

1 AN ACT relating to minimum security requirements at retail establishments
2 licensed to sell alcohol for on-site consumption.

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

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

6 *As used in Sections 1 to 5 and Section 6 of this Act:*

7 *(1) "Bouncer" means a person employed by a retail business licensed to allow on-*
8 *premises consumption of alcoholic beverages where the principal basis for the*
9 *person's employment includes keeping the peace of the premises of the business,*
10 *screening potential customers for suitable attire or clothing, or screening*
11 *potential customers for legal drinking age status. "Bouncer" does not include:*

12 *(a) A person whose principal duty is serving food and beverages to patrons; or*

13 *(b) A person employed as a security guard at a theater, arena, stadium, or other*
14 *place where public exhibitions, games, contests, and performances are held.*

15 *(2) "Criminal history information" means a record of all convictions of an*
16 *individual's crimes maintained by the Justice and Public Safety Cabinet.*

17 *(3) "Employer" means a person, business, corporation, partnership, or other private*
18 *entity using an off-duty law enforcement officer as a bouncer.*

19 *(4) "Law enforcement officer" means a member of a lawfully organized police unit*
20 *or police force of county, city, or metropolitan government who is responsible for*
21 *the detection of crime and the enforcement of the general criminal laws of the*
22 *state, as well as sheriffs, sworn deputy sheriffs, campus police officers, law*
23 *enforcement support personnel, public airport authority security officers, other*
24 *public peace officers responsible for law enforcement, state troopers, and special*
25 *local peace officers licensed pursuant to KRS 61.360.*

26 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
27 READ AS FOLLOWS:

1 All retail businesses licensed for on-premises consumption of alcohol which use one
2 (1) or more bouncers shall:

3 (1) Request from a person applying to work as a bouncer a statement of his or her
4 prior criminal convictions in this Commonwealth or any other jurisdiction. Prior
5 to submitting its request for information from the Commonwealth for an
6 applicant's criminal convictions history, an employer shall:

7 (a) Inform the prospective bouncer in writing that such employer is required to
8 request his or her criminal history information from the Justice and Public
9 Safety Cabinet and review such information pursuant to this subsection;

10 (b) Inform the applicant that before the employer requests such criminal
11 history information, the applicant has the right to obtain, review, and seek
12 corrections of his or her criminal history information pursuant to
13 administrative regulations and procedures established by the Justice and
14 Public Safety Cabinet; and

15 (c) Obtain the informed and signed consent of the applicant on a form
16 developed by the Justice and Public Safety Cabinet which indicates that the
17 applicant has:

18 1. Been informed of his or her right to a report and of the procedures
19 necessary to obtain a criminal history report;

20 2. Been informed of the reason for the request;

21 3. Been informed of the right and method to seek correction of his or her
22 criminal history information; and

23 4. Consented to the request;

24 (2) Designate one (1) employee who shall be authorized to request, receive, and
25 review criminal history information regarding an applicant for employment as a
26 bouncer. Only the employer, the designated employee, and the applicant shall
27 have access to this information.

1 (a) The employer or its designee shall promptly submit the applicant's
2 information to the Justice and Public Safety Cabinet in the manner
3 prescribed by regulations promulgated by that agency. The Justice and
4 Public Safety Cabinet shall then provide the employer or designee with
5 criminal history information concerning the applicant.

6 (b) The employer or its designee shall, upon receipt of any person's criminal
7 history information, immediately mark the criminal history "confidential,"
8 and maintain it in a secure place.

9 1. Criminal history received pursuant to this subsection shall not be
10 published or in any way disclosed to persons other than the employer,
11 its designee, and the applicant.

12 2. Any person who willfully releases or permits the release of any
13 confidential criminal history information to persons not authorized
14 under this section may be sued civilly by the subject of the criminal
15 history to recover a civil award of damages resulting from the
16 unauthorized disclosure and additional moneys for costs and
17 reasonable attorney's fees.

18 3. Criminal history information concerning an applicant shall be
19 returned to the applicant within ninety (90) days of receipt if the
20 prospective employee is not selected for employment and shall be
21 returned to the employee when the employee leaves employment.

22 4. Certificates of approval obtained for a person employed as a bouncer
23 shall follow that person upon termination of employment to his or her
24 subsequent employer; and

25 (3) Not charge or require a person applying for employment as a bouncer to pay a
26 fee for the criminal history background check required by Sections 1 to 5 of this
27 Act.

1 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
2 READ AS FOLLOWS:

3 *The Justice and Public Safety Cabinet shall promulgate administrative regulations*
4 *necessary to implement Sections 1 to 5 of this Act. The regulations shall include*
5 *convenient procedures for applicants to promptly verify the accuracy of their criminal*
6 *history information and, to the extent authorized by law, to have access to relevant*
7 *documents related thereto.*

8 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
9 READ AS FOLLOWS:

10 *(1) The Department of Alcoholic Beverage Control shall prepare and disseminate*
11 *information to advise businesses licensed to sell alcohol for on-premises*
12 *consumption of the requirement to obtain the criminal history information of*
13 *applicants for the position of bouncer. Such information shall also include but*
14 *not be limited to the following:*

15 *(a) Which business are subject to criminal history information collection*
16 *requirements;*

17 *(b) The steps necessary to perform a criminal history information check;*

18 *(c) Applicable confidentiality requirements;*

19 *(d) Requirements related to permissive use of criminal history information in*
20 *hiring decisions; and*

21 *(e) Other information available to prospective employers upon the consent of*
22 *an applicant including Department of Vehicle Regulation records,*
23 *educational records, and credit records.*

24 *(2) The department shall develop and establish minimum criteria for bouncer*
25 *training programs operated by schools and trade associations whose members are*
26 *engaged in or involved in the retail sale of alcoholic beverages for on-premises*
27 *consumption. The training program shall also include a separate curriculum for*

1 law enforcement officers to teach the differences between enforcement authority
2 when working as an agent of a municipality, jurisdiction, the Commonwealth or
3 subdivision thereof and authority when working as a bouncer for a private
4 employer.

5 (3) The department shall issue certificates of approval to operate bouncer training
6 programs.

7 (a) Certificates of approval and each subsequent renewal shall be issued for a
8 period of three (3) years.

9 1. Before issuing or renewing a certificate the department may:

10 a. Require an applicant submit information;

11 b. Prescribe forms of application and of reports which it deems
12 necessary to be made by an applicant or certificate holder;

13 c. Conduct investigations;

14 d. Require the maintenance of such books and records as the
15 department directs;

16 e. Revoke, cancel, or suspend for cause any certificate provided for
17 by Sections 1 to 5 of this Act.

18 2. The department shall promulgate administrative regulations to
19 effectuate the provisions of this section, including:

20 a. Minimum requirements for the curriculum training program;

21 b. Continuing training obligations for employees holding
22 certificates of completion;

23 c. Form of a certificate of completion or certificate of renewal
24 issued in respect to that program;

25 d. Provisions authorizing in-person classroom and online
26 instruction; and

27 e. Deadlines for transmitting copies of newly issued certificates to

1 the department.

2 3. Certificates of approval may be revoked by the department for failure
3 to adhere to the department's administrative regulations.
4 Administrative regulations shall afford those who have been issued a
5 certificate of approval the opportunity for an administrative hearing
6 pursuant to KRS Chapter 13B prior to revocation of a certificate of
7 approval.

8 (b) Fees paid to the department as part of an application for an approval
9 certificate or renewal certificate authorizing operation of a bouncer training
10 program shall promptly be refunded to a business whose application or
11 renewal is denied.

12 (4) The department shall require all bouncers employed by a business licensed for
13 on-premises consumption to obtain a certificate of completion from an approved
14 bouncer training program within thirty (30) days of employment as a bouncer.

15 ➔SECTION 5. A NEW SECTION OF ARTICLE OF KRS CHAPTER 244 IS
16 CREATED TO READ AS FOLLOWS:

17 (1) A law enforcement officer is off-duty as a law enforcement officer during all
18 hours when he or she is working as a bouncer for a private employer. Acts and
19 omissions of a law enforcement officer working as a bouncer for a private
20 employer shall be deemed to be the acts and omissions of the private person or
21 private entity employing the officer. An employer using an off-duty officer as a
22 bouncer shall hold harmless the jurisdiction by which the officer is employed and
23 fully indemnify the jurisdiction for any expense or loss, including attorney's fees,
24 which results from any action taken against the jurisdiction arising out of the
25 acts or omissions of the off-duty officer while working as a bouncer.

26 (2) Neither the Commonwealth nor any subdivision thereof shall be liable for acts or
27 omissions of a law enforcement officer in the discharge of his or her duties as a

1 *bouncer. An employer employing the officer as a bouncer shall hold harmless the*
 2 *Commonwealth or any subdivision thereof by which the officer is employed and*
 3 *fully indemnify the Commonwealth or its subdivision for any expense or loss,*
 4 *including attorney's fees, which results from any action taken against the*
 5 *Commonwealth or subdivision arising out of the acts or omissions of the officer*
 6 *while working as a bouncer.*

7 *(3) To avoid confusion of the public, off-duty law enforcement officers of any*
 8 *jurisdiction, including the Commonwealth or subdivision thereof, shall not use or*
 9 *display any equipment, supplies, weapons, badges, insignias, or uniforms*
 10 *supplied by the jurisdiction during their performance of any private security*
 11 *duties under this section. This prohibition includes any such items the officer*
 12 *may have purchased which indicate any affiliation with the jurisdiction.*

13 ➔Section 6. KRS 244.120 is amended to read as follows:

- 14 (1) A retail licensee, a patron, or the licensee's agents, servants, or employees shall not
 15 cause, suffer, or permit the licensed premises to be disorderly.
- 16 (2) Acts which constitute disorderly premises consist of causing, suffering, or
 17 permitting patrons, the licensee, or the licensee's servants, agents, or employees to
 18 cause public inconvenience, annoyance, or alarm, or create a risk through:
- 19 (a) Engaging in fighting or in violent, tumultuous, or threatening behavior;
- 20 (b) Making unreasonable noise;
- 21 (c) Refusing to obey an official order to disperse issued to maintain public safety
 22 in dangerous proximity to a fire, hazard, or other emergency;
- 23 (d) Creating a hazardous or physically offensive condition by any act that serves
 24 no legitimate purpose;
- 25 (e) Creating a public nuisance;
- 26 (f) Engaging in criminal activity that would constitute a capital offense, felony, or
 27 misdemeanor;~~[-or]~~

1 (g) Failing to maintain the minimum health, fire, safety, or sanitary standards
2 established by the state or a local government, or by state administrative
3 regulations, for the licensed premises; or

4 (h) Allowing a bouncer to consume alcohol during working hours or permitting
5 a bouncer to work under the influence of alcohol or an illegal substance.

6 ➔Section 7. This Act shall be known as Christopher's Law.