

1 AN ACT relating to alcoholic beverages.

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

3 ➔Section 1. KRS 243.0305 is amended to read as follows:

- 4 (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that
5 has authorized the limited sale of alcoholic beverages at distilleries under KRS
6 242.1243 and that has a gift shop or other retail outlet on its premises may conduct
7 the activities permitted under this section as a part of its distiller's license.
- 8 (2) ***For purposes of all retail drink and package sales under this section,*** a wholesaler
9 registered to distribute the brands of any distiller ***shall***~~may~~ permit the distiller to
10 deliver ***its products***~~[a souvenir package]~~ directly from the distillery proper to any
11 portion of the distillery premises. However, ***for purposes of all retail drink and***
12 ***package sales by distillers under subsections (3), (8), and (9) of this section,*** all
13 direct shipments shall be invoiced from the distiller to the wholesaler and from the
14 wholesaler to the distiller, and all products directly shipped shall be included in the
15 wholesaler's inventory and depletions for purposes of tax collections imposed
16 pursuant to KRS 243.710 to 243.895 and 243.990.
- 17 (3) A distiller may sell souvenir packages at retail to:
- 18 ***(a)*** Distillery visitors of legal drinking age, in quantities not to exceed an
19 aggregate of ***nine (9)***~~[four and one-half (4-1/2)]~~ liters per ***purchaser***~~[visitor]~~
20 per day. ***At the purchaser's request, an order may be delivered or shipped***
21 ***directly to the purchaser's residence. All shipments shall be made through a***
22 ***licensed common carrier authorized to deliver distilled spirits in the***
23 ***jurisdiction to which the products will be delivered; and***
- 24 ***(b)*** ***Monthly subscription members or distillery-sponsored club program***
25 ***members, in quantities not to exceed an aggregate of nine (9) liters per***
26 ***calendar year, provided that the enrollment and payment for the***
27 ***subscription or club is arranged in-person at the distillery. At the member's***

1 *request, an order may be delivered or shipped directly to the member's*
2 *residence. All shipments shall be made through a licensed common carrier*
3 *authorized to deliver distilled spirits in the jurisdiction to which the products*
4 *will be delivered.*

- 5 (4) Hours of sale for souvenir packages at retail shall be in conformity with KRS
6 244.290(3).
- 7 (5) Except as provided in this section, souvenir package sales shall be governed by all
8 the statutes and administrative regulations governing the retail sale of distilled
9 spirits by the package.
- 10 (6) No wholesaler may restrict the sale of souvenir packages to the distiller of origin
11 exclusively, but shall make souvenir packages available to any Kentucky retail
12 licensee licensed for the sale of distilled spirits by the package.
- 13 (7) Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding
14 a sampling license may allow visitors to sample distilled spirits under the following
15 conditions:
- 16 (a) Sampling shall be permitted only on the licensed premises during regular
17 business hours;
- 18 (b) A distillery shall not charge for the samples; and
- 19 (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces
20 of samples per visitor per day.
- 21 (8) *Notwithstanding KRS 243.110*, in accordance with this section, a distillery located
22 in wet territory or in any territory that has authorized the limited sale of alcoholic
23 beverages under an election held pursuant to KRS 242.1243 may:
- 24 (a) Hold an NQ2 retail drink license for the sale of alcoholic beverages on the
25 distillery premises~~[- Notwithstanding KRS 243.110, a licensed distiller may~~
26 ~~also hold any of the retail licenses available to it under this section];~~ *and*
- 27 (b)~~[- Sell alcoholic beverages produced or bottled on the premises of its Kentucky~~

- 1 ~~licensed distillery for on premises purposes without having to transfer~~
2 ~~physical possession of those alcoholic beverages to a licensed wholesaler if:~~
- 3 ~~1. All direct shipments are invoiced from the distiller to its wholesaler and from~~
4 ~~the wholesaler to the distiller; and~~
- 5 ~~2. All products directly shipped are included in the wholesaler's inventory and~~
6 ~~depletions for purposes of tax collections imposed pursuant to KRS 243.710~~
7 ~~to 243.890 and 243.990; and~~
- 8 (ε)† Employ persons to engage in the sale or service of alcohol under an NQ2
9 license, if each employee completes the department's Server Training in
10 Alcohol Regulations program within thirty (30) days of beginning
11 employment.
- 12 (9) A distiller may sell to consumers at fairs, festivals, and other similar types of events
13 located in wet territory alcoholic beverages by the drink, containing spirits distilled
14 or bottled on the premises of the distillery.
- 15 (10) Except as expressly stated in this section, this section does not exempt the holder of
16 a distiller's license from:
- 17 (a) The provisions of KRS Chapters 241 to 244;
18 (b) The administrative regulations of the board; and
19 (c) Regulation by the board at all the distiller's licensed premises.
- 20 (11) Nothing in this section shall be construed to vitiate the policy of this
21 Commonwealth supporting an orderly three (3) tier system for the production and
22 sale of alcoholic beverages.
- 23 ➔Section 2. KRS 243.120 is amended to read as follows:
- 24 (1) A distiller's, rectifier's, or winery license shall authorize the licensee to engage in
25 the business of distiller, rectifier, or winery at the premises specifically designated
26 in the license, to maintain aging warehouses, and to transport for himself or herself
27 only any alcoholic beverage which he or she is authorized under the license to

1 manufacture or sell. The licensee shall transport alcoholic beverages only by a
2 vehicle operated by himself or herself, which has affixed to its sides at all times a
3 sign of form and size prescribed by the state board, containing among other things
4 the name and license number of the licensee. No distilled spirits or wine shall be
5 transported on the same truck or vehicle with malt beverages, except by a common
6 carrier, unless the owner of the truck or vehicle holds a distributor's license.

- 7 (2) (a) Distillers that produce more than fifty thousand (50,000) gallons of distilled
8 spirits per calendar year at the premises shall obtain a distiller's license, Class
9 A.
- 10 (b) Distillers that produce fifty thousand (50,000) gallons or less of distilled
11 spirits per calendar year at the premises shall obtain a distiller's license, Class
12 B (craft distillery).
- 13 (3) (a) Rectifiers that rectify more than fifty thousand (50,000) gallons of distilled
14 spirits per calendar year at the premises shall obtain a rectifier's license, Class
15 A.
- 16 (b) Rectifiers that rectify fifty thousand (50,000) gallons or less of distilled spirits
17 per calendar year at the premises shall obtain a rectifier's license, Class B
18 (craft rectifier).
- 19 (4) (a) A distiller that is located in wet territory, or in any precinct that has authorized
20 the limited sale of alcoholic beverages at distilleries under KRS 242.1243,
21 may sell distilled spirits by the drink or by the package at retail to consumers
22 in accordance with KRS 243.0305.
- 23 (b) Any distilled spirits sold under this subsection shall be taxed and distributed
24 in the same manner as ~~souvenir package~~ sales under KRS 243.0305(2).
- 25 (c) Except as provided in this subsection, sales under this subsection shall be
26 governed by all of the statutes and administrative regulations governing the
27 retail sale of distilled spirits ~~by the drink~~.

1 **(5) Nothing in this section shall be construed to:**

2 **(a) Vitiate the policy of this Commonwealth supporting an orderly three (3) tier**
3 **system for the production and sale of alcoholic beverages; or**

4 **(b) Allow delivery of alcoholic beverages into dry or moist territory.**

5 ➔Section 3. KRS 243.130 is amended to read as follows:

- 6 (1) Sales and deliveries of distilled spirits and wine may be made at wholesale, and
7 from the licensed premises only:
- 8 (a) By distillers to rectifiers, wineries, holders of special nonbeverage alcohol
9 licenses so far as they may make the purchases, or other distillers;
- 10 (b) By rectifiers to wineries or to distillers if distilled spirits sold to distillers are
11 packaged in retail containers;
- 12 (c) By wineries to rectifiers or other wineries, or to the holders of special
13 nonbeverage alcohol licenses;
- 14 (d) By distillers, rectifiers, or wineries to wholesalers; or
- 15 (e) By distillers, rectifiers, or wineries for export out of the state.
- 16 (2) No distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver
17 any alcoholic beverages to any person who is not authorized by the law of the state
18 of the person's residence, and of the United States government if located in the
19 United States, to receive and possess those alcoholic beverages. **Except as**
20 **authorized under Section 1 of this Act,** no distiller, rectifier, or winery shall sell or
21 contract to sell, give away, or deliver any of its products to any retailer or consumer
22 in Kentucky.
- 23 (3) Employees of distillers, rectifiers, and wineries may sample the products produced
24 by that manufacturer for purposes of education, quality control, and product
25 development.
- 26 (4) Distillers may purchase distilled spirits only from other licensed distillers in this
27 state or in another state or province, but distillers may purchase from rectifiers

1 licensed in Kentucky, distilled spirits which are packaged in retail containers.

2 (5) Rectifiers may purchase distilled spirits and wine only from licensed distillers or
 3 wineries in Kentucky, or from nonresident distillers or wineries authorized by the
 4 law of the state of their residence and by the United States government, if the
 5 distillers or wineries are located in the United States, to make the sales.

6 (6) Wineries may purchase distilled spirits or wine only from licensed distillers or
 7 wineries in Kentucky, or from nonresident distillers or wineries authorized by law
 8 of the state of their residence, and by the United States government if located in the
 9 United States, to make the sales.

10 (7) Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but
 11 this subsection does not authorize the owner of a warehouse receipt to accept
 12 delivery of any distilled spirits unless the owner is a person who is permitted by law
 13 to receive the distilled spirits.

14 **(8) Nothing in this section shall be construed to:**

15 **(a) Vitate the policy of this Commonwealth supporting an orderly three (3) tier**
 16 **system for the production and sale of alcoholic beverages; or**

17 **(b) Allow delivery of alcoholic beverages into dry or moist territory.**

18 ➔Section 4. KRS 243.200 is amended to read as follows:

19 (1) A transporter's license may be issued as a primary license to a motor carrier
 20 authorized to transact business in the Commonwealth by the Transportation Cabinet
 21 or the Federal Motor Carrier Safety Administration or to another person engaged in
 22 business as a common carrier. A person holding a transporter's license may
 23 transport alcoholic beverages to or from the licensed premises of any licensee under
 24 this chapter **to the residence of an individual who has made a purchase pursuant**
 25 **to Section 1 of this Act, Section 5 of this Act, or KRS 243.280,** if both the
 26 consignor and consignee in each case are authorized by the law of the states of their
 27 residence to sell, purchase, ship, or receive the alcoholic beverages.

- 1 (2) *A transporter may ship directly to consumers over twenty-one (21) years of age in*
2 *packages clearly marked "Alcoholic Beverages, adult signature (21 years of age*
3 *or over) required," and shall request adult signature only service from the*
4 *carrier. Shipments of alcoholic beverages shall only be made into areas of the*
5 *state where alcoholic beverages are lawfully sold. When the shipper requests*
6 *adult signature only service, it shall be a violation for a common carrier not to*
7 *inspect government-issued identification for proof of age or to knowingly deliver*
8 *alcoholic beverages into areas of the state where alcoholic beverages are not*
9 *legally sold.*
- 10 (3) The holder of a transporter's license shall cause each truck or vehicle to display the
11 name of the licensee and the state license numbers in a manner prescribed by an
12 administrative regulation promulgated by the board.
- 13 ~~(4)~~⁽³⁾ An application for a transporter's license shall include a statement that the
14 applicant, if issued a license, shall allow any authorized investigators of the
15 department to stop and examine the cargo of any truck or vehicle in which alcoholic
16 beverages are being transported within the boundaries of the Commonwealth of
17 Kentucky.
- 18 ~~(5)~~⁽⁴⁾ Applicants for the transporter's license under this section, and their employees,
19 shall be exempt from the residency requirements of KRS 243.100.
- 20 ~~(6)~~⁽⁵⁾ A licensee may move, within the same county, alcoholic beverages from one
21 (1) of the licensee's licensed premises to another without a transporter's license. A
22 licensee may move alcoholic beverages from one (1) of the licensee's licensed
23 premises located in one (1) county to a licensed premises located in another county,
24 without a transporter's license, with prior written approval of the administrator for
25 good cause shown. The licensee shall keep and maintain, in one (1) of its licensed
26 premises, adequate books and records of the transactions involved in transporting
27 alcoholic beverages from one (1) licensed premises to another in accordance with

1 standards established in administrative regulations promulgated by the board. The
 2 records shall be available to the department and the Department of Revenue upon
 3 request.

4 ~~(7)~~~~(6)~~ Distilled spirits and wine may be transported by any licensed retailer selling
 5 distilled spirits or wine, by the package or by the drink, from the premises of a
 6 licensed wholesaler to the licensed premises of the retail licensee. Any retailer
 7 transporting alcoholic beverages under this subsection shall do so in a vehicle
 8 marked in conformity with administrative regulations of the board. Both the
 9 wholesaler and the retailer engaging in activity under this subsection shall be
 10 responsible for maintaining records documenting the transactions.

11 ➔Section 5. KRS 243.240 is amended to read as follows:

12 (1) A quota retail package license shall authorize the licensee to:

13 (a) Purchase, receive, possess, and sell distilled spirits and wine at retail in
 14 unbroken packages only, and only for consumption off the licensed premises;

15 and

16 (b) *Deliver or ship to the customer's residence, at the customer's request,*
 17 *alcoholic beverages that are purchased in-person from the licensed*
 18 *premises.*

19 (2) The licensee shall purchase distilled spirits and wine in retail packages only and
 20 only from licensed wholesalers.

21 (3) *All shipments made pursuant to this section shall be made through a licensed*
 22 *transporter or licensed common carrier authorized to deliver distilled spirits and*
 23 *wine in the jurisdiction to which the products will be delivered.*

24 ➔Section 6. KRS 244.165 is amended to read as follows:

25 (1) Except as provided in subsections~~[subsection]~~ (2) and (3) of this section, it shall be
 26 unlawful for any person in the business of selling alcoholic beverages in another
 27 state or country to deliver or ship or cause to be shipped any alcoholic beverage

1 directly to any Kentucky resident who does not hold a valid wholesaler or
2 distributor license issued by the Commonwealth of Kentucky.

3 (2) A winery or small farm winery located in another state may deliver or ship wine to
4 a customer in Kentucky if:

5 (a) The wine is purchased by the customer in person at the winery or small farm
6 winery;

7 (b) The out-of-state winery or small farm winery is licensed in Kentucky;

8 (c) The wine is shipped by licensed transporter or licensed common carrier; and

9 (d)~~(e)~~ The amount of wine shipped is limited to two (2) cases per
10 purchaser~~customer~~ per day~~visit~~.

11 (3) A distillery located in another state may ship distilled spirits directly to a customer
12 in Kentucky upon request of the customer if:

13 (a) The customer makes an in-person purchase at the distillery premises;

14 (b) The customer is of legal age;

15 (c) The distillery is licensed in Kentucky;

16 (d) The amount of distilled spirits shipped is no more than nine (9) liters per
17 purchaser per day; and

18 (e) The distilled spirits are shipped through a licensed transporter or licensed
19 common carrier authorized to deliver distilled spirits in the jurisdiction in
20 which the delivery will occur.

21 (4) For the purposes of subsections (2) and (3) of this section, a licensed transporter
22 or licensed common carrier may ship directly to consumers over twenty-one (21)
23 years of age in packages clearly marked "Alcoholic Beverages, adult signature
24 (21 years of age or over) required," and shall request adult signature only service
25 from the carrier. Shipments of alcoholic beverages shall only be made into areas
26 of the state where alcoholic beverages are lawfully sold. When the shipper
27 requests adult signature only service, it shall be a violation for a common carrier

1 not to inspect government-issued identification for proof of age or to knowingly
2 deliver alcoholic beverages into areas of the state where alcoholic beverages are
3 not legally sold.

4 (5) Nothing contained in this section shall exempt an out-of-state alcoholic beverage
5 producer from obeying the laws of its resident state.

6 (6) Any person who violates subsection (1) of this section shall, for the first offense, be
7 mailed a certified letter by the department ordering that person to cease and desist
8 any shipments of alcoholic beverages to Kentucky residents, and for the second and
9 each subsequent offense, be guilty of a Class D felony.

10 ➔Section 7. KRS 244.240 is amended to read as follows:

11 (1) No distiller, rectifier, winery, or wholesaler and no employee, servant, or agent of a
12 distiller, rectifier, winery, or wholesaler shall:

13 (a) Be interested directly or indirectly in any way in any premises where distilled
14 spirits or wine is sold at retail or in any business devoted wholly or partially to
15 the sale of distilled spirits or wine at retail, except as authorized under
16 Section 1 of this Act;

17 (b) Make or cause to be made any loan to any person engaged in the manufacture
18 or sale of distilled spirits or wine at wholesale or retail;

19 (c) Make any gift or render any kind of service whatsoever, directly or indirectly,
20 to any licensee that may tend to influence the licensee to purchase the product
21 of the distiller, rectifier, winery, or wholesaler; or

22 (d) Enter into a contract with any retail licensee under which the licensee agrees
23 to confine the licensee's sales to distilled spirits or wine manufactured or sold
24 by one (1) or more distillers, rectifiers, wineries, or wholesalers. This type of
25 contract shall be void.

26 (2) Nothing in this section shall prohibit the giving of discounts in the usual course of
27 business if the same discounts are offered to all licensees holding the same license

1 type buying similar quantities.

2 (3) A retailer shall not require or demand that a distiller, rectifier, winery, or wholesaler
3 violate this section.

4 ➔Section 8. If any provision of this Act or the application thereof to any person or
5 circumstance is held invalid, the invalidity shall not affect other provisions or
6 applications of the Act that can be given effect without the invalid provision or
7 application, and to this end the provisions of this Act are severable.