

AN ACT relating to restaurants.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Licensee" means a retailer that holds the license for at least one (1) restaurant;

(b) "Points" means accrued credit offered by a licensee through a program. A restaurant customer may earn points through the customer's qualifying purchases under the program. Points may be used by the customer toward future discounted or free items. Points may be earned on a dollar-for-dollar basis or at a rate set by the licensee;

(c) "Program" means a loyalty program or rewards program established and maintained by a licensee to offer its customers discounted or free food, nonalcoholic drinks, or merchandise at its restaurants. A program may allow customers to earn points through purchases at the licensee's restaurants, and the earned points may be subsequently redeemed at the licensee's restaurants. A program may also allow a customer to earn or redeem points at a separate restaurant within the same restaurant chain as authorized by subsection (3) of this section; and

(d) "Restaurant" means a restaurant that is licensed under KRS Chapters 241 to 244 to sell alcoholic beverages by the drink to the general public.

(2) Notwithstanding any other law to the contrary, a licensee may create a program within which its restaurant customers may earn points, subject to the following conditions:

(a) All transactions related to purchases, discounts, or free items based on points associated with the program shall only occur at the licensee's

restaurants or at a separate restaurant within the same restaurant chain as authorized by subsection (3) of this section;

(b) Food, nonalcoholic drinks, merchandise, and alcoholic beverage purchases may count toward a customer's accumulated points for the program;

(c) The program shall not include the provision of free or discounted alcoholic beverages to customers. The program may include free or discounted food, nonalcoholic drinks, or merchandise as a reward to customers; and

(d) The licensee shall:

1. Provide a coherent written document clearly explaining the rules, restrictions, and privileges of the program to each participating customer; and

2. Include a written notice with the rules, restrictions, and privileges indicating:

a. How and at what rate points are accrued; and

b. That program points shall not be redeemed for free or discounted alcoholic beverages.

(3) A single program may be established for use in more than one (1) restaurant within a restaurant chain, as long as each restaurant participating in the program qualifies under this section. Any terms and rewards of the program shall be applied equally among the participating restaurants within the chain. Different licensees may hold the licenses for the separate participating restaurants within the same restaurant chain.

(4) The department shall promulgate administrative regulations establishing the governance and enforcement of this section. No administrative regulation of the department or related action by the department or board shall be stricter than the privileges granted by this section.

➔Section 2. KRS 244.500 is amended to read as follows:

- (1) *Except as authorized by Section 1 of this Act,* no person holding a license to sell malt beverages shall offer or give anything tangible of value as a premium for the return of caps, stoppers, corks, stamps, wrappers, coupons, or labels taken from any bottle, case, barrel, or package containing malt beverages or to offer or give anything of value as a premium, gift, or prize for any purpose in connection with the sale of malt beverages.
- (2) Subsection (1) of this section shall not apply to the return of moneys specifically deposited for the return of the original containers to the owners; nor shall subsection (1) of this section prohibit brewers, wholesalers, or distributors from giving anything of value as a premium, gift, or prize to wholesalers, distributors, or their employees in connection with sales incentive programs.
- (3) Subsection (1) of this section shall not apply to brewer-sponsored national sweepstakes in which major prizes, not including rebates, price discount coupons, or 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.
- (4) Subsection (1) of this section shall not prohibit brewers, out-of-state brewers, wholesalers, distributors, or retail licensees from selling 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.