

1 AN ACT relating to wine corkage.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) The holder of a "Nonquota type 2" or "NQ2" retail drink license or a limited*
6 *restaurant license may provide corkage at its licensed premises subject to the*
7 *following conditions:*

8 *(a) A patron may bring up to two (2) unopened bottles of wine for consumption*
9 *on the premises in conjunction with a meal;*

10 *(b) The licensee or its employee shall open the bottles and serve the wine, and*
11 *may charge a fee for this service; and*

12 *(c) A patron may not bring wine that is available for purchase at the licensed*
13 *premises.*

14 *(2) A patron may remove his or her partially consumed bottle of wine from the*
15 *premises subject to the following conditions:*

16 *(a) The partially consumed bottle shall be:*

17 *1. Resealed by the licensee or its employee; and*

18 *2. Placed in a bag or other container that is secured in a manner that*
19 *makes it visibly apparent if the container has been subsequently*
20 *tampered with or opened; and*

21 *(b) The licensee shall provide a dated receipt to the patron.*

22 ➔Section 2. KRS 243.020 is amended to read as follows:

23 (1) A person shall not do any act authorized by any kind of license with respect to the
24 manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic
25 beverages unless the person holds or is an independent contractor, agent, servant, or
26 employee of a person who holds the kind of license that authorizes the act, or is a
27 third party utilized by a direct shipper licensee as set forth in KRS 243.027.

- 1 (2) The holding of any permit from the United States government to traffic in alcoholic
2 beverages without the corresponding requisite state and local licenses shall in all
3 cases raise a rebuttable presumption that the holder of the United States permit is
4 unlawfully trafficking in alcoholic beverages.
- 5 (3) Except as permitted by KRS 243.033, 243.036, 243.155, 243.157, and 243.260, a
6 person, conducting a place of business patronized by the public, who is not a
7 licensee authorized to sell alcoholic beverages, shall not permit any person to sell,
8 barter, loan, give away, or drink alcoholic beverages on the premises of the place of
9 business.
- 10 (4) Except as permitted by Section 1 of this Act, a licensee shall not permit any
11 consumer to possess, give away, or drink alcoholic beverages on the licensed
12 premises that are not purchased from the licensee.
- 13 (5) In a moist territory, the only types of licenses that may be issued are those that
14 directly correspond with the types of sales approved by the voters through moist
15 elections within the territory, unless otherwise specifically authorized by statute.
- 16 (6) Notwithstanding subsections (3) and (4) of this section, with the written permission
17 of a licensed entertainment destination center:
- 18 (a) A retail drink licensee located wholly within a licensed entertainment
19 destination center or that has a storefront sharing a physical boundary with
20 that licensed entertainment destination center may allow persons on the
21 licensee's premises to possess and drink alcoholic beverages that were
22 purchased from another retail drink licensee located wholly within, or that has
23 a storefront sharing a physical boundary with, the licensed entertainment
24 destination center; and
- 25 (b) A nonlicensed place of business that is located wholly within a licensed
26 entertainment destination center or that has a storefront sharing a physical
27 boundary with that licensed entertainment destination center may allow

1 persons on its property to possess and drink alcoholic beverages that were
2 purchased from a retail drink licensee located wholly within, or that has a
3 storefront sharing a physical boundary with, the licensed entertainment
4 destination center.

5 ➔Section 3. KRS 243.034 is amended to read as follows:

- 6 (1) A limited restaurant license may be issued to an establishment meeting the
7 definition criteria established in KRS 241.010(37) as long as the establishment is
8 within:
- 9 (a) Any wet territory; or
 - 10 (b) Any moist precinct that has authorized the sale of alcoholic beverages under
11 KRS 242.1244.
- 12 (2) A limited restaurant license shall authorize the licensee to purchase, receive,
13 possess, and sell alcoholic beverages at retail by the drink for consumption on the
14 licensed premises or off-premises consumption pursuant to KRS 243.081. The
15 licensee shall purchase alcoholic beverages only from licensed wholesalers or
16 distributors. **The licensee may provide corkage at its licensed premises subject to**
17 **the provisions of Section 1 of this Act.** The license shall not authorize the licensee
18 to sell alcoholic beverages by the package.
- 19 (3) The holder of a limited restaurant license shall maintain at least seventy percent
20 (70%) of its gross receipts from the sale of food and maintain the minimum
21 applicable seating requirement required for the type of limited restaurant license.
- 22 (4) A limited restaurant as defined by KRS 241.010(37)(a) shall:
- 23 (a) Only sell alcoholic beverages incidental to the sale of a meal; and
 - 24 (b) Not have an open bar and shall not sell alcoholic beverages to any person who
25 has not purchased or does not purchase a meal.

26 ➔Section 4. KRS 243.084 is amended to read as follows:

- 27 (1) A "Nonquota type 2" or "NQ2" retail drink license may be issued to an applicant

1 operating as, or in:

2 (a) A hotel that:

3 1. Contains at least fifty (50) sleeping units; and

4 2. Receives from its total food and alcoholic beverage sales at least fifty
5 percent (50%) of its gross receipts from the sale of food;

6 (b) A restaurant;

7 (c) An airport;

8 (d) A riverboat;

9 (e) A distiller; or

10 (f) A business located within, or adjacent to, an entertainment destination center
11 licensed premises.

12 (2) A holder of an NQ2 retail drink license may purchase, receive, possess, and sell
13 alcoholic beverages at retail by the drink for consumption on the licensed premises
14 or off-premises consumption pursuant to KRS 243.081. The licensee shall purchase
15 alcoholic beverages only from licensed wholesalers or distributors. **The licensee**
16 **may provide corkage at its licensed premises subject to the provisions of Section 1**
17 **of this Act.** A distiller may purchase its own products for retail drink sales under
18 KRS 243.0305. The holder of an NQ2 retail drink license shall store alcoholic
19 beverages in the manner prescribed in KRS 244.260.

20 (3) (a) To qualify for an NQ2 license, a riverboat shall have a regular or alternative
21 place of mooring in a wet county or city of this state.

22 (b) If a riverboat moors or makes landfall in a location other than its regular or
23 alternate regular place of mooring, all alcoholic beverages shall be kept
24 locked.

25 (c) A riverboat licensed under this subsection shall not take on or discharge
26 passengers when mooring or making landfall in dry option territory.

27 ➔Section 5. KRS 242.260 is amended to read as follows:

- 1 (1) It shall be unlawful for any person to bring into, transfer to another, deliver, or
2 distribute in any dry or moist territory, except as provided in subsection (2) of this
3 section, any alcoholic beverage, regardless of its name. Each package of such
4 beverage so brought, transferred, or delivered in such territory shall constitute a
5 separate offense. Nothing in this section shall be construed to prevent any distiller
6 or manufacturer or any authorized agent of a distiller, manufacturer, or wholesale
7 dealer from transporting or causing to be transported by a licensed carrier any
8 alcoholic beverage to their distilleries, breweries, wineries, or warehouses where
9 the sale of such beverage may be lawful, either in or out of the state.
- 10 (2) Subsection (1) of this section shall also apply to any moist territory unless the sale
11 of the alcoholic beverage in question has been specifically authorized in that moist
12 territory under a limited local option election.
- 13 (3) No properly licensed common carrier or any of its employees acting on behalf of a
14 consignor shall be liable for a violation of this section.
- 15 (4) Proof that the purchaser represented in writing that the delivery address is located in
16 wet territory shall be an absolute defense to a violation of this section on behalf of a
17 retailer, winery, small farm winery, or distillery in connection with the delivery or
18 shipment of alcoholic beverages purchased at retail.
- 19 (5) It shall not be a violation of this section for a person to bring alcoholic beverages
20 that were lawfully purchased in wet or moist territory into dry or moist territory to a
21 private residence, or to a private event regardless of whether the venue is a public
22 place, for personal consumption or consumption by others so long as the
23 possession, consumption, or provision does not occur at a public place in violation
24 of KRS Chapter 222. For purposes of this subsection, an event is public, not private,
25 if any member of the public is permitted to enter or attend the event upon payment
26 of consideration.
- 27 **(6) It shall not be a violation of this section if an individual is acting in accordance**

1 *with the provisions of Section 1 of this Act.*