

1 AN ACT relating to alcoholic beverages.

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

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

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

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

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

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

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

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

18 (d) Flavoring extracts and syrups;

19 (e) Denatured alcohol or denatured rum;

20 (f) Vinegar and preserved sweet cider;

21 (g) Wine for sacramental purposes; and

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

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

- 1 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,
2 nebulizer, atomizer, or other device that is designed and intended by the
3 manufacturer to dispense a prescribed or over-the-counter medication or a
4 device installed and used by a licensee under this chapter to demonstrate the
5 aroma of an alcoholic beverage;
- 6 (4) "Automobile race track" means a facility primarily used for vehicle racing that has a
7 seating capacity of at least thirty thousand (30,000) people;
- 8 (5) "Bed and breakfast" means a one (1) family dwelling unit that:
- 9 (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are
10 occupied for sleeping purposes by persons not members of the single-family
11 unit;
- 12 (b) Holds a permit under KRS Chapter 219; and
- 13 (c) Has an innkeeper who resides on the premises or property adjacent to the
14 premises during periods of occupancy;
- 15 (6) "Board" means the State Alcoholic Beverage Control Board created by KRS
16 241.030;
- 17 (7) "Bottle" means any container which is used for holding alcoholic beverages for the
18 use and sale of alcoholic beverages at retail;
- 19 (8) "Brewer" means any person who manufactures malt beverages or owns, occupies,
20 carries on, works, or conducts any brewery, either alone or through an agent;
- 21 (9) "Brewery" means any place or premises where malt beverages are manufactured for
22 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
23 and storerooms connected with the premises; or where any part of the process of the
24 manufacture of malt beverages is carried on; or where any apparatus connected with
25 manufacture is kept or used; or where any of the products of brewing or
26 fermentation are stored or kept;
- 27 (10) "Building containing licensed premises" means the licensed premises themselves

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

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

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

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

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

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

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

24 (a) Has four (4) wheels;

25 (b) Is operated in a manner similar to that of a bicycle;

26 (c) Is equipped with a minimum of thirteen (13) seats for passengers;

27 (d) Has a unibody design;

- 1 (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
- 2 (f) Is used for commercial tour purposes; and
- 3 (g) Is operated by the vehicle owner or an employee of the owner;
- 4 (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage
5 Control;
- 6 (18) "Convention center" means any facility which, in its usual and customary business,
7 provides seating for a minimum of one thousand (1,000) people and offers
8 convention facilities and related services for seminars, training and educational
9 purposes, trade association meetings, conventions, or civic and community events
10 or for plays, theatrical productions, or cultural exhibitions;
- 11 (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
12 guilty, the decision of a court, or the finding of a jury, irrespective of a
13 pronouncement of judgment or the suspension of the judgment;
- 14 (20) "County administrator" means county alcoholic beverage control administrator;
- 15 (21) "Department" means the Department of Alcoholic Beverage Control;
- 16 (22) "Dining car" means a railroad passenger car that serves meals to consumers on any
17 railroad or Pullman car company;
- 18 (23) "Discount in the usual course of business" means price reductions, rebates, refunds,
19 and discounts given by wholesalers to distilled spirits and wine retailers pursuant to
20 an agreement made at the time of the sale of the merchandise involved and are
21 considered a part of the sales transaction, constituting reductions in price pursuant
22 to the terms of the sale, irrespective of whether the quantity discount was:
- 23 (a) Prorated and allowed on each delivery;
- 24 (b) Given in a lump sum after the entire quantity of merchandise purchased had
25 been delivered; or
- 26 (c) Based on dollar volume or on the quantity of merchandise purchased;
- 27 (24) "Distilled spirits" or "spirits" means any product capable of being consumed by a

- 1 human being which contains alcohol in excess of the amount permitted by KRS
2 Chapter 242 obtained by distilling, mixed with water or other substances in
3 solution, except wine, hard cider, and malt beverages;
- 4 (25) "Distiller" means any person who is engaged in the business of manufacturing
5 distilled spirits at any distillery in the state and is registered in the Office of the
6 Collector of Internal Revenue for the United States at Louisville, Kentucky;
- 7 (26) "Distillery" means any place or premises where distilled spirits are manufactured for
8 sale, and which are registered in the office of any collector of internal revenue for
9 the United States. It includes any United States government bonded warehouse;
- 10 (27) "Distributor" means any person who distributes malt beverages for the purpose of
11 being sold at retail;
- 12 (28) "Dry" means a territory in which a majority of the electorate voted to prohibit all
13 forms of retail alcohol sales through a local option election held under KRS Chapter
14 242;
- 15 (29) "Election" means:
- 16 (a) An election held for the purpose of taking the sense of the people as to the
17 application or discontinuance of alcoholic beverage sales under KRS Chapter
18 242; or
- 19 (b) Any other election not pertaining to alcohol;
- 20 (30) "Horse racetrack" means a facility licensed to conduct a horse race meeting under
21 KRS Chapter 230;
- 22 (31) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public,
23 designed primarily to serve transient patrons;
- 24 (32) "Investigator" means any employee or agent of the department who is regularly
25 employed and whose primary function is to travel from place to place for the
26 purpose of visiting licensees, and any employee or agent of the department who is
27 assigned, temporarily or permanently, by the commissioner to duty outside the main

1 office of the department at Frankfort, in connection with the administration of
2 alcoholic beverage statutes;

3 (33) "License" means any license issued pursuant to KRS Chapters 241 to 244;

4 (34) "Licensee" means any person to whom a license has been issued, pursuant to KRS
5 Chapters 241 to 244;

6 (35) "Limited restaurant" means:

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

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

20 (36) "Local administrator" means a city alcoholic beverage administrator, county
21 alcoholic beverage administrator, or urban-county alcoholic beverage control
22 administrator;

23 (37) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or
24 description, manufactured from malt wholly or in part, or from any substitute for
25 malt, and includes weak cider;

26 (38) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

27 (39) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person

- 1 engaged in the production or bottling of alcoholic beverages;
- 2 (40) "Minor" means any person who is not twenty-one (21) years of age or older;
- 3 (41) "Moist" means a territory in which a majority of the electorate voted to permit
4 limited alcohol sales by any one (1) or a combination of special limited local option
5 elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242,
6 242.1243, 242.1244, or 242.1292;
- 7 (42) "Population" means the population figures established by the federal decennial
8 census for a census year of the current yearly population estimates prepared by the
9 Kentucky State Data Center, Urban Studies Center of the University of Louisville,
10 Louisville, Kentucky, for all other years;
- 11 (43) "Premises" means the land and building in and upon which any business regulated
12 by alcoholic beverage statutes is operated or carried on. "Premises" shall not include
13 as a single unit two (2) or more separate businesses of one (1) owner on the same
14 lot or tract of land, in the same or in different buildings if physical and permanent
15 separation of the premises is maintained, excluding employee access by keyed entry
16 and emergency exits equipped with crash bars, and each has a separate public
17 entrance accessible directly from the sidewalk or parking lot. Any licensee holding
18 an alcoholic beverage license on July 15, 1998, shall not, by reason of this
19 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
20 of the license;
- 21 (44) "Primary source of supply" or "supplier" means the distiller, winery, brewer,
22 producer, owner of the commodity at the time it becomes a marketable product,
23 bottler, or authorized agent of the brand owner. In the case of imported products, the
24 primary source of supply means either the foreign producer, owner, bottler, or agent
25 of the prime importer from, or the exclusive agent in, the United States of the
26 foreign distiller, producer, bottler, or owner;
- 27 (45) "Private club" means a nonprofit social, fraternal, military, or political organization,

1 club, or entity maintaining or operating a club room, club rooms, or premises from
2 which the general public is excluded;

3 (46) "Public nuisance" means a condition that endangers safety or health, is offensive to
4 the senses, or obstructs the free use of property so as to interfere with the
5 comfortable enjoyment of life or property by a community or neighborhood or by
6 any considerable number of persons;

7 (47) "Qualified historic site" means:

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

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

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

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

18 (48) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or
19 wine by any process other than as provided for on distillery premises, and every
20 person who, without rectifying, purifying, or refining distilled spirits by mixing
21 alcoholic beverages with any materials, manufactures any imitations of or
22 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,
23 spirits, cordials, bitters, or any other name;

24 (49) "Repackaging" means the placing of alcoholic beverages in any retail container
25 irrespective of the material from which the container is made;

26 (50) "Restaurant" means a facility where the usual and customary business is the
27 preparation and serving of meals to consumers, that has a bona fide kitchen facility,

1 and that receives at least fifty percent (50%) of its food and alcoholic beverage
2 receipts from the sale of food at the premises;

3 (51) "Retail container" means any bottle, can, barrel, or other container which, without a
4 separable intermediate container, holds alcoholic beverages and is suitable and
5 destined for sale to a retail outlet, whether it is suitable for delivery to the consumer
6 or not;

7 (52) "Retail sale" means any sale where delivery is made in Kentucky to any consumers;

8 (53) "Retailer" means any licensee who sells and delivers any alcoholic beverage to
9 consumers, except for producers with limited retail sale privileges;

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

13 (55) "Sale" means any transfer, exchange, or barter for consideration, and includes all
14 sales made by any person, whether principal, proprietor, agent, servant, or
15 employee, of any alcoholic beverage;

16 (56) "Service bar" means a bar, counter, shelving, or similar structure used for storing or
17 stocking supplies of alcoholic beverages that is a workstation where employees
18 prepare alcoholic beverage drinks to be delivered to customers away from the
19 service bar;

20 (57) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with
21 intent to sell, and the delivery of any alcoholic beverage;

22 (58) "Small farm winery" means a winery whose wine production is not less than two
23 hundred fifty (250) gallons and not greater than one hundred thousand (100,000)
24 gallons in a calendar year;

25 (59) "Souvenir package" means a special package of distilled spirits ~~available from a~~
26 ~~licensed retailer~~ that is:

27 (a) Available for retail sale at a licensed Kentucky distillery where the distilled

- 1 spirits were produced or bottled; or
- 2 (b) Available for retail sale at a licensed Kentucky distillery but produced or
- 3 bottled at another of that distiller's licensed distilleries in Kentucky;
- 4 (60) "State administrator" or "administrator" means the distilled spirits administrator or
- 5 the malt beverages administrator, or both, as the context requires;
- 6 (61) "State park" means a state park that has a:
- 7 (a) Nine (9) or eighteen (18) hole golf course; or
- 8 (b) Full-service lodge and dining room;
- 9 (62) "Supplemental bar" means a bar, counter, shelving, or similar structure used for
- 10 serving and selling distilled spirits or wine by the drink for consumption on the
- 11 licensed premises to guests and patrons from additional locations other than the
- 12 main bar;
- 13 (63) "Territory" means a county, city, district, or precinct;
- 14 (64) "Urban-county administrator" means an urban-county alcoholic beverage control
- 15 administrator;
- 16 (65) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise
- 17 move alcoholic beverages or any products, equipment, or appurtenances used to
- 18 manufacture, bottle, or sell these beverages;
- 19 (66) "Vintage distilled spirit" means a package or packages of distilled spirits that:
- 20 (a) Are in their original manufacturer's unopened container;
- 21 (b) Are not owned by a distillery; and
- 22 (c) Are not otherwise available for purchase from a licensed wholesaler within
- 23 the Commonwealth;
- 24 (67) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- 25 (68) "Weak cider" means any fermented fruit-based beverage containing more than one
- 26 percent (1%) but less than seven percent (7%) alcohol by volume;
- 27 (69) "Wet" means a territory in which a majority of the electorate voted to permit all

1 forms of retail alcohol sales by a local option election under KRS 242.050 or
2 242.125 on the following question: "Are you in favor of the sale of alcoholic
3 beverages in (name of territory)?";

4 (70) "Wholesale sale" means a sale to any person for the purpose of resale;

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

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

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

19 ➔Section 2. KRS 243.0305 is amended to read as follows:

20 (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that
21 has authorized the limited sale of alcoholic beverages at distilleries under KRS
22 242.1243 and that has a gift shop or other retail outlet on its premises may conduct
23 the activities permitted under this section as a part of its distiller's license.

24 (2) For purposes of all retail drink and package sales under this section, a wholesaler
25 registered to distribute the brands of any distiller shall permit the distiller to deliver
26 its products directly from the distillery proper to any portion of the distillery
27 premises. However, for purposes of all retail drink and package sales by distillers

1 under subsections (3), (8), and (9) of this section, all direct shipments shall be
2 invoiced from the distiller to the wholesaler and from the wholesaler to the distiller,
3 and all products directly shipped shall be included in the wholesaler's inventory and
4 depletions for purposes of tax collections imposed pursuant to KRS 243.710 to
5 243.895 and 243.990.

6 (3) A distiller may sell souvenir packages at retail:

7 (a) To distillery visitors of legal drinking age, in quantities not to exceed an
8 aggregate of four and one-half (4-1/2) liters per purchaser per day for sales
9 prior to January 1, 2021, and in quantities not to exceed an aggregate of nine
10 (9) liters per purchaser per day on and after January 1, 2021. At the
11 purchaser's request, an order may be delivered or shipped directly to the
12 purchaser. All deliveries or shipments shall be made through a licensed
13 common carrier authorized to deliver or ship distilled spirits in the jurisdiction
14 to which the products will be delivered or shipped; and

15 (b) Pursuant to subscription or distillery-sponsored club programs, in quantities
16 not to exceed an aggregate of nine (9) liters per calendar year, provided that
17 the enrollment and payment for the subscription or club is arranged in person
18 at the distillery. At the member's request, an order may be delivered or
19 shipped directly to the member. All deliveries or shipments shall be made
20 through a licensed common carrier authorized to deliver or ship distilled
21 spirits in the jurisdiction to which the products will be delivered or shipped.

22 (4) Hours of sale for souvenir packages at retail shall be in conformity with KRS
23 244.290(3).

24 (5) Except as provided in this section, souvenir package sales shall be governed by all
25 the statutes and administrative regulations governing the retail sale of distilled
26 spirits by the package.

27 (6) ~~[(No wholesaler may restrict the sale of souvenir packages to the distiller of origin~~

1 exclusively, but shall make souvenir packages available to any Kentucky retail
2 licensee licensed for the sale of distilled spirits by the package.

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

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

11 ~~(7)~~~~(8)~~ Notwithstanding the provisions of KRS 243.110, in accordance with this
12 section, a distillery located in wet territory or in any territory that has authorized the
13 limited sale of alcoholic beverages under an election held pursuant to KRS
14 242.1243 may:

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

21 ~~(8)~~~~(9)~~ A distiller may sell to consumers at fairs, festivals, and other similar types of
22 events located in wet territory alcoholic beverages by the drink, containing spirits
23 distilled or bottled on the premises of the distillery.

24 ~~(9)~~~~(10)~~ Except as expressly stated in this section, this section does not exempt the
25 holder of a distiller's license from:

- 26 (a) The provisions of KRS Chapters 241 to 244;
- 27 (b) The administrative regulations of the board; and

- 1 (c) Regulation by the board at all the distiller's licensed premises.
- 2 (10)~~(11)~~ Nothing in this section shall be construed to vitiate the policy of this
- 3 Commonwealth supporting an orderly three (3) tier system for the production and
- 4 sale of alcoholic beverages.