

CHAPTER 151

(HB 712)

AN ACT relating to economic development.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context requires otherwise:

- (1) *"Authority" or "KORRRRA" means the Kentucky Ohio River Regional Recreation Authority established in Section 2 of this Act;*
- (2) *"Board" means the board of directors of KORRRRA;*
- (3) *"County" means a county, charter county, urban-county government, unified local government, or consolidated local government;*
- (4) *"Recreational Area" or "RA" means lands on which there is a system of recreational trails, including streams, rivers, and other waterways, and appurtenant facilities, including trailhead centers, parking areas, camping facilities, picnic areas, historic or cultural interpretive sites, and other facilities in Kentucky and designated by the KORRRRA as part of the RA;*
- (5) *"Land" means roads, water, watercourses, buildings, structures, and machinery or equipment thereon when attached to the realty;*
- (6) *"Landowner" means a tenant, lessee, occupant, or person in control of the premises;*
- (7) *"Participating county" means a county that has qualified under subsection (5) of Section 2 of this Act;*
- (8) *"Participating landowner" means a landowner who owns land in a participating county and has a contractual agreement with the KORRRRA for trail development as part of the RA;*
- (9) *"Recreational purposes" means all-terrain vehicle riding, bicycling, canoeing, hiking, horseback riding, hunting, kayaking, motorcycle riding, rock climbing, fishing, swimming, archaeological activities, nature study, off-highway vehicle driving, pleasure driving, watersports, winter sports, visiting or viewing historical or scenic sites, and otherwise using land for purposes pertaining to recreation or trail activities; and*
- (10) *"Target county" means Ballard, Boone, Boyd, Bracken, Breckinridge, Campbell, Carroll, Crittenden, Daviess, Gallatin, Greenup, Hancock, Hardin, Henderson, Jefferson, Kenton, Lewis, Livingston, Mason, McCracken, Meade, Oldham, Pendleton, Trimble, or Union County.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Ohio River Regional Recreation Authority is hereby created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth and shall exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth. The authority shall be a public body corporate and politic and an instrumentality of the Commonwealth, established with all the general corporate powers incidental thereto. The authority shall be attached to the Kentucky Department for Local Government for administrative purposes only. The authority shall be authorized for an initial period of five (5) years from the effective date of this Act and may be renewed by the General Assembly. The authority may adopt by laws and administrative regulations, subject to KRS Chapter 13A, for the orderly conduct of its affairs.*
- (2) *The purpose of the authority is to establish, maintain, and promote a recreational trail system throughout the RA to increase economic development, tourism, and outdoor recreation for residents and visitors. The recreational trail system shall be located with significant portions of the system situated on private property made available for use through lease, license, easement, or other appropriate legal form by willing landowners.*
- (3) *The authority shall be governed by a board of directors consisting of representatives from participating counties and the Commonwealth as provided in this section.*

- (4) *The authority and the board shall become operational when eleven (11) target counties complete the requirements established by subsection (5)(a) of this section. When at least eleven (11) target counties become participating counties, the commissioner of the Department for Local Government shall notify the county judge/executive or consolidated local government mayor of each of the participating counties, as well as the board members described in subsection (6) of this section, that the requirements have been met for the authority and board to become operational. The commissioner shall also establish a date, time, and place for an initial organizational meeting of the board, and shall serve as interim chair of the initial organizational meeting until such time as a chair is elected. The chair shall be a resident of a participating county.*
- (5) *Any target county may become a participating county upon adoption of a resolution or ordinance by the governing body of the county specifically approving the county's participation in the KORRRA and submission of the adopted resolution or ordinance to:*
- (a) *The commissioner of the Department for Local Government if the resolution or ordinance is adopted prior to the KORRRA becoming operational pursuant to subsection (4) of this section; or*
- (b) *The KORRRA if the resolution or ordinance is adopted after KORRRA becomes operational.*
- (6) *The KORRRA board shall consist of the following members:*
- (a) *The secretary of the Tourism, Arts and Heritage Cabinet or his or her designee;*
- (b) *The commissioner of the Department for Local Government or his or her designee;*
- (c) *The commissioner of the Department of Fish and Wildlife Resources or his or her designee;*
- (d) *If an executive director of the authority has been employed under subsection (10) of this section, he or she shall serve as a nonvoting member, except in the event of a tie vote of the board;*
- (e) *One (1) representative selected for each of the six (6) participating counties as provided in subsection (8) of this section, who shall be either:*
1. *The county judge/executive or consolidated local government mayor; or*
2. *The county judge/executive's designee or consolidated local government mayor's designee, who shall be an individual involved with economic development, tourism, recreation, or a related area within the county;*
- (f) *One (1) state Representative who is from the KORRRA region shall serve as a nonvoting member, appointed to a two (2) year term by the Speaker of the Kentucky House of Representatives, and shall not serve another term consecutively with a prior term; and*
- (g) *One (1) state Senator who is from the KORRRA region shall serve as a nonvoting member, appointed to two (2) year term by the President of the Kentucky Senate.*
- (7) *A county judge/executive or consolidated local government mayor shall only serve on the board while holding the office for which he or she was elected. If a county judge/executive or consolidated local government mayor ceases to serve as the county judge/executive or consolidated local government mayor prior to the end of his or her term, he or she shall be removed from the board, and his or her replacement as county judge/executive or consolidated local government mayor shall serve on the board for the remainder of the term.*
- (8) (a) *The nine (9) voting members of the board shall be:*
1. *The six (6) county judges/executive, consolidated local government mayor, or their designees, from different KORRRA participating counties as described in subsection (6)(e) of this section;*
2. *The secretary of the Tourism, Arts and Heritage Cabinet or his or her designee;*
3. *The commissioner of the Department for Local Government or his or her designee; and*
4. *The commissioner of the Department of Fish and Wildlife Resources or his or her designee.*
- (b) *The six (6) initial county representatives shall be the county judges/executive or consolidated local government mayor of Boone, Campbell, Daviess, Jefferson, Kenton, and Mason Counties or their designees in that order. The first three (3) representatives listed shall serve a three (3) year term as*

voting members, the next three (3) representatives shall serve a two (2) year term as voting members, and the remaining three (3) representatives shall serve a one (1) year term as voting members.

- (c) *After each term ends, the voting county representative shall be replaced by one (1) of the county judges/executive, consolidated local government mayor, or his or her designee from one (1) of the target counties whose representative has not yet served as a voting member.*
 - (d) *After the third year of operation, each new voting member shall serve a term of three (3) years, then step down and let a representative from a county whose representative has not served as a voting member take his or her place.*
 - (e) *Once representatives from all participating counties within RA have each served one (1) term, the rotation shall begin again.*
- (9) (a) *The board shall meet at least once every quarter to elect officers, establish a regular meeting schedule, and perform other duties as may be prescribed in the authority's bylaws. The board chair may call special meetings at any time.*
- (b) *Notice of each meeting shall be made in writing and delivered to board members at least seven (7) days before the scheduled meeting date. Electronic mail is an acceptable form of notice of special meetings, so long as it is sent to directors at least seven (7) days before the scheduled meeting date.*
- (c) *Accommodations shall be made for remote attendance for each board meeting, whether regular or special, through means such as video conferencing, conference call, or similar services.*
- (d) *The presence of a majority of the total voting members of the KORRRA board shall constitute a quorum. Vacant board positions shall be counted against the quorum total necessary for board action.*
- (e) *Board meetings shall be held exclusively within the KORRRA participating counties, and each meeting shall be held in a different participating county until every participating county has hosted a meeting, at which time the cycle shall begin again.*
- (10) *The KORRRA board:*
- (a) *Shall elect a chair, vice chair, secretary, treasurer, and any other officers as established in the bylaws of the board;*
 - (b) *May appoint temporary and standing committees to accomplish the purposes of Sections 1 to 5 of this Act and shall clearly describe the role, responsibilities, and tenure of each committee so created;*
 - (c) *Shall adopt bylaws for the management and regulation of its affairs and all other matters necessary to effect proper management and accountability of the board. The bylaws shall include, at a minimum, the following:*
 - 1. *The powers and duties of the board's members and the manner and number of officers to be elected from among the board members; and*
 - 2. *The terms, conditions, and manner in which a board member will be removed.*
 - (d) *Shall review and approve an annual budget;*
 - (e) *Shall ensure that all administrative costs for operating the authority are paid from funds accruing to the authority. The authority, its board, and its staff shall incur no liability or obligation beyond the extent to which revenues have been provided under Sections 1 to 5 of this Act;*
 - (f) *May seek administrative and management assistance through written agreement with state agencies, local area development districts, or local governing bodies until such time as the board has secured sufficient funding through grants, loans, fee systems, or any other funding source to hire staff; and*
 - (g) *Shall employ an executive director to act as its chief executive officer to serve at its will and pleasure.*
- (11) *The authority shall comply with the provisions of KRS Chapter 65A.*
- (12) *The executive director:*
- (a) *Shall be a person who is domiciled in a KORRRA participating county;*

- (b) *May, with permission of the board and approval of the commissioner of the Department for Local Government or his or her designee, employ any other hourly personnel considered necessary and retain temporary services. Pay raises for any personnel shall require approval of the board and the commissioner of the Department for Local Government or his or her designee;*
 - (c) *Shall carry out plans to implement Sections 1 to 5 of this Act and to exercise those powers enumerated in the bylaws of the board;*
 - (d) *Shall, along with any staff with responsibilities so delegated by the executive director, ensure that all minutes, records, and orders of the authority and its board are complete and available for public inspection, if necessary;*
 - (e) *Shall prepare narrative and financial reports of the authority's fiscal obligations and submit these reports to the board at regularly scheduled meetings or as otherwise directed; and*
 - (f) *May cast a tiebreaking vote in board decisions, but shall not be permitted to cast a vote under any other circumstances. Until such time as an executive director is hired, the chairperson of the board shall make the final determination in the event of a tie vote of the board.*
- (13) *The executive director, all full-time or part-time personnel, all seasonal employees, and all contractual employees, if any, shall be paid from funds accruing to the authority and authorized in a budget approved by the board, unless the Department for Local Government has temporarily taken on the responsibility of paying any of those employees.*
- (14) *Board members shall serve without compensation, but may be reimbursed for actual and necessary travel expenses incurred in the performance of their duties, subject to Finance and Administration Cabinet administrative regulations. Board members may have their lodging reimbursed by KORRRA. Any reimbursement requests exceeding five hundred dollars (\$500) per person shall be submitted to the Department for Local Government for approval.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *The KORRRA shall:*
- (a) *Supervise the design and construction of trail systems within the RA and provide all management functions for the trails and for any other property built, acquired, or leased pursuant to its powers under Sections 1 to 5 of this Act;*
 - (b) *Construct, develop, manage, maintain, operate, improve, renovate, finance, or otherwise provide for recreational and trail-related activities and facilities on designated public lands and private lands of participating landowners who have voluntarily entered into use agreements with the board;*
 - (c) *Promote the growth and development of the trail system, tourism, and the hotel, restaurant, and entertainment industry within the RA and the Commonwealth, through marketing RA to enhance local economic and tourism development;*
 - (d) *Establish agreements with other persons, businesses, agencies, organizations, or any other entity to levy a surcharge on tickets for events, activities, festivals, or functions that are cosponsored with other entities and contribute to the authority's operating revenue; and*
 - (e) *Procure insurance against any losses in connection with its property, licenses, easements, or contracts, including hold-harmless agreements, operations, or assets in such amounts and from such insurers as the board considers desirable.*
- (2) *The board's management program shall prioritize contractual arrangements with private landowners to use land for recreational purposes, which shall not diminish the participating landowner's interest, control, or profitability of the land. If necessary to implement a comprehensive trail system, the board may also contract with public landowners through contractual agreements that recognize the primary mission for which the public entity controls and manages the land.*
- (3) *The board may carry out any of the following to accomplish the purposes of Sections 1 to 5 of this Act:*
- (a) *Acquire, own, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease, or by transfer from the State Property and Buildings Commission, except that the authority shall not acquire property through the exercise of the power of eminent domain;*
 - (b) *Dispose of any property acquired in any manner provided by law;*

- (c) *Lease property, whether as lessee or lessor, and acquire or grant through easement, license, or other appropriate legal form, the right to develop and use property and open it to the use of the public;*
- (d) *Mortgage or otherwise grant security interests in its property;*
- (e) *Maintain sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the authority; however, contributions to a sinking fund during a fiscal year shall not exceed ten percent (10%) of the total fees collected during the prior year;*
- (f) *Sue and be sued, plead and be impleaded, and complain and defend in any court;*
- (g) *Make contracts and execute instruments necessary for carrying on its business, including contracts with any Kentucky state agency, the federal government, or any person, individual, partnership, or corporation to effect any or all of the purposes of Sections 1 to 5 of this Act as follows:*
 - 1. *Contracts shall go through a public bidding process;*
 - 2. *Contracts for one thousand dollars (\$1,000) or more shall be sent, with at least three (3) bids from separate entities, to the Department for Local Government for review and final approval;*
 - 3. *Bids from entities with KORRRA participating counties are to be given preference over competing bidders from outside of KORRRA participating counties; and*
 - 4. *If the Department for Local Government has not given a response in the form of an approval or rejection after five (5) business days from the date the department received the contract to be reviewed, it shall be considered approved;*
- (h) *Accept grants and loans from and enter into contracts and other transactions with any federal agency, regional commission, or state agency for accomplishing the purposes of Sections 1 to 5 of this Act;*
- (i) *Borrow money and issue bonds, security interests, or notes;*
- (j) *Provide for and secure the payment of the bonds, security interests, or notes;*
- (k) *Provide for the rights of the holders of the bonds, security interests, or notes;*
- (l) *Purchase, hold, and dispose of any of its bonds, security interests, or notes;*
- (m) *Accept gifts or grants of property, security interests, money, labor, supplies, or services from any governmental unit or from any person, firm, or corporation;*
- (n) *Establish a regional recreational trail system based upon contracts and agreements with participating landowners. The board may enter into contracts with landowners, and other persons holding an interest in the land being used for its recreational facilities, to hold those landowners harmless with respect to any claim in tort growing out of the use of the land for public recreation or growing out of the recreational activities operated or managed by the board from any claim, except a claim for damages proximately caused by the willful or malicious conduct of the landowner or any of his or her agents or employees;*
- (o)
 - 1. *Establish a fee-based system of permits, user registrations, or other trail or facility access mechanisms.*
 - 2. *The fees may be imposed for access to and use of the trails, parking facilities, visitor centers, or other trail-related recreational purpose facilities or recreation activities that are part of the RA or as an admission to an event.*
 - 3. *The fees shall be decided by the board.*
 - 4. *The KORRRA shall retain and use the revenue from fees for any purposes consistent with Sections 1 to 5 of this Act and within the guidelines in subsection (4) of this section;*
- (p) *Promulgate administrative regulations in accordance with KRS Chapter 13A to govern use and maintenance of the RA and any other matters for effective management of the RA;*

- (g) *Cooperate and contract with the regional recreation authorities of Illinois, Indiana, Ohio, West Virginia, and other contiguous states to connect the trails in Kentucky with similar recreation facilities in those states; and*
 - (r) *Exercise all of the powers that a corporation may lawfully exercise under the laws of the Commonwealth.*
- (4) *The fees collected by the KORRRA are to be used within the following guidelines;*
- (a) *To pay the salary of the executive director and all staff of the KORRRA;*
 - (b) *To reimburse travel expenses of board members including lodging, subject to Finance and Administration Cabinet administrative regulations;*
 - (c) *To fund the construction, maintenance, and all necessary expenses of the KORRRA trail system;*
 - (d) *To maintain a sinking fund with contributions to the fund during a fiscal year not to exceed ten percent (10%) of the total fees collected during the prior year and the total fund not to exceed a balance of one million dollars (\$1,000,000) at the end of any fiscal year; and*
 - (e) *Any remaining moneys not already appropriated in accordance with Sections 1 to 5 of this Act at the end of the fiscal year are to be sent to the Department for Local Government to be placed into an account to be used exclusively for economic development grants in KORRRA participating counties. These grants shall give preference to projects in economically distressed counties, then to at-risk counties, then to transitional counties, as defined by Kentucky Council of Area Development Districts.*
- (5) *Nothing in this section shall be construed as a waiver of sovereign immunity.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *Revenue bonds and revenue refunding bonds of the authority issued under Sections 1 to 5 of this Act do not constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision, but the bonds shall be payable solely from the funds provided for in Sections 1 to 5 of this Act from revenues resulting from the issuance of bonds.*
- (2) *All bonds shall contain on the face of the bond a statement to the effect that neither the Commonwealth nor any political subdivision of the Commonwealth is obligated to pay the bond or the interest on the bond, except from revenues of the recreational project or projects for which they are issued, and that neither the faith or credit nor the taxing power of the Commonwealth or any political subdivision of the Commonwealth is pledged to the payment of the principal or the interest on the bonds.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

A participating landowner who has a contractual agreement with the KORRRA for use of private land as part of the RA does not waive any protection granted to the landowner by KRS 411.190.

➔Section 6. KRS 147A.090 is amended to read as follows:

Each district board of directors shall have the power, duty, and authority to:

- (1) Establish such functional advisory committees as may be necessary and advisable. These functional advisory committees shall be organized to meet such guidelines as may be required for federal or state assistance;
- (2) Conduct the necessary research and studies and coordinate and cooperate with all appropriate groups and agencies in order to develop, and adopt and revise, when necessary, a district development plan or series of plans, including, but not limited to, the following districtwide plan elements: goals and objectives; water and sewer; land-use; and open space and recreation. Such plans shall serve as a general guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships;
- (3) Prepare annually a report of its activities to the cities and counties within the district, the legislature, and the Governor. The board shall make copies of the report available to members of the public within the district;
- (4) Comply with the provisions of KRS 65A.010 to 65A.090;~~and~~
- (5) Cooperate with the Kentucky Mountain Regional Recreation Authority established in KRS 148.0222 for the purpose of establishing, maintaining, and promoting recreational trails to increase economic development,

tourism, and outdoor recreation for Kentucky's residents and visitors, not only in eastern Kentucky but throughout the Commonwealth; *and*

- (6) ***Cooperate with the Kentucky Ohio River Regional Recreation Authority established in Section 2 of this Act for the purpose of establishing, maintaining, and promoting recreational trails to increase economic development, tourism, and outdoor recreation for Kentucky's residents and visitors, not only along the Ohio River but throughout the Commonwealth.***

➔Section 7. KRS 241.010 is amended to read as follows:

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) "Barrel-aged and batched cocktail" means an alcoholic beverage that is:
 - (a) Composed of:
 1. Distilled spirits that have been dispensed from their original sealed container; and
 2. Other ingredients or alcoholic beverages;
 - (b) Placed into a barrel or container on the premises of a retail licensee; and
 - (c) Dispensed from the barrel or container as a retail sale by the drink;
- (6) "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;

- (7) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030;
- (8) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- (9) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;
- (10) "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;
- (11) "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;
- (12) "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;
- (13) "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;
- (14) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;
- (15) "City administrator" means city alcoholic beverage control administrator;
- (16) "Commercial airport" means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;
- (17) (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;
- (18) "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;
- (19) "Consumer" means a person, persons, or business organization 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; and

- (d) Receives the alcoholic beverages in territory where the alcoholic beverages may be lawfully sold or received;
- (20) "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;
- (21) "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;
- (22) "County administrator" means county alcoholic beverage control administrator;
- (23) "Department" means the Department of Alcoholic Beverage Control;
- (24) "Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;
- (25) "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;
- (26) "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;
- (27) "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;
- (28) "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;
- (29) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail;
- (30) "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;
- (31) "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;
- (32) "Horse racetrack" means a facility licensed to conduct a horse race meeting under KRS Chapter 230;
- (33) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;
- (34) "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;
- (35) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- (36) "Licensee" means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;
- (37) "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;
- (38) "Local administrator" means a city alcoholic beverage administrator, county alcoholic beverage administrator, or urban-county alcoholic beverage control administrator;
- (39) "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;
- (40) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- (41) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
- (42) ***"Marina" means a dock or basin providing moorings for boats and offering supply, repair, or other services for remuneration;***
- ~~(43)~~~~(42)~~ "Minor" means any person who is not twenty-one (21) years of age or older;
- ~~(44)~~~~(43)~~ "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;
- ~~(45)~~~~(44)~~ "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;
- ~~(46)~~~~(45)~~ "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;
- ~~(47)~~~~(46)~~ "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;
- ~~(48)~~~~(47)~~ "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;
- ~~(49)~~~~(48)~~ "Private selection event" means a private event with a licensed distiller during which participating consumers, retail licensees, wholesalers, distributors, or a distillery's own representatives select a single barrel or a blend of barrels of the distiller's products to be specially packaged for the participants;
- ~~(50)~~~~(49)~~ "Private selection package" means a bottle of distilled spirits sourced from the barrel or barrels selected by participating consumers, retail licensees, wholesalers, distributors, microbreweries that hold a quota retail drink or quota retail package license, or a distillery's own representatives during a private selection event;
- ~~(51)~~~~(50)~~ "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;
- ~~(52)~~~~(51)~~ "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;
- (53)~~((52))~~ "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;
- (54)~~((53))~~ "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;
- (55)~~((54))~~ "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;
- (56)~~((55))~~ "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;
- (57)~~((56))~~ "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;
- (58)~~((57))~~ "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;
- (59)~~((58))~~ "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;
- (60)~~((59))~~ "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;
- (61)~~((60))~~ "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;
- (62)~~((61))~~ "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;
- (63)~~((62))~~ "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;
- (64)~~((63))~~ "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;
- (65)~~((64))~~ "State administrator" or "administrator" means the distilled spirits administrator or the malt beverages administrator, or both, as the context requires;
- (66)~~((65))~~ "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;

- ~~(67)~~~~(66)~~ "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;
- ~~(68)~~~~(67)~~ "Territory" means a county, city, district, or precinct;
- ~~(69)~~~~(68)~~ "Urban-county administrator" means an urban-county alcoholic beverage control administrator;
- ~~(70)~~~~(69)~~ "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;
- ~~(71)~~~~(70)~~ "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;
- ~~(72)~~~~(71)~~ "Vintage distilled spirit" means:
- (a) A private selection package; or
 - (b) A package or packages of distilled spirits that:
 1. Are in their original manufacturer's unopened container;
 2. Are not owned by a distillery; and
 3. Are not otherwise available for purchase from a licensed wholesaler within the Commonwealth;
- ~~(73)~~~~(72)~~ (a) "Vintage distilled spirits seller" means a nonlicensed 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 the person's 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 the vintage distilled spirits in satisfaction of the order or process; or
 4. Any other person not engaged in the business of selling alcoholic beverages.
- (b) "Vintage distilled spirits seller" 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;
- ~~(74)~~~~(73)~~ "Warehouse" means any place in which alcoholic beverages are housed or stored;
- ~~(75)~~~~(74)~~ "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;
- ~~(76)~~~~(75)~~ "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)?";
- ~~(77)~~~~(76)~~ "Wholesale sale" means a sale to any person for the purpose of resale;
- ~~(78)~~~~(77)~~ "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;
- ~~(79)~~~~(78)~~ "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
- ~~(80)~~~~(79)~~ "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.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *To qualify for a local option election under Section 9 of this Act, a marina shall:*
 - (a) *Operate on any body of water;*
 - (b) *Own, operate, or manage at least fifteen (15) boat slips;*
 - (c) *Buy and sell gasoline and petroleum products for the operation of boats; and*
 - (d) *1. Sell staple groceries;*
 2. *Operate a restaurant on its premises; or*
 3. *Sell staple groceries and operate a restaurant on its premises.*
- (2) *A restaurant on the marina premises is not required to be located on or adjacent to the shoreline of the body of water.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *To promote economic development and tourism in any dry or moist county or city in which a marina is located, a local option election for the sale of alcoholic beverages may be held in a city or county precinct where the marina is located, notwithstanding any other provision of the Kentucky Revised Statutes to the contrary.*
- (b) *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 by the drink and malt beverages by the package at marinas located in (name of precinct)?'".*
- (2) *A local option election for the sale of alcoholic beverages held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020, 242.040, 242.060, 242.070, 242.090, 242.110, and 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 and malt beverages by the package at marinas located in the (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 marinas located in that precinct shall become moist in the manner specified in KRS 242.200.*
- (4) *The election shall not be deemed to be an election in the "same territory" within the meaning of KRS 242.030(3).*

Signed by Governor April 9, 2024.