shall comply with the following:
 - (a) The successor brewer or importer shall notify the existing distributor of the successor's intent not to appoint the existing distributor for all or a part of the existing distributor's territory for the product. The successor shall mail the notice of termination by certified mail, return receipt requested, to the existing distributor. The successor shall include in the notice the names, addresses, and telephone numbers of the successor's designees;
 - (b) A successor's designee shall negotiate with the existing distributor to determine the fair market value of the existing distributor's right to distribute the product in the existing distributor's territory immediately before the successor acquired rights to the particular brand or brands of malt beverage. For the purposes of this paragraph, fair market value shall be the value that would be determined in an arm's length transaction entered into without duress or threat of termination of the existing distributor's right and shall include all elements of value, including goodwill and going-concern value;
 - (c) The existing distributor shall continue to distribute the product until payment of the compensation agreed to under paragraph (b) of this subsection or awarded under paragraph (d) of this subsection is received;
 - (d) The successor's designee and the existing distributor shall negotiate in good faith. If the parties fail to reach an agreement not later than thirty (30) days after the existing distributor receives the

notice under paragraph (a) of this subsection, the successor's designee or the existing distributor may send a written notice to the other party and the American Arbitration Association, or its successor in interest, declaring the party's intention to proceed with final and binding arbitration administered by the American Arbitration Association under the American Arbitration Association's Commercial Arbitration Rules. Thereafter, an arbitration shall be held for the purpose of determining the fair market value of the existing distributor's right to distribute the product in the existing distributor's territory immediately before the successor acquired rights to the particular brand or brands of malt beverage. For the purpose of this paragraph, fair market value shall be the value that would be determined in an arm's length transaction entered into without duress or threat of termination of the existing distributor's right and shall include all elements of value, including goodwill and going-concern value;

- (e) Notice of intent to arbitrate shall be sent, as provided in paragraph (d) of this subsection, not later than thirty-five (35) days after the existing distributor receives notice under paragraph (a) of this subsection. The arbitration proceeding shall conclude not later than forty-five (45) days after the date the notice of intent to arbitrate is mailed to a party;
- (f) Any arbitration held pursuant to this subsection shall be conducted in the city within Kentucky that:
 - 1. Is closest to the existing distributor; and
 - 2. Has a population of more than twenty thousand (20,000);
- (g) Any arbitration held pursuant to this subsection shall be conducted before one (1) impartial arbitrator to be selected by the American Arbitration Association. The arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association;
- (h) An arbitrator's award in any arbitration held pursuant to this subsection shall be monetary only and shall not enjoin or compel conduct. Any arbitration held pursuant to this subsection shall be instead of all other remedies and procedures;
- (i) The cost of the arbitrator and any other direct costs of any arbitration held pursuant to this subsection shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them;
- (j) The arbitrator in any arbitration held pursuant to this subsection shall render a decision not later than thirty (30) days after the conclusion of the arbitration, unless this time period is extended by mutual agreement of the parties or by the arbitrator. The decision of the arbitration is final and binding on the parties. Under no circumstances may the parties appeal the decision of the arbitrator;
- (k) A party who fails to participate in the arbitration hearings in any arbitration held pursuant to this subsection waives all rights the party would have had in the arbitration and is considered to have consented to the determination of the arbitrator;
- (l) If the existing distributor does not receive payment from the successor's designee of the compensation under paragraph (b) or (d) of this subsection not later than thirty (30) days after the date of the settlement or arbitration award:
 - 1. The existing distributor shall remain the distributor of the product in the existing

distributor's territory to at least the same extent that the existing distributor distributed the product immediately before the successor's designee acquired rights to the product; and

2. The existing distributor is not entitled to the settlement or arbitration award;
 - (m) Nothing in this section shall be construed to limit or prohibit good-faith settlements voluntarily entered into by the parties; and
 - (n) Nothing in this section shall be construed to give the existing distributor or a successor's designee any right to compensation if the existing distributor or successor's designee is terminated by a brewer or importer pursuant to subsection (4) of this section.
- (3) The terms or provisions of any contract or agreement among any brewers, importers, or distributors, including contracts or agreements entered into after July 13, 2004, and any renewals or extensions of contracts existing prior to July 13, 2004, shall not permit a brewer or importer of malt beverages to, nor may any brewer or importer:
- (a) Terminate, refuse to renew, or refuse to enter into an agreement, in part or in whole, with a distributor, except for good cause and in good faith;
 - (b) Terminate, refuse to renew, or refuse to enter into an agreement, in part or in whole, with a distributor without first giving the distributor written notice of any alleged deficiency on the part of the distributor and giving the distributor a reasonable opportunity of sixty (60) to one hundred twenty (120) days to cure the alleged deficiency;
 - (c) Unreasonably withhold timely consent to a proposed sale or transfer, in part or whole, of the stock or assets of the distributor, and in no event shall the brewer take more than thirty (30) days to approve or disapprove the proposed sale or transfer after the brewer has received written notice of the proposal from the distributor and received all requested information from the distributor to enable the brewer to pass upon the proposed sale or transfer;
 - (d) Assign an agreement, in part or in whole, with a distributor, except with consent from the distributor which shall not be unreasonably withheld. No consent is required where the distributor has proposed to transfer an ownership interest in its business and the brewer exercises its right to purchase this ownership interest in accordance with a written agreement between the brewer and distributor, subject to the brewer or its designee purchasing the ownership interest at the price and on the conditions applicable to the proposed change.
 - (e) Enter into a contract with more than one (1) distributor to sell any of its products or brand within the same territory or area at the same time. This paragraph shall not apply to contracts entered into prior to January 1, 2004, or future renewals of such contracts, to the extent the existing contract and the future renewal allow different distributors to sell certain but not all of the brewer's or importer's brands or brand extensions within the same territory or area at the same time;
 - (f) Unilaterally amend its agreement, or any document referred to or incorporated by reference in its agreement, with any distributor, except modifications contemplated by the brewer-distributor agreement which modifications occur after written notice to the distributor or amendments that occur by a brewer after having consulted with an advisory panel of distributors;
 - (g) Terminate an agreement with a distributor because the distributor refuses or fails to accept an unreasonable amendment to the agreement proposed by the brewer or importer;

- (h) Require a distributor to arbitrate disputes which may arise between it and the brewer or the importer;
 - (i) Preclude a distributor from litigating in state or federal courts located in Kentucky or from litigating under the laws of the Commonwealth;
 - (j) Unreasonably discriminate or retaliate against its distributor in the application of the terms of a written agreement;
 - (k) Unreasonably fail to consent to the distributor's designation of an individual as the distributor's manager or successor-manager in accordance with nondiscriminatory and reasonable qualifications and standards; or
 - (l) Withdraw approval of an individual as the distributor's manager or successor-manager without just cause.
- (4) Notwithstanding the provisions in subsection (3) of this section, a brewer or importer of malt beverages may terminate an agreement with a distributor if any of the following occur:
- (a) The assignment or attempted assignment by the distributor for the benefit of creditors, the institution of proceedings in bankruptcy by or against the distributor, the dissolution or liquidation of the distributor, the insolvency of the distributor or the distributor's failure to pay for malt beverages in accordance with the agreed terms;
 - (b) Failure of any owner of the distributor to sell his or her ownership interest within one hundred twenty (120) days after the later of the owner having been convicted of a felony which, in the sole judgment of the brewer, may adversely affect the goodwill or interests of the distributor or the brewer, or the brewer learns of the conviction;
 - (c) Fraudulent conduct of the distributor in any of its dealings with the brewer or the brewer's products;
 - (d) Revocation or suspension for more than thirty-one (31) days of the distributor's federal basic permit or any state or local license required of the distributor for the normal operation of its business;
 - (e) Sale of malt beverages by a distributor outside its sales territory prescribed by the brewer in accordance with KRS 244.585; or
 - (f) Without brewer consent, the distributor engaging in changes in ownership or possession of ownership interests, the establishment of trusts or other ownership interest, entering into buy-sell agreements, or granting an option to purchase an ownership interest.
- (5) During the term of a contract or agreement between the brewer or importer and a distributor, including contracts or agreements in existence prior to July 13, 2004, the distributor shall, in accordance with the provisions of such contract or agreement, maintain physical facilities and personnel so that the product and brand of the brewer or importer are properly represented in the territory of the distributor, the reputation and trade name of the brewer or importer are reasonably protected, and the public is serviced. The brewer, importer, and distributor shall act in good faith at all times during the term of the contract or agreement.

- (6) Any brewer, importer, or distributor who violates any provision of this section shall pay the injured brewer, importer, or distributor all reasonable damages sustained by it as a result of the brewer's, importer's, or distributor's violations, together with the costs and attorney's fees incurred by the brewer, importer, or distributor in protecting its right. If a brewer or importer violates subsection (3)(a), (b), or (g) of this section, the injured distributor's reasonable damages shall be the fair market value of the distributor's business. In determining the fair market value of the distributor's business, proper and full consideration shall be given to all elements of value, including goodwill and going-concern value.

Products Containing Alcohol

244.650 Sale of confections or candies containing alcohol; sales to minors prohibited; labeling required

- (1) Notwithstanding any other provision of the statutes, confections or candies having a liquid filling or liquid center and containing more than one-half percent (0.5%) but not more than five percent (5%) of alcohol by volume or weight may be sold at premises whether or not licensed under the provisions of KRS 243.030 and 243.040.
- (2) No confection or candy described in this section shall be sold, given or delivered to any person under twenty-one (21) years of age. Any violation of this section shall be considered an unlawful transaction with a minor in the third degree pursuant to KRS 530.070.
- (3) No confection or candy described in this section shall be sold or offered for sale in this state unless the product has a prominently displayed label containing the statement: "SALE OF THIS PRODUCT TO PERSONS UNDER 21 YEARS OF AGE IS UNLAWFUL."

244.652 Prohibition of possession, sale, or use of powdered or crystalline alcoholic beverage products

No person shall possess, sell, offer for sale, or use any powdered or crystalline alcoholic beverage product.

Penalties

244.990 Penalties

- (1) Any person who, alone or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, the person shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association, fiduciary, limited liability company, or other business entity recognized by law, the principal officer or officers responsible for the violation may be imprisoned.
- (2) Any person who violates KRS 244.170 shall, upon the first conviction, be guilty of a Class A misdemeanor. Upon a second conviction the person shall be guilty of a Class D felony. Upon the third and each subsequent conviction, the person shall be guilty of a Class C felony.
- (3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be guilty of a violation.
- (4) Except as provided in subsection (7) of this section, any person, firm, corporation, limited liability

company, or other business entity recognized by law violating any provision of KRS 244.083 and 244.085 shall be guilty of a violation and each violation shall constitute a separate offense.

- (5) Except as provided in subsection (7) of this section, any person who violates the provisions of subsection KRS 244.085(4) shall, for the first offense, be guilty of a violation, and for each subsequent offense shall be guilty of a Class A misdemeanor.
- (6) Any person who violates KRS 244.125 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (7) For any person under the age of eighteen (18) years, a violation of KRS 244.085(1), (2), (3), (4), or (7) shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

244.992 Medical amnesty for persons reporting an alcohol overdose

- (1) A person shall be immune from prosecution for the criminal offenses identified in subsection
- (2) of this section if:
 - (a) A law enforcement officer has contact with the person because the person:
 1. Requests emergency medical assistance for himself or herself or another person;
 2. Acts in concert with another person who requests emergency medical assistance; or
 3. Appears to be in need of emergency medical assistance and is the individual for whom the request is made;
 - (b) The request is made for an individual who reasonably appears to be in need of medical assistance due to alcohol consumption; and
 - (c) The person described in paragraph (a) of this subsection, if physically capable:
 1. Provides his or her own full name if requested by emergency medical assistance personnel or law enforcement officers;
 2. Provides any other relevant information requested by the law enforcement officer that is known to such person;
 3. Remains with, or is, the individual who reasonably appears to be in need of medical assistance due to alcohol consumption until professional emergency medical assistance is provided; and
 4. Cooperates with emergency medical assistance personnel and law enforcement officers.
- (2) A person who meets the qualifications set forth in subsection (1) of this section shall be immune from criminal prosecution for the following offenses:
 - (a) Alcohol intoxication under KRS 222.202(1);
 - (b) Drinking alcoholic beverages in a public place under KRS 222.202(2);



- (c) Offenses related to possession of alcoholic beverages by a minor under twenty-one (21) years of age under KRS 244.085; and
- (d) Providing alcohol to minors under twenty-one (21) years of age or assisting minors under twenty-one (21) years of age to purchase alcohol under KRS 244.085 or 530.070.

TITLE 804 – PUBLIC PROTECTION CABINET – DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

CHAPTER 1 – ADVERTISING DISTILLED SPIRITS AND WINE

804 KAR 1:030. Prohibited alcoholic beverage advertisements

Section 1. Prohibited Advertising. An advertisement for any alcoholic beverage shall not:

- (1) Be false or misleading;
- (2) Disparage, slander, or libel a competitor's product;
- (3) Be obscene or indecent;
- (4) Represent the alcoholic beverage is produced, brewed, distilled, blended, made, bottled, or sold under or in accordance with any municipal, state, or federal authorization, law, or regulation; and if a municipal, state, or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto;
- (5) Contain representations about an alcoholic beverage brand or product which is inconsistent with any label statement;
- (6) Represent that the use of any alcoholic beverage has curative properties, therapeutic effects, good health benefits, weight reducing effects, muscle growth effects, or any other like representation if the representation is untrue in any particular or tends to create a misleading impression;
- (7) Advertise two (2) or more different alcoholic beverage brands or products in one (1) advertisement if the advertisement tends to create the impression that a representation made as to one (1) brand or product applies to the other;
- (8) Relate to or be capable of being construed as relating to the armed forces;
- (9) Depict any flag, seal, coat of arms, crest, or other insignia, which is likely to mislead a consumer to believe that the product has been endorsed, made, used by, produced for, or under the supervision or approval of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated;
- (10) Use the terms "free" or "complimentary" alcoholic beverages, or any other terms, which imply or suggest giveaways of alcoholic beverages unless the statement references permissible manufacturer or wholesaler coupons or limited samples that the licensee is authorized to serve under a license held;
- (11) Use the phrase "all-you-can-drink" "unlimited drinks" or any other phrase or terms that imply or suggest that a consumer will receive an unlimited number of alcoholic beverage drinks upon payment of a fee;

- (12) Take any action, directly or indirectly, to target minors in the advertising, promotion, or marketing of alcoholic beverage products, or take any action the primary purpose of which is to initiate, maintain, or increase the incidence of minor consumption of alcoholic beverages;
- (13) Offer or describe a product, service, or activity, that is prohibited by Kentucky law; or
- (14) Be prohibited by Federal law.

804 KAR 1:070. Product development and marketing samples

Section 1.

- (1) Product Samples to Retailers. Manufacturers, distributors, and wholesalers may provide free alcoholic beverage product samples to retailers under the following conditions:
 - (a) Samples shall be provided by an employee or agent of the manufacturer, distributor, or wholesaler. An employee or agent of a distiller, rectifier, winery, or wholesaler shall hold a Kentucky special agent's or solicitor's license;
 - (b) Samples shall be limited to alcoholic beverage products sold or produced by the manufacturer, distributor, or wholesaler;
 - (c) Drink samples may be provided to a retailer's agents and employees at the retailer's premises by the employee or agent in person; and
 - (d) Package samples, not exceeding the following quantity limits, may be shipped to the retailer's licensed premises through a common carrier holding a Kentucky transporter's license:
 1. 384 ounces of malt beverages per year;
 2. Nine (9) liters of wine per year; and
 3. Nine (9) liters of distilled spirits per year.
- (2) Any alcoholic beverage container used for drink or package samples shall be so marked by affixing across the label a sticker, not readily removable, stating, "Sample - Not for Sale, (manufacturer's, distributor's, or wholesaler's name)."
- (3) Package samples received by a retailer shall not be resold by the retailer and shall be destroyed when the retailer completes its sampling of the product.

Section 2. Educational Sampling Events for Retailers. A manufacturer, distributor, or wholesaler may conduct an educational meeting and provide free samples of alcoholic beverages for the purpose of introducing new products or packaging under the following conditions:

- (1) Educational meetings shall be held on licensed premises;
- (2) Guests invited to attend educational meetings shall be limited to retail licensees, their employees, and agents;
- (3) Only free hors d'oeuvres and drinks shall be served to invited guests;

- (4) Free samples of alcoholic beverages served to invited guests shall be limited to products sold by the manufacturer, distributor, or wholesaler;
- (5) Invited guests shall not take or keep any gift, favor, or alcoholic beverage packages from the premises where the educational meeting is conducted;
- (6) A manufacturer, distributor, or wholesaler may conduct tours of its licensed premises as part of an educational meeting held there; and
- (7) A manufacturer, distributor, or wholesaler conducting the event, and the licensee of the premise where the event is held, shall be jointly and severally liable for violations of the alcoholic beverage laws occurring during the event.

804 KAR 1:100. General advertising practices

Section 1. Definition. “Social media” means all forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content.

Section 2.

- (1) A licensee may use outdoor advertising.
- (2) If outdoor advertising is used by a manufacturer, producer, brewer, winery, distributor, or wholesaler, it shall not:
 - (a) Include a retail licensee’s name or business designation (DBA); or
 - (b) Refer to a retail licensee in any other way.

Section 3. A licensee may advertise in material directed to the home or business of a consumer if the advertising material is in conformity with KRS 244.130 and this administrative regulation.

Section 4.

- (1) Except as provided by subsections (2) and (3) of this section, advertising novelties may be used.
- (2) A licensee shall not require the purchase or consumption of an alcoholic beverage as a condition for the sale, gift, or reduction in price of an advertising novelty.
- (3) Except as provided by KRS 244.590(2)(a), a malt beverage distributor shall not sell, give away, or furnish advertising novelties, in any manner to a retail licensee.

Section 5. A licensee may advertise by means of radio and television.

Section 6. A licensee may advertise by means of the Internet and social media.

Section 7.

- (1) A licensee may sponsor or cosponsor athletic leagues, tournaments, contests, and charitable events if the consumption or purchase of alcoholic beverages is not a requirement for participation.
- (2) A licensee sponsoring or cosponsoring an event described in subsection (1) of this section upon a retail licensed premises shall not require the retail licensee to purchase, sell, or distribute the products of the sponsoring licensee as a condition for participation in or in connection with the event.



Section 8. A licensee shall not use the terms “free”, “complimentary”, or any other terms, which imply or suggest giveaways in the advertising of alcoholic beverages.

Section 9. A licensee shall not advertise a product, service, or activity if the licensee is prohibited by statute or administrative regulation from selling, providing, or conducting it.

804 KAR 1:110. Consumer sampling events

Section 1. Charity and Non-Profit Events.

- (1) Manufacturers, distributors, and wholesalers may participate in charity or non-profit events at which alcoholic beverages are served, under the following conditions:
 - (a) The event is held on licensed premises;
 - (b) The charity or non-profit organization obtains the alcoholic beverages to be served at the event by:
 1. Purchase under a special temporary drink license or special temporary alcoholic beverage auction license;
 2. Purchase from a retail licensee where the event is held; or
 3. Donations under a special temporary alcoholic beverage auction license; and
 - (c) The participation of manufacturers, distributors, and wholesalers is limited to addressing the attendees, distributing literature, and pouring and serving alcoholic beverage products of the manufacturer, distributor, and wholesaler.
- (2) Manufacturers, distributors, and wholesalers participating in charity and non-profit events shall be jointly and severally liable with licensed charities, non-profits, or retailers for violations of the alcoholic beverage control laws occurring during the event.

Section 2. Sampling License Events.

- (1) Manufacturers or wholesalers of distilled spirits or wine may participate in retailer sampling licensed events under the following conditions:
 - (a) The events occur at retail licensed premises where sampling licenses authorized by KRS 243.0307 are held;
 - (b) Manufacturers and wholesalers may provide their distilled spirits or wine products for sampling license events without cost to retailers holding sampling licenses in an amount not to exceed the wholesale cost of \$500 per retail licensee per annum;
 - (c) Retail licensees holding sampling licenses shall purchase all distilled spirits or wine for events from licensed wholesalers if not provided under the conditions established in subsection (1)(b) of this section; and
 - (d) The participation of manufacturers and wholesalers in sampling license events is limited to addressing the customers, distributing literature, and pouring and serving samples of their distilled spirits or wine products.



- (2) Participating manufacturers or wholesalers and retail licensees holding sampling licenses shall be jointly and severally liable for violations of alcoholic beverage control law occurring during sampling license events.

CHAPTER 2 – ADVERTISING MALT BEVERAGES

804 KAR 2:005. Outside signs

Section 1.

- (1) Illuminated and like signs, posters, placards, decorations, or graphic displays, which bear a trademark, trade name, trade slogan or facsimile of a product, container, or display, associated with a particular brand, are permitted upon the outside of the licensed premises.
- (2) Such outside signs as described in subsection (1) of this section may be given, rented, loaned, or sold to a retailer by an industry member engaged in the business as a brewer or distributor of malt beverages if they have no value to the retailer except as advertising. Provided, that the industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for the expense incidental to their operation.

CHAPTER 3 – FAIR TRADE; PRICING AND SALES

804 KAR 3:100. License may be suspended or revoked for accepting Supplemental Nutrition Assistance Program (SNAP) benefits for alcohol purchases

Section 1. Prohibition Against Alcoholic Beverage Sales Using SNAP Benefits. A licensee of the department shall not accept United States Department of Agriculture Supplemental Nutrition Assistance Program (SNAP) benefits in exchange for an alcoholic beverage.

CHAPTER 4 – LICENSING

804 KAR 4:015. Interlocking substantial interest between licensees prohibited

Section 1. Definitions.

- (1) “Manufacturer” means a person or entity who is a distiller, rectifier, winery, brewer, or who otherwise produces alcoholic beverages, whether located within or without this state.
- (2) “Retailer” means a person or entity who sells alcoholic beverages at retail, whether located within or without this state, excepting manufacturers with limited retail privileges or the right to hold certain retail licenses.
- (3) “Substantial interest” means:
 - (a) Membership in, or a direct or indirect ownership interest in, a business, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other legal entity, whether individually, or by a spouse, or in combination with a spouse, which amounts to ten

- (10) percent or greater of the total ownership or membership interests;
- (b) A common officer, director, manager, or employee with managerial responsibilities, in a business, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other legal entity;
 - (c) A common owner, partner, or member, including a spouse, the aggregate share of which is ten (10) percent or greater of the total ownership of, or membership in, a business, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other legal entity; or
 - (d) Any other direct or indirect interest which provides an ability to control or influence decisions by a business, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other legal entity.
- (4) “Wholesaler” means a person or entity who is a wholesaler, distributor, or who sells alcoholic beverages at wholesale, located within this state.

Section 2. A manufacturer shall not have or acquire a substantial interest in the establishment, maintenance, or operation of the business of a wholesaler or a retailer. A manufacturer shall not have or acquire, by ownership, leasehold, mortgage, or otherwise, directly or indirectly, a substantial interest in the premises of a retailer.

Section 3. A wholesaler shall not have or acquire a substantial interest in the establishment, maintenance, or operation of the business of a manufacturer or retailer. A wholesaler shall not have or acquire, by ownership, leasehold, mortgage, or otherwise, directly or indirectly, a substantial interest in the premises of a retailer.

Section 4. A retailer shall not have or acquire a substantial interest in the establishment, maintenance, or operation of the business of a manufacturer or wholesaler.

Section 5. The malt beverage administrator and distilled spirits administrator, as appropriate, shall examine every applicant for a new or renewal license to determine whether issuance or renewal of the license is prohibited under applicable law or this administrative regulation. If the issuance or renewal of the license is prohibited, the appropriate administrator shall not issue or renew the license.

Section 6. This administrative regulation shall not apply to:

- (1) Prohibit an affiliated business arrangement which meets the requirements provided in 804 KAR 4:280, Section 2;
- (2) A license issued prior to June 24, 2015, for any prohibited substantial interests resulting from the ownership interests of a spouse; or
- (3) A license issued prior to December 1, 1976.

804 KAR 4:100. Records to be retained

Section 1.

- (1) Pursuant to KRS 244.150(1), a licensee is required to keep on file on the licensed premises for a period of two (2) years, true and correct copies of:



- (a) All reports relating to trafficking in alcoholic beverages required by the federal government, the Kentucky Department of Revenue or the Kentucky Department of Alcoholic Beverage Control.
 - (b) Invoices, receipts and other pertinent information relating to the licensee's traffic in alcoholic beverages.
 - (c) Invoices, receipts and other pertinent information relating to the licensee's purchases and sales of food, if the licensee holds a license type which requires maintenance of minimum percent of its gross receipts from the sales in food.
- (2) All reports, invoices and other information shall be available at all reasonable times for inspection by authorized representatives of the Department of Revenue or the Kentucky Department of Alcoholic Beverage Control, and failure to make those available shall be deemed cause for revocation of the license.

Section 2. Every invoice for the sale of malt beverages from a malt beverage distributor to a retail beer licensee shall be signed by the retail beer licensee or its agent.

Section 3. A licensee functioning under the provisions of KRS 242.123 or 242.185 shall keep and maintain records in accordance with the provisions of this administrative regulation.

804 KAR 4:110. Dormant license renewal

Section 1.

- (1) Any wholesale, distributor, or retail license under which no business is transacted during a period of ninety (90) days shall be revoked by the Alcoholic Beverage Control Board or surrendered.
- (2) The provisions of subsection (1) of this section shall not apply to any licensee who is unable to continue in business at the licensed premises due to an act of God, casualty, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, acquisition by any private corporation through its power of eminent domain granted to it, whether such acquisition is voluntary or involuntary, loss of lease through failure of landlord to renew existing lease, court action or other verifiable business reason. The licensee shall apply to place the license in dormancy by furnishing to the Department of Alcoholic Beverage Control a verified statement setting forth the fact that the licensee is unable to continue in business at his licensed premises, for any of the reasons set forth herein prior to the discontinuance of business. The license shall continue to remain in effect during the license period or until it is transferred to another premises or person. No license shall be considered valid unless business is conducted thereunder within twelve (12) months from date of first notice to the board. The board may extend this dormancy period for up to an additional twelve (12) months for good cause shown.
- (3) Licenses placed in dormancy shall be renewed and renewal fees paid in the same manner as active licenses.
- (4) (a) If negotiations for a buy-out of a license privilege issued under KRS 243.030 or 243.040(3) may extend thirty (30) days beyond the date of expiration of the seller's license or licenses, then the distilled spirits administrator or the malt beverage administrator shall be notified in writing of the transaction or negotiations not less than ten (10) days prior to the expiration date of the license or licenses involved. The appropriate administrator may then extend the time for filing a renewal or application for the license or licenses for a reasonable length of time not to exceed sixty (60) days.

- (b) If a buy-out of an existing license privilege under KRS 243.030 or 243.040(3) extends over the renewal period and the license or licenses have not been renewed by the seller, the purchaser shall pay the annual license fee for the whole fiscal year or from the expiration date of the license privilege sought to be purchased, whichever is greater.
- (c) If a license privilege under KRS 243.030 or 243.040(3) qualifies under Section 2 of this administrative regulation, the purchaser of the privilege may place the license in dormancy in the manner provided by this administrative regulation.

Section 2. All licenses carried in a dormant status in the records of the Department of Alcoholic Beverage Control on the date this administrative regulation becomes effective shall be subject to the provisions of this administrative regulation. The time periods contained in this administrative regulation shall be calculated from the effective date of this administrative regulation for these licensees. The records of the board granting a license dormant status shall be prima facie evidence that the license is valid.

804 KAR 4:230. Extended hours supplemental licenses

Section 1. Extended Hours Supplemental License Sales Times. A licensee holding an Extended Hours Supplemental License (ESL) may engage in the retail sale of alcoholic beverages at the times and days set forth in subsections (1) and (2) of this section.

- (1) Nonquota type 1 licensees and qualified historical site licensees may sell alcoholic beverages each day of the week between 6:00 a.m. and midnight.
- (2) A commercial airlines system or charter flight system holding a nonquota type 1 license, or a retail licensee located within a commercial airport, may sell alcoholic beverages during the twenty-four (24) hours of every day.

804 KAR 4:250. Special temporary licenses

Section 1. Definition. “Organized civic or community-sponsored event” means a public gathering of broad appeal where citizens are invited and encouraged to attend without significant cost of admission that is sponsored or acknowledged by the city or county government in which the event is conducted, including any convention, conference, celebration, pageant, parade, festival, fair, public display, commemoration, or other type of public assemblage conducted for the benefit and enjoyment of the general public.

Section 2. An application for a special temporary license pursuant to KRS 243.260 shall be on a Special Temporary License Application form incorporated by reference in 804 KAR 4:410. The applicant shall complete and submit the form to the Department of Alcoholic Beverage Control no later than five (5) working days prior to the date for which the license is requested.

Section 3. An applicant for a special temporary license pursuant to KRS 243.260 shall provide by a sworn affidavit supplemental information as the board shall deem necessary for proper review of the application.

Section 4. For purposes of the issuance of special temporary licenses pursuant to KRS 243.260 necessity, in the opinion of the board, shall limit applicants to:

- (1) A regularly organized fair, exposition, racing association, nonprofit organization, or political campaign function; or

- (2) A for-profit individual, corporation, or organization if the license will be used in conjunction with an organized civic or community sponsored event.

Section 5. An application by for-profit individual, corporate, or organizational applicants for a temporary license in conjunction with an organized civic or community sponsored event shall submit written or documentary evidence of the civic nature of the event, including promotional materials or news articles evidencing the local government's knowledge of, and support for, the event for which the applicant seeks a temporary license.

804 KAR 4:270. Substantial part/staple groceries defined

Section 1. For the purpose of enforcing KRS 243.230(5) "substantial part of the commercial transaction" shall mean ten (10) percent or greater of the gross sales receipts as determined on a monthly basis.

Section 2. For the purpose of enforcing KRS 243.230(5) staple groceries shall be defined as any food or food product intended for human consumption except alcoholic beverages, tobacco, soft drinks, candy, hot foods and food products prepared for immediate consumption.

804 KAR 4:280. Affiliated businesses

Section 1. For the purpose of this administrative regulation an affiliated business of a distiller, rectifier, winery, wholesaler, brewer, or distributor is a corporate entity owned in whole or in part, directly or indirectly, by a corporation which itself also owns in whole or in part a corporation engaged in the business of distiller, rectifier, winery, wholesaler, brewer, or distributor.

Section 2. For the purposes of KRS 244.240 and KRS 244.570 the term "indirectly" shall not preclude an affiliated business of a distiller, rectifier, winery, wholesaler, brewer, or distributor from having an ownership or leasehold interest in a property for which a retail alcoholic beverage license is issued, provided all the following conditions are met:

- (1) The affiliated business is not a wholly owned subsidiary of a distiller, rectifier, winery, wholesaler, brewer, or distributor.
- (2) The affiliated business does not wholly own a business entity engaged in the business of distiller, rectifier, winery, wholesaler, brewer, or distributor.
- (3) The affiliated business is not engaged in any manner in the business of distiller, rectifier, winery, wholesaler, brewer, or distributor.
- (4) The affiliated business does not itself hold any retail licenses.
- (5) The affiliated business and the distiller, rectifier, winery, wholesaler, brewer, or distributor shall have separate management and in no case shall the affiliated business and the distiller, rectifier, winery, wholesaler, brewer, or distributor have more than twenty-five (25) percent of their officers or directors in common.

Section 3. The provisions of this administrative regulation in no manner relieve any distiller, rectifier, winery, wholesaler, brewer, or distributor from the provisions of KRS 244.240, 244.590 and 244.600.



804 KAR 4:330. Procedures for violations of KRS 244.165

Section 1.

- (1) If the department finds probable cause that a first offense violation of KRS 244.165 has occurred, it shall:
 - (a) Issue an administrative citation to the alleged violator; and
 - (b) Conduct a hearing on the charge in accordance with KRS Chapter 13B.
- (2) If the board determines that a violation occurred, it shall issue a cease and desist order to the violator.

Section 2. In a proceeding brought pursuant to KRS 244.165, the department shall bear the burden of proving that the alleged violation was accompanied by the following mental state:

- (1) Willful;
- (2) Intentional; or
- (3) Reckless.

Section 3. A person found to have willfully, intentionally, or recklessly committed a second or subsequent violation of KRS 244.165, shall be referred to the Commonwealth's Attorney for criminal prosecution in the county of venue.

804 KAR 4:370. Entertainment destination center license

Section 1. Definition. "Entertainment destination center" or "EDC" means premises:

- (1) That meet the incentive qualifications for an entertainment destination center project as set forth in KRS 148.853(2)(b)1.;
- (2) Located in a wet county or city that has enacted an ordinance that:
 - (a) Determines an entertainment destination center licensed premises would aid economic growth and tourism in the county or city; and
 - (b) Defines the geographic boundaries of the EDC; or
- (3) That contain a minimum of 100,000 square feet of building space, located within one (1) mile of:
 - (a) An existing tourism attraction; or
 - (b) A convention center.

Section 2. Sales by EDC Licensee. An EDC licensee may sell alcoholic beverages by the drink at one (1) or more nonpermanent locations within any common area of the EDC.

Section 3. Sales by Other Licensed Businesses.

- (1) Each business located within an EDC that sells alcoholic beverages shall hold the necessary alcoholic beverage license or licenses for its premises.



- (2) A licensee within or adjacent to the EDC may sell alcoholic beverages from one (1) or more nonpermanent locations within any common area of the EDC if:
 - (a) The licensee holds a supplemental bar license for each nonpermanent location; and
 - (b) The licensee holds written permission for these sales by the EDC licensee.

Section 4. Drink Consumption in Common Areas and Other Licensed Premises.

- (1) A licensee located in or adjacent to the EDC may allow patrons to leave its premises with alcoholic beverage drinks and consume those drinks at other licensed premises or any EDC common area if the EDC licensee:
 - (a) Possesses the common area by deed, lease, or permit;
 - (b) Provides adequate security for the common area;
 - (c) Ensures that any portion of a public thoroughfare included in a common area is controlled in a manner that ensures public safety and pedestrian protection from vehicular traffic; and
 - (d) Has granted written permission for this conduct.
- (2) The EDC licensee shall prohibit patrons from taking alcoholic beverages outside the physical boundaries of the EDC.
- (3) If the board suspends or revokes the EDC license, all retail drink sales and consumption in any EDC common area shall be prohibited.

Section 5. Minors in the Common Area. In addition to authorized businesses listed in KRS 244.085(5) and (6), minors shall be permitted in EDC common areas if allowed by the EDC licensee.

Section 6. Additional Storage Location. As permitted by the EDC licensee in a written agreement, a licensee located in the EDC may store alcoholic beverages at an identified storage location in the EDC separate from its licensed premises.

804 KAR 4:390. License renewals

Section 1. Definition. “Batch renewal” means the simultaneous renewal of multiple licenses held by a licensee for more than two (2) premises.

Section 2. Monthly Renewal Schedule.

- (1) All licenses in Ballard, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Cumberland, Daviess, Edmonson, Fulton, Graves, Grayson, Green, Hancock, Hardin, Hart, Henderson, Hickman, Larue, Livingston, Lyon, Marshall, McCracken, McLean, Meade, Metcalfe, Monroe, Ohio, Owen, Spencer, Trigg, Trimble, Union, and Webster Counties shall have an annual term beginning February 1 and ending January 31 of the following year and shall be renewed in the month of January by submitting the renewal application by January 31.
- (2) All licenses in Adair, Allen, Barren, Bath, Bell, Boyle, Breathitt, Casey, Clark, Clay, Clinton, Elliott, Estill, Fleming, Floyd, Garrard, Harlan, Harrison, Hopkins, Jackson, Jessamine, Johnson, Knott,



Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lincoln, Logan, Madison, Magoffin, Marion, Martin, McCreary, Menifee, Mercer, Montgomery, Morgan, Muhlenberg, Nelson, Owsley, Perry, Powell, Pulaski, Rockcastle, Russell, Simpson, Taylor, Todd, Warren, Washington, Wayne, and Whitley Counties shall have an annual term beginning May 1 and ending April 30 of the following year and shall be renewed in the month of April by submitting the renewal application by April 30.

- (3) All licenses in Anderson, Bourbon, Boyd, Bracken, Carroll, Carter, Franklin, Gallatin, Grant, Greenup, Henry, Lewis, Mason, Nicholas, Oldham, Pendleton, Pike, Robertson, Rowan, Scott, Shelby, Wolfe, and Woodford Counties shall have an annual term beginning July 1 and ending June 30 of the following year and shall be renewed in the month of June by submitting the renewal application by June 30.
- (4) All licenses in Jefferson County shall have an annual term beginning November 1 and ending October 31 of the following year and shall be renewed in the month of October by submitting the renewal application by October 31.
- (5) All licenses in Boone, Campbell, Fayette, and Kenton Counties shall have an annual term beginning December 1 and ending November 30 of the following year and shall be renewed in the month of November by submitting the renewal application by November 30.
- (6) The license of a statewide or out-of-state licensee shall have an annual term beginning January 1 and ending December 31 of the same year and shall be renewed in December by submitting the renewal application by December 31.

Section 3. Batch Renewals.

- (1) A licensee that holds multiple licenses for more than two (2) premises may renew the licenses by batch at the same time. To complete a batch renewal, a licensee shall notify the department in writing.
- (2) All batch renewals shall have an annual term beginning September 1 and ending August 31 of the following year and shall be renewed in August by submitting the renewal application by August 31.
- (3) Unless a licensee notifies the department of its intent to renew premises licenses by batch renewal, licenses shall be renewed pursuant to Section 2 of this administrative regulation.

Section 4. Renewal of Producer Licenses with Maximum Production Limits.

- (1) The following licensees shall, for the dates identified on the renewal application, submit:
 - (a) For Small Farm Wineries, the federal Report of Wine Premises Operation, TTB F 5120.17;
 - (b) For Microbreweries, the federal Brewer's Report of Operations, TTB F 5130.9;
 - (c) For Class B Craft Distilleries, the federal Monthly Report of Production Operations, TTB F 5110.40; and
 - (d) For Class B Craft Rectifiers, the federal Monthly Report of Processing Operations, TTB F 5110.28.
- (2) The department may deny a license renewal application if the licensee exceeds a production limit, fails to meet required food sales percentages, or if the license renewal would otherwise be contrary to law.

Section 5. Renewal Grace Period. If a licensee fails to renew its license by the expiration date, the department shall grant not more than one (1) extension that shall not exceed thirty (30) days from the original expiration date. The licensee shall not conduct any activity related to alcoholic beverages during the extension. A license not renewed during the thirty (30) day extension period shall not be renewed thereafter for any reason, and the licensee shall apply for a new license.

804 KAR 4:400. Applications incorporated by reference

Section 1. Online Application for Alcoholic Beverage License.

- (1) Except as established in Section 3 of this administrative regulation. An applicant for an alcoholic beverage license shall complete the online application process and submit it electronically at the Online eServices Portal: <https://dppweb.ky.gov/eservices/>.
- (2) To renew a license pursuant to KRS 243.090 and 804 KAR 4:390, a licensee shall complete the online renewal application process and submit it electronically at the Online License Renewal Portal-KYBOS: <http://abc.ky.gov/Licensing/Pages/default.aspx>.

Section 2. Transfer of Ownership Interest Application. (1) A buyer seeking to acquire, or a licensee seeking to transfer ten (10) percent or more ownership interest in a licensed business shall complete and submit the Transfer of Ownership Interest Application for ownership interest transfers between legally recognized entities, where the licensee will remain the same.

- (2) Although a licensee is not required to file an application for ownership interest transfers of less than ten (10) percent, a licensee shall notify the department in writing of all ownership interest transfers of less than ten (10) percent of the licensed business.

Section 3. Written Application for Alcoholic Beverage License. If unable to complete an online application, an applicant shall complete and submit the appropriate application for the license type listed in subsections (1) to (8) in this section:

- (1) Basic License Application;
- (2) License Renewal Application;
- (3) Transporter's License Application;
- (4) Out-of-State Supplier License Application;
- (5) Special Agent's or Solicitor's License Application;
- (6) Special Temporary License Application;
- (7) Additional License(s) Application; or
- (8) Transfer of Ownership Interest Application.

Section 4. Incorporation by Reference.

- (1) The following material is incorporated by reference:

- (a) “Basic License Application” June 2017;
 - (b) “License Renewal Application” June 2017;
 - (c) “Transporter’s License Application” June 2017;
 - (d) “Out-of-State Supplier License Application” June 2017;
 - (e) “Special Agent’s or Solicitor’s License Application” June 2017;
 - (f) “Special Temporary License Application” June 2017;
 - (g) “Additional License(s) Application” June 2017;
 - (h) “Transfer of Ownership Interest Application” June 2017;
 - (i) “Online eServices Portal” June 2017; and
 - (j) “Online License Renewal Portal-KYBOS” June 2017.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 500 Mero St 2NE33, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department’s Web site, <http://www.abc.ky.gov/>.

804 KAR 4:410. Product registration and forms

Section 1. Product Registration. Licensees required to register product brands and flavors shall use the Online Product Registration Portal to complete the online registration process at: <https://www.productregistrationonline.com/GetStarted/Ky#selectPermit>.

Section 2. Forms. A person shall complete and submit the following additional forms as needed or requested by the department:

- (1) Dormancy Request Form;
- (2) Non-Transfer Affidavit Form;
- (3) Credit/Debit Payment Form;
- (4) Refund Request Form;
- (5) Law Book Order Form;
- (6) Speaker Request Form;
- (7) Minors on Premises Request Form; and
- (8) Private Event Request Form.



Section 3. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) “Online Product Registration Portal” June 2017;
 - (b) “Dormancy Request Form” June 2017;
 - (c) “Non-Transfer Affidavit Form” June 2017;
 - (d) “Credit/Debit Payment Form” June 2017;
 - (e) “Refund Request Form” June 2017;
 - (f) “Law Book Order Form” June 2017;
 - (g) “Speaker Request Form” June 2017;
 - (h) “Minors on Premises Request Form” June 2017; and
 - (i) “Private Event Request Form” June 2017.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 500 Mero St 2NE33, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department’s Web site: <http://www.abc.ky.gov>.

CHAPTER 5 – CONDUCT OF BUSINESS; EMPLOYEES

804 KAR 5:060. Entertainment requirements

Section 1. No licensee shall knowingly or willfully allow in, upon or about his licensed premises lewd, immoral or obscene entertainment, activities or advertising materials including, but not limited to public display of actual or simulated sex acts, or the fondling or touching of genitalia or of the female breast.

804 KAR 5:070. Minors

Section 1. Definitions.

- (1) “Barber shop” means an establishment licensed under KRS Chapter 317, at which the practice of barbering is conducted.
- (2) “Bed and Breakfast” is defined by KRS 241.010(5).
- (3) “Bowling alley” means a building containing several lanes for the sport of tenpin bowling.
- (4) “Commercial airplane” means an airplane used by a commercial airlines system or charter flight system for regularly scheduled or charter flights.
- (5) “Commercial airport” is defined by KRS 241.010(15).
- (6) “Department store” means a retail establishment offering consumer goods for sale and including but not limited to clothing, furniture, jewelry, cosmetics, and other similar products.
- (7) “Designated drinking area” means an area containing a bar, counter, or similar structure, where employees prepare and serve alcoholic beverages to customers, that is separated from the remainder of the premises by a barrier and that has no more than two (2) entrances and exits accessible from the remainder of premises. The designated drinking area may contain employee access by keyed entry and emergency exits equipped with crash bars.
- (8) “Museum” means a building or place where works of art, scientific specimens, or other objects of cultural value are stored and exhibited.
- (9) “Not-for-profit event” means an activity of limited duration organized and conducted by a charity or not-for-profit organization for fundraising or other purposes.
- (10) “Organized civic or community-sponsored event” is defined by 804 KAR 4:250, Section 1.
- (11) “Paint and Sip business” means a business that provides paid group painting lessons accompanied by alcoholic beverages.
- (12) “Qualified historic site” is defined by KRS 241.010(47).
- (13) “Riverboat” is defined by KRS 241.010(54).
- (14) “Salon and Spa” means an establishment licensed under KRS Chapter 317A at which cosmetology, nail technology, or esthetic practices are conducted.

(15) “Train” means a railroad locomotive and cars used by a railroad system.

Section 2. Business Types that Can Adequately Monitor and Prevent Alcohol Sales to Minors. Pursuant to KRS 244.085(5)(a) and in addition to the business types identified in KRS 244.085(5)(a) and Section 3 of this administrative regulation, the board determines that the operations of the following specific business types allow them to adequately monitor and prevent alcohol sales to minors and that they may permit minors to remain on their licensed premises if operating as a:

- (1) Barber shop;
- (2) Bed and breakfast;
- (3) Bowling alley;
- (4) Charity conducting a not-for-profit event;
- (5) Commercial airplane;
- (6) Commercial airport;
- (7) Department store;
- (8) Museum;
- (9) Paint and sip business;
- (10) Qualified historic site;
- (11) Riverboat;
- (12) Salon and spa;
- (13) Train;
- (14) Vendor operating at an organized civic or community-sponsored event; or
- (15) Business whose alcoholic beverage sales do not exceed fifty (50) percent of its gross sales.

Section 3. Premises with Designated Drinking Areas. In addition to the businesses identified in KRS 244.085(5)(a) and Section 2 of this administrative regulation, a licensee may permit minors to remain on licensed premises where alcoholic beverages are sold by the drink or consumed if the licensee only conducts drink sales and permits consumption in a designated drinking area from which minors are excluded.

Section 4. Permissive Exclusion of Minors. Notwithstanding the provisions of KRS 244.085(5)(a) and Sections 2 and 3 of this administrative regulation, a licensee may exclude minors from parts or all of its premises.

Section 5. Minors on Premises Sign. Every licensee selling alcoholic beverages by the drink for consumption on premises where minors are prohibited, or in a designated drinking area where minors are prohibited, shall display at all times, in a prominent place near the entrance to the premises or designated drinking area where minors are prohibited, a printed card at least eight (8) inches x eleven (11) inches in size which shall read, in 100 point or larger type, substantially as follows: NO PERSONS UNDER 21 ALLOWED.

804 KAR 5:080. Vintage distilled spirits

Section 1. Definition.

- (1) “Vintage distilled spirits seller”:
 - (a) Means a non-licensed person at least twenty-one (21) years of age who is:
 1. An administrator, executor, receiver, or other fiduciary who receives and sells vintage distilled spirits in execution of fiduciary capacity;
 2. A creditor who receives or takes possession of vintage distilled spirits as security for, or in payment of, debt, in whole or in part;
 3. A public officer or court official who levies on vintage distilled spirits under order or process of any court or magistrate to sell same in satisfaction of the order or process; or
 4. Any other person not engaged in the business of selling alcoholic beverages who receives and sells vintage distilled spirits packages on an occasional basis in an amount of twenty-four (24) vintage distilled spirits packages or less in the preceding twelve (12) months; and
 - (b) Does not mean:
 1. A person selling alcoholic beverages as part of an approved KRS 243.630 transfer; or
 2. A person selling alcoholic beverages as authorized by KRS 243.540.

Section 2. Retailer Purchases of Vintage Distilled Spirits.

- (1) A licensed retailer authorized to purchase vintage distilled spirits for resale shall purchase all vintage distilled spirits in person at its licensed premises.
- (2) At the time of purchase, the licensee shall immediately place a conspicuous sticker, not readily removable, on the bottle or container of any purchased vintage distilled spirits package stating “Vintage Distilled Spirit”.

Section 3. Notice. Prior to selling vintage distilled spirits purchased from a vintage distilled spirits seller to a consumer, a licensee shall provide written notice of its purchase of the spirits by mail to the Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, or by email to vintagespirits@ky.gov. The notice shall contain the following information:

- (1) The name, address, state license number, and phone number of the licensee purchasing vintage distilled spirits;
- (2) The name, address, and phone number of the vintage distilled spirits seller;
- (3) The brand name and quantity of each vintage distilled spirits package purchased;
- (4) The date of the purchase; and



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

Section 4. Federal Law. This administrative regulation shall not exempt a person from obeying any applicable federal laws.

CHAPTER 6 – ALCOHOLIC BEVERAGE CONTROL BOARD

804 KAR 6:020. Advisory opinions

Section 1. Definitions.

- (1) “Advisory Opinion” means a ruling by the Department that addresses questions or issues properly submitted for consideration as required by Sections 2, 3, and 7 of this administrative regulation.
- (2) “Department” is the Department of Alcoholic Beverage Control as defined by KRS 241.010(21).
- (3) “Person” is defined by KRS 446.010(33).

Section 2. Request for Advisory Opinion. (1) Any person may request, in writing, an advisory opinion concerning the application and interpretation of alcoholic beverage control statutes and administrative regulations with regard to a particular act or transaction that the requestor is taking or plans to take. Requests presenting a general question of interpretation, posing a hypothetical situation, involving the activities of third parties, or that implicate the subject of an investigation, pending case, or disciplinary action, shall not be considered.

- (2) The department may issue an advisory opinion on its own initiative.

Section 3. Form of Request.

- (1) The request shall be submitted on the Advisory Opinion Request Form and contain the following:
 - (a) A clear and concise statement of all facts relevant to the request;
 - (b) Citation to all applicable and relevant statutes, administrative regulations, decisions, orders, other written statements of law or interpretation, or any other persuasive or controlling authority that relates to the request;
 - (c) A clear and concise statement of each and every question to be addressed;
 - (d) The requestor’s proposed response to each question presented, including a summary of the rationale for the proposed response;
 - (e) Any documentation, research, or other evidence related to the request; and
 - (f) A statement indicating whether, to the requestor’s knowledge or belief, the requested questions or issues is pending before, under investigation by, or recently determined by any court of law or governmental entity.
- (2) The request shall be signed by one (1) or more persons, with each signer’s mailing address, telephone number, and email address clearly indicated. If a person signs on behalf of a corporation, limited liability company, association, or any other legal entity, the name of the entity, the address, telephone number, and email address of the entity or point of contact shall be included. The signer shall date the request.



- (3) The request shall be submitted by mail or by email to the Commissioner of the Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, email abc.advisory@ky.gov.
- (4) If the request is deficient under Section 2 or 3 of this administrative regulation, the requesting person shall be notified of the deficiency within ten (10) business days of receipt.
- (5) If the request meets the criteria of Sections 2 and 3 of this administrative regulation, the department shall assign the request an advisory opinion request (AOR) number and publish the request on the department's Web site.

Section 4. Consideration.

- (1) The department may schedule an informal meeting between the requestor, any interested persons, and department representatives to present information and discuss questions raised. A final decision shall not be made at an informal meeting.
- (2) In rendering an advisory opinion, the department shall consider:
 - (a) All material submitted with the request; and
 - (b) Comments received in accordance with Section 6 of this administrative regulation.
- (3) In rendering an advisory opinion, the department may:
 - (a) Consult experts or other individuals with knowledge of the substance of the request;
 - (b) Require verification of information; and
 - (c) Request additional documentation from the requestor.

Section 5. Issuance or Refusal to Issue an Opinion. The department shall issue an advisory opinion within ninety (90) days after receipt of the request, unless one (1) of the following applies:

- (1) Lack of jurisdiction over any of the questions or issues presented by the request;
- (2) Any of the questions or issues presented are pending before a board, governmental entity, or court of law that may definitively decide the questions or issues;
- (3) Any of the questions presented by the request would be more appropriately resolved in a different proceeding or forum;
- (4) Any of the facts or questions presented in the request are unclear, overbroad, insufficient, or otherwise inappropriate;
- (5) Any of the questions or issues raised in the request become moot;
- (6) The request seeks a determination of the constitutionality of a statute, administrative regulation, or practice;
- (7) Issuance of an opinion will not be in the public interest; or



- (8) The department extends the time period to issue advisory opinion.

Section 6. Written Comments on Request.

- (1) Any interested person or party may submit written comments concerning a request for an advisory opinion by using the Advisory Opinion Request Form and identifying the AOR number associated with the request.
- (2) Written comments shall be submitted by mail or email in the manner outlined in Section 3 of this administrative regulation no later than fourteen (14) business days following the date the request is made public by the department.
- (3) The department may extend the written comment period.

Section 7. Reconsideration.

- (1) The department may revise any advisory opinion if circumstances warrant a revision. In doing so, the department shall issue a revised opinion in accordance with Sections 2 through 6 of this administrative regulation, including an explanation of the rationale for the change or revision of the original opinion.
- (2) Any person may request the department to reconsider or revise a advisory opinion using the Advisory Opinion Request Form that identifies the AOR number associated with the advisory opinion.
- (3) The request for reconsideration shall be submitted by mail or email in the manner outlined in Section 3 of this administrative regulation no later than ten (10) business days following the publication of the opinion and contain the following:
 - (a) A clear and concise statement of the grounds for the reconsideration request;
 - (b) The proposed conclusion with a summary of the rationale supporting the proposed conclusion;
 - (c) Any statute, administrative regulation, document, order, or other statement of law or policy that supports the requested reconsideration with an explanation of the relevance of the material offered; and
 - (d) A statement of adverse impact, if any, resulting from the published advisory opinion.

Section 8. Publication of Advisory Opinions.

- (1) All advisory opinions shall be public. The department shall publish and maintain all advisory opinions. Publication shall be made by making a hard copy available for inspection and by placing the entire opinion on the department's Web site.
- (2) An index of all final published advisory opinions shall be maintained by the Department. The index shall include the subject of each opinion, its publication date, and any changes effectuated by the opinion.

Section 9. Incorporation by Reference.

- (1) "Advisory Opinion Request Form" June 2017, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the



Kentucky Department of Alcoholic Beverage Control, 500 Mero St 2NE33, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, <http://www.abc.ky.gov/>.

CHAPTER 7 – RETAIL PREMISES

804 KAR 7:020. Alcoholic beverage inventory during prohibited alcoholic beverage sales period

Section 1. Definition. "Locked department" means any area, including rooms, windows, displays, show cases, and shelves, which contains alcoholic beverage inventory and which is secured by a lock and key so that consumers do not have access to the inventory. Locked departments may have sliding or hinged doors or nets and be constructed of any material which prevents consumer access to alcoholic beverage inventory.

Section 2. Alcoholic Beverage Inventory During License Suspension. During the period a retail licensee is prohibited from selling alcoholic beverages pursuant to a license suspension, all alcoholic beverage inventory shall be kept in a separate, locked department or the licensed place of business shall be closed.

Section 3. Inventory Following License Revocation. During the period in which a former retail licensee is permitted to possess and transfer alcoholic beverage inventory pursuant to KRS 243.540(2), all alcoholic beverage inventory shall be kept in a separate, locked department, or the place of business shall be closed, until the alcoholic beverage inventory is actually transferred.

CHAPTER 8 – TRANSPORTATION OF ALCOHOLIC BEVERAGES

804 KAR 8:050. Identification of vehicles used to transport alcoholic beverages

Section 1. Vehicle Identification.

- (1) Except for a common carrier that has been assigned a USDOT number issued by the Federal Motor Carrier Safety Administration, licensed manufactures, wholesalers, distributors, retailers, and transporters shall display the licensee's name and license number on all vehicles used to transport alcoholic beverages.
- (2) The display required by subsection (1) of this section shall be:
 - (a) Painted, magnetic, or adhesive decals or lettering in a color that contrasts with the color of the vehicle; and
 - (b) Placed upon the right and left windows or sides of the vehicle in letters that are at least one (1) inch tall.

Section 2. Vehicle Inspections. Except for a common carrier that has been assigned a USDOT number issued by the Federal Motor Carrier Safety Administration, a vehicle used by a licensee to transport alcoholic beverages shall be subject to a stop and inspection of the vehicle and its contents at any time by authorized department investigators without first obtaining a search warrant.

CHAPTER 10 – LOCAL ADMINISTRATORS

804 KAR 10:010. Appointment notification of local administrator

Section 1. Definition. “Local administrator” is defined by KRS 241.010(36).

Section 2. Notification procedure. A local administrator appointed under KRS Chapter 241 shall submit the following documents to the department within thirty (30) days of appointment:

- (1) A letter, resolution, or ordinance evidencing the local administrator’s appointment or the county judge/executive’s acceptance of the position; and
- (2) Written certification that the oath prescribed by Section 228 of the Kentucky Constitution has been administered to the local administrator.

804 KAR 10:031. Local government regulatory license fees

Section 1. Definition. “Qualified city or county” means a city on the registry maintained by the Department for Local Government under KRS 243.075(9)(b), a county containing a city on the registry, or a city or county that had been previously permitted to issue regulatory license fees.

Section 2. Allowable Costs and Expenses. The costs and expenses subject to reimbursement through a regulatory license fee shall directly and solely relate to the discontinuance of prohibition in the qualified city or county, including reasonable costs and expenses of:

- (1) Employment, salary, and benefits of the city or county alcoholic beverage control administrator and staff who administer alcoholic beverage control laws;
- (2) Office supplies and equipment for the city or county to administer an alcoholic beverage control office;
- (3) Office space for an alcoholic beverage control administrator and staff;
- (4) Travel costs and expenses for the city or county alcoholic beverage control administrator and staff;
- (5) Additional policing expenses that are directly related to the discontinuance of prohibition, which shall include only those costs and expenses incurred solely as a result of the discontinuance of prohibition that are over and above any policing expenses previously incurred; and
- (6) Miscellaneous costs and expenses solely and directly related to the discontinuance of prohibition, if the following information is included on the Calculation Form for Alcohol Regulatory Fee in First Year Following Repeal of Prohibition:
 - (a) A description of the expenditure;
 - (b) A detailed explanation of the necessity of the expenditure as it related to the discontinuance of prohibition; and
 - (c) The cost of the expenditure.

Section 3. A qualified city or county shall use the Calculation Form for Alcohol Regulatory Fee in First Year



Following Repeal of Prohibition to estimate permissible expenses and to establish the fee.

Section 4. The Calculation Form for Alcohol Regulatory Fee in First Year Following Repeal of Prohibition used by a qualified city or county to determine permissible regulatory fees shall be retained pursuant to 725 KAR 1:061.

Section 5. Incorporation by Reference.

- (1) “Calculation Form for Alcohol Regulatory Fee in First Year Following Repeal of Prohibition” August 2014, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 500 Mero St 2NE33, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department’s Web site, <http://www.abc.ky.gov>.

804 KAR 10:040. Cities with quotas for quota retail package licenses in excess of statutory default quotas

Section 1. Listing of Specific City Quotas. The following wet cities shall have the following specific quotas for quota retail package licenses:

- (1) Pikeville shall have a quota of thirteen (13) quota retail package licenses.
- (2) Central City shall have a quota of four (4) quota retail package licenses.
- (3) Lancaster shall have a quota of three (3) quota retail package licenses.
- (4) Paintsville shall have a quota of three (3) quota retail package licenses.
- (5) Somerset shall have a quota of ten (10) quota retail package licenses.

CHAPTER 11 – MALT BEVERAGE EQUIPMENT, SUPPLIES, AND SERVICE

804 KAR 11:010. Equipment and supplies

Section 1. General Prohibition. A brewer or distributor shall not furnish equipment to a retail malt beverage licensee except as authorized by this administrative regulation.

Section 2. Draft Equipment.

- (1) A brewer or distributor may furnish to a retail licensee that sells draft malt beverages:
 - (a) Tapping accessories;
 - (b) Rods;
 - (c) Vents;
 - (d) Taps;
 - (e) Hoses;
 - (f) Washers;
 - (g) Couplings;
 - (h) Vent tongues;
 - (i) Check valves; and
 - (j) Tap knobs.
- (2) A tap knob, or similar device, bearing a brand name may only be used to dispense malt beverages of that brand name.

Section 3. Special Temporary Licensees.

- (1) A brewer or distributor may furnish vats, tubs, tanks, or portable dispensing units to special temporary licensees, picnics, bazaars, carnivals, and other similar types of events.
- (3) The equipment may bear advertising associated with a particular brand that is visible to the consumer.

Section 4. Leased Equipment. A brewer or distributor may lease equipment and supplies to retail licensees in accordance with commercially reasonable terms.

Section 5. Prior Administrative Regulation. A brewer or distributor shall not be in violation of KRS 244.590 if the brewer or distributor furnished a refrigerated cooler to a retailer between July 15, 2016 and January 1, 2018 if in conformity with the requirements of this administrative regulation that were then in existence.

804 KAR 11:040. Growlers

Section 1. Definition. “Growler” means a refillable, resealable vessel no larger than two (2) liters with a flip-top or screw-on lid into which a malt beverage is prefilled, filled, or refilled for off-premises consumption. “Growler” shall not mean a vessel of similar size or capacity that is primarily used for the storage of other non-alcoholic liquids.

Section 2. The holder of a license permitting malt beverage package sales for off-premise consumption may sell filled growlers at retail for off-premise consumption if:

- (1) The growler is cleaned and sanitized by the licensee or its employee prior to being filled as prescribed in Section 3 of this administrative regulation;
- (2) The growler is filled and securely resealed by the licensee or an employee at least twenty (20) years old before being removed from the premises;
- (3) The growler has a label affixed to it, legibly stating:
 - (a) The brand name of the product;
 - (b) The name and address of the brewer or bottler;
 - (c) The class of product (beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);
 - (d) The name and address of the licensee that filled or refilled the growler;
 - (e) The following statement, “This product may be unfiltered and unpasteurized. Keep refrigerated at all times.”; and
 - (f) The alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. 16.20 through 16.22; and
- (4) The label is affixed to the vessel by:
 - (a) Neck hanger;
 - (b) Adhesive;
 - (c) String; or
 - (d) Other means.

Section 3. Cleaning, Sanitizing, Filling, and Sealing.

- (1) Filling and refilling growlers shall only occur at the request of a customer.
- (2) Except as provided by subsection (3) of this section, prior to refilling a growler, the growler and its cap shall be cleaned and sanitized by the licensee or its employee by:
 - (a) Manual washing in a three compartment sink. The licensee or its employee shall:

1. Prior to starting, clean sinks and work area to remove any chemicals, oils, or grease from other cleaning activities;
 2. Empty residual liquid from the growler to drain, but not into the cleaning water;
 3. Clean the growler and cap using detergent and water exceeding 110 degrees Fahrenheit, a temperature compliant with Kentucky Department for Public Health standards in 902 KAR 45:005, or the temperature specified on the detergent manufacturer's label instruction. Detergent shall not be fat- or oil-based;
 4. Remove any residues on the interior and exterior of the growler and cap;
 5. Rinse the growler and cap in the middle compartment with water. Rinsing may be from the spigot with a spray arm, from a spigot or from the tub as long as the water for rinsing shall not be stagnant and shall be continually refreshed;
 6. Sanitize the growler and cap in the third compartment. Chemical sanitizer shall be used in accordance with the EPA-registered label use instructions and shall meet the minimum water temperature requirements of the chemical; and
 7. A test kit or other device that accurately measures the concentration of MG/L of chemical sanitizing solutions shall be provided and be readily accessible for use; or
- (b) Mechanical washing and sanitizing machine.
1. Mechanical washing and sanitizing machines shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer and shall be used according to the machine's design and operation specifications;
 2. Mechanical washing and sanitizing machines shall be equipped with chemical or hot water sanitization;
 3. Concentration of the sanitizing solution or the water temperature shall be accurately determined by using a test kit or other device; and
 4. The machine shall be regularly serviced based upon the manufacturer's or installer's guidelines.
- (3) Notwithstanding subsection (2) of this section, a growler may be filled or refilled without cleaning and sanitizing the growler by:
- (a) Filling or refilling a growler with a tube as referenced in subsection (4) of this section;
1. Food grade sanitizer shall be used in accordance with the EPA-registered label use instructions;
 2. A container of liquid food grade sanitizer shall be maintained for malt beverage taps that will be used for filling and refilling growlers;
 3. Each container shall contain tubes that will be used only for filling and refilling growlers;
 4. The growler is inspected visually for contamination;



5. The growler is filled or refilled with a tube as prescribed in subsection (5) of this section; and
 6. A different tube from the container shall be used for each fill or refill of a growler; or
- (b) Filling a growler with a contamination-free process. The growler shall be:
1. Inspected visually for contamination; and
 2. Compliant with the Kentucky Food Code, incorporated by reference in 902 KAR 45:005.
- (4) Growlers shall be filled or refilled from the bottom of the growler to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the growler or with a commercial filling machine.
- (5) When not in use, tubes to fill or refill growlers shall be immersed and stored in a container with liquid food grade sanitizer.

CHAPTER 13 – TOBACCO ENFORCEMENT

804 KAR 13:010. Tobacco enforcement and administration

Section 1. Definition. “Department” means the Department of Alcoholic Beverage Control.

Section 2. Administration. The department shall be the administrative agency for hearing violations of KRS 438.305 to 438.340.

Section 3. Enforcement.

- (1) The department shall record and investigate complaints relating to violations of KRS 438.305 to 438.340.
- (2) The department shall prepare an annual survey from data obtained from the annual inspection directed by KRS 438.330(1). The survey shall be prepared to determine the existing level of tobacco sales to minors. A copy of the report shall be submitted to the Office of Agriculture.
- (3) The result of the annual survey may be inspected, copied or obtained at the office of the Department of Agriculture, Capital Plaza Tower, 7th Floor, 500 Mero Street, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday, excepting state holidays.

Section 4. Procedures.

- (1) A person found to be violation of KRS 438.305 to 438.340 may be cited by the department. Any administrative citation shall conform to the requirements of KRS Chapter 13B.
- (2) A person receiving an administrative citation pursuant to KRS 438.305 to 438.340 may request an administrative hearing, to be conducted by the department, to contest the allegation in the citation. The department may, in its discretion, employ one (1) or more hearing officers to conduct the administrative hearings. All administrative hearings shall be governed by KRS Chapter 13B.
- (3) A fine levied pursuant to an administrative citation shall be prepayable within thirty (30) days of issuance of the citation. A person not wishing to contest the allegations in the citation may resolve the charge by mailing a check or money order in the amount set forth in the citation, payable to the Kentucky State Treasurer, to the hearing agency name and address set forth in the citation.
- (4) Disposition of juvenile records. The department shall preserve the confidentiality of all juvenile records by maintaining a separate filing system, under lock and key, with access limited to the parties and their legal counsel. The department shall maintain statistical summaries of case information, including date of buy, geographical location of buy, name and address of retail seller, date of purchase, date of birth and gender of underage buyer, and disposition of case. Statistical summaries relating to underage buyers shall not identify the underage buyer by name.
- (5) Physical evidence seized in the course of administrative violations of KRS 438.305 to 438.340 shall be maintained by the department in a secured evidentiary storage facility.

CHAPTER 14 – MALT BEVERAGES AND WINE

804 KAR 14:010. Malt beverage and wine for personal use

Section 1.

- (1) A person twenty-one (21) years of age or older may produce malt beverages for personal or family use.
- (2) Malt beverage produced for personal use shall not be sold.
- (3) Malt beverage produced for personal use shall not be given to any public facility to give or sell to patrons.
- (4) The aggregate amount of malt beverage produced for personal use shall not exceed:
 - (a) 100 gallons per calendar year if there is only one (1) adult who is legally allowed to consume alcoholic beverages in the household; or
 - (b) 200 gallons per calendar year if there are two (2) or more adults who are legally permitted to consume alcoholic beverages in the household.

Section 2.

- (1) A person twenty-one (21) years of age or older may produce wine for personal use.
- (2) Wine produced for personal use shall not be sold.
- (3) Wine produced for personal use shall not be given to any public facility to give or sell to patrons.
- (4) The aggregate amount of wine produced for personal or family use shall not exceed:
 - (a) 100 gallons per calendar year if there is only one (1) adult who is legally allowed to consume alcoholic beverages in the household; or
 - (b) 200 gallons per calendar year if there are two (2) or more adults who are legally permitted to consume alcoholic beverages in the household.

Section 3. Malt beverages and wine produced for household consumption may be entered into competitions at regularly organized fairs for prizes.

- (1) Competitions may be held at a licensed or unlicensed premise.
- (2) Malt beverages and wine produced for household consumption may be transported or mailed from the producer's home to the site of the competition or to the competition's designee.
- (3) Judges of the competition shall be at least twenty-one (21) years of age, and may only consume for judging purposes.
- (4) Malt beverages or wine entered into a competition shall not be sold to, sampled by, or tasted by the general public.