

1 AN ACT relating to alcoholic beverages and declaring an emergency.

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

3 ➔Section 1. KRS 241.010 is amended to read as follows:

4 As used in KRS Chapters 241 to 244, unless the context requires otherwise:

5 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
6 whatever source or by whatever process it is produced;

7 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether
8 patented or not, containing alcohol in an amount in excess of more than one percent
9 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every
10 spurious or imitation liquor sold as, or under any name commonly used for,
11 alcoholic beverages, whether containing any alcohol or not. It does not include the
12 following products:

13 (a) Medicinal preparations manufactured in accordance with formulas prescribed
14 by the United States Pharmacopoeia, National Formulary, or the American
15 Institute of Homeopathy;

16 (b) Patented, patent, and proprietary medicines;

17 (c) Toilet, medicinal, and antiseptic preparations and solutions;

18 (d) Flavoring extracts and syrups;

19 (e) Denatured alcohol or denatured rum;

20 (f) Vinegar and preserved sweet cider;

21 (g) Wine for sacramental purposes; and

22 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
23 use;

24 (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,
25 or process that mixes liquor, spirits, or any other alcohol product with pure
26 oxygen or by any other means produces a vaporized alcoholic product used
27 for human consumption;

- 1 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,
2 nebulizer, atomizer, or other device that is designed and intended by the
3 manufacturer to dispense a prescribed or over-the-counter medication or a
4 device installed and used by a licensee under this chapter to demonstrate the
5 aroma of an alcoholic beverage;
- 6 (4) "Automobile race track" means a facility primarily used for vehicle racing that has a
7 seating capacity of at least thirty thousand (30,000) people;
- 8 (5) "Barrel-aged and batched cocktail" means an alcoholic beverage that is:
9 (a) Composed of:
10 1. Distilled spirits that have been dispensed from their original sealed
11 container; and
12 2. Other ingredients or alcoholic beverages;
13 (b) Placed into a barrel or container on the premises of a retail licensee; and
14 (c) Dispensed from the barrel or container as a retail sale by the drink;
- 15 (6) "Bed and breakfast" means a one (1) family dwelling unit that:
16 (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are
17 occupied for sleeping purposes by persons not members of the single-family
18 unit;
19 (b) Holds a permit under KRS Chapter 219; and
20 (c) Has an innkeeper who resides on the premises or property adjacent to the
21 premises during periods of occupancy;
- 22 (7) "Board" means the State Alcoholic Beverage Control Board created by KRS
23 241.030;
- 24 (8) "Bottle" means any container which is used for holding alcoholic beverages for the
25 use and sale of alcoholic beverages at retail;
- 26 (9) "Brewer" means any person who manufactures malt beverages or owns, occupies,
27 carries on, works, or conducts any brewery, either alone or through an agent;

- 1 (10) "Brewery" means any place or premises where malt beverages are manufactured for
2 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
3 and storerooms connected with the premises; or where any part of the process of the
4 manufacture of malt beverages is carried on; or where any apparatus connected with
5 manufacture is kept or used; or where any of the products of brewing or
6 fermentation are stored or kept;
- 7 (11) "Building containing licensed premises" means the licensed premises themselves
8 and includes the land, tract of land, or parking lot in which the premises are
9 contained, and any part of any building connected by direct access or by an
10 entrance which is under the ownership or control of the licensee by lease holdings
11 or ownership;
- 12 (12) "Caterer" means a person operating a food service business that prepares food in a
13 licensed and inspected commissary, transports the food and alcoholic beverages to
14 the caterer's designated and inspected banquet hall or to an agreed location, and
15 serves the food and alcoholic beverages pursuant to an agreement with another
16 person;
- 17 (13) "Charitable organization" means a nonprofit entity recognized as exempt from
18 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.
19 501(c)) or any organization having been established and continuously operating
20 within the Commonwealth of Kentucky for charitable purposes for three (3) years
21 and which expends at least sixty percent (60%) of its gross revenue exclusively for
22 religious, educational, literary, civic, fraternal, or patriotic purposes;
- 23 (14) "Cider" means any fermented fruit-based beverage containing seven percent (7%)
24 or more alcohol by volume and includes hard cider and perry cider;
- 25 (15) "City administrator" means city alcoholic beverage control administrator;
- 26 (16) "Commercial airport" means an airport through which more than five hundred
27 thousand (500,000) passengers arrive or depart annually;

- 1 (17) (a) "Commercial quadricycle" means a vehicle equipped with a minimum of ten
2 (10) pairs of fully operative pedals for propulsion by means of human
3 muscular power and which:
- 4 1. Has four (4) wheels;
 - 5 2. Is operated in a manner similar to that of a bicycle;
 - 6 3. Is equipped with a minimum of thirteen (13) seats for passengers;
 - 7 4. Has a unibody design;
 - 8 5. Is equipped with a minimum of four (4) hydraulically operated brakes;
 - 9 6. Is used for commercial tour purposes;
 - 10 7. Is operated by the vehicle owner or an employee of the owner; and
 - 11 8. Has an electrical assist system that shall only be used when traveling to
12 or from its storage location while not carrying passengers.
- 13 (b) A "commercial quadricycle" is not a motor vehicle as defined in KRS 186.010
14 or 189.010;
- 15 (18) "Commissioner" means the commissioner of the Department of Alcoholic Beverage
16 Control;
- 17 (19) "Consumer" means a person, persons, or business organization who purchases
18 alcoholic beverages and who:
- 19 (a) Does not hold a license or permit issued by the department;
 - 20 (b) Purchases the alcoholic beverages for personal consumption only and not for
21 resale;
 - 22 (c) Is of lawful drinking age; and
 - 23 (d) Receives the alcoholic beverages in territory where the alcoholic beverages
24 may be lawfully sold or received;
- 25 (20) "Convention center" means any facility which, in its usual and customary business,
26 provides seating for a minimum of one thousand (1,000) people and offers
27 convention facilities and related services for seminars, training and educational

- 1 purposes, trade association meetings, conventions, or civic and community events
2 or for plays, theatrical productions, or cultural exhibitions;
- 3 (21) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
4 guilty, the decision of a court, or the finding of a jury, irrespective of a
5 pronouncement of judgment or the suspension of the judgment;
- 6 (22) "County administrator" means county alcoholic beverage control administrator;
- 7 (23) "Department" means the Department of Alcoholic Beverage Control;
- 8 (24) "Dining car" means a railroad passenger car that serves meals to consumers on any
9 railroad or Pullman car company;
- 10 (25) "Discount in the usual course of business" means price reductions, rebates, refunds,
11 and discounts given by wholesalers to distilled spirits and wine retailers pursuant to
12 an agreement made at the time of the sale of the merchandise involved and are
13 considered a part of the sales transaction, constituting reductions in price pursuant
14 to the terms of the sale, irrespective of whether the quantity discount was:
- 15 (a) Prorated and allowed on each delivery;
- 16 (b) Given in a lump sum after the entire quantity of merchandise purchased had
17 been delivered; or
- 18 (c) Based on dollar volume or on the quantity of merchandise purchased;
- 19 (26) "Distilled spirits" or "spirits" means any product capable of being consumed by a
20 human being which contains alcohol in excess of the amount permitted by KRS
21 Chapter 242 obtained by distilling, mixed with water or other substances in
22 solution, except wine, hard cider, and malt beverages;
- 23 (27) "Distiller" means any person who is engaged in the business of manufacturing
24 distilled spirits at any distillery in the state and is registered in the Office of the
25 Collector of Internal Revenue for the United States at Louisville, Kentucky;
- 26 (28) "Distillery" means any place or premises where distilled spirits are manufactured
27 for sale, and which are registered in the office of any collector of internal revenue

- 1 for the United States. It includes any United States government bonded warehouse;
- 2 (29) "Distributor" means any person who distributes malt beverages for the purpose of
3 being sold at retail;
- 4 (30) "Dry" means a territory in which a majority of the electorate voted to prohibit all
5 forms of retail alcohol sales through a local option election held under KRS Chapter
6 242;
- 7 (31) "Election" means:
- 8 (a) An election held for the purpose of taking the sense of the people as to the
9 application or discontinuance of alcoholic beverage sales under KRS Chapter
10 242; or
- 11 (b) Any other election not pertaining to alcohol;
- 12 (32) "Horse racetrack" means a facility licensed to conduct a horse race meeting under
13 KRS Chapter 230;
- 14 (33) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public,
15 designed primarily to serve transient patrons;
- 16 (34) "Investigator" means any employee or agent of the department who is regularly
17 employed and whose primary function is to travel from place to place for the
18 purpose of visiting licensees, and any employee or agent of the department who is
19 assigned, temporarily or permanently, by the commissioner to duty outside the main
20 office of the department at Frankfort, in connection with the administration of
21 alcoholic beverage statutes;
- 22 (35) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- 23 (36) "Licensee" means any person to whom a license has been issued, pursuant to KRS
24 Chapters 241 to 244;
- 25 (37) "Limited restaurant" means:
- 26 (a) A facility where the usual and customary business is the preparation and
27 serving of meals to consumers, which has a bona fide kitchen facility, which

1 receives at least seventy percent (70%) of its food and alcoholic beverage
2 receipts from the sale of food, which maintains a minimum seating capacity of
3 fifty (50) persons for dining, which has no open bar, which requires that
4 alcoholic beverages be sold in conjunction with the sale of a meal, and which
5 is located in a wet or moist territory under KRS 242.1244; or

6 (b) A facility where the usual and customary business is the preparation and
7 serving of meals to consumers, which has a bona fide kitchen facility, which
8 receives at least seventy percent (70%) of its food and alcoholic beverage
9 receipts from the sale of food, which maintains a minimum seating capacity of
10 one hundred (100) persons of dining, and which is located in a wet or moist
11 territory under KRS 242.1244;

12 (38) "Local administrator" means a city alcoholic beverage administrator, county
13 alcoholic beverage administrator, or urban-county alcoholic beverage control
14 administrator;

15 (39) "Malt beverage" means any fermented undistilled alcoholic beverage of any name
16 or description, manufactured from malt wholly or in part, or from any substitute for
17 malt, and includes weak cider;

18 (40) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

19 (41) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person
20 engaged in the production or bottling of alcoholic beverages;

21 (42) "Minor" means any person who is not twenty-one (21) years of age or older;

22 (43) "Moist" means a territory in which a majority of the electorate voted to permit
23 limited alcohol sales by any one (1) or a combination of special limited local option
24 elections authorized by KRS Chapter 242;

25 (44) "Population" means the population figures established by the federal decennial
26 census for a census year or the current yearly population estimates prepared by the
27 Kentucky State Data Center, Urban Studies Center of the University of Louisville,

- 1 Louisville, Kentucky, for all other years;
- 2 (45) "Premises" means the land and building in and upon which any business regulated
3 by alcoholic beverage statutes is operated or carried on. "Premises" shall not
4 include as a single unit two (2) or more separate businesses of one (1) owner on the
5 same lot or tract of land, in the same or in different buildings if physical and
6 permanent separation of the premises is maintained, excluding employee access by
7 keyed entry and emergency exits equipped with crash bars, and each has a separate
8 public entrance accessible directly from the sidewalk or parking lot. Any licensee
9 holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this
10 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
11 of the license;
- 12 (46) "Primary source of supply" or "supplier" means the distiller, winery, brewer,
13 producer, owner of the commodity at the time it becomes a marketable product,
14 bottler, or authorized agent of the brand owner. In the case of imported products,
15 the primary source of supply means either the foreign producer, owner, bottler, or
16 agent of the prime importer from, or the exclusive agent in, the United States of the
17 foreign distiller, producer, bottler, or owner;
- 18 (47) "Private club" means a nonprofit social, fraternal, military, or political organization,
19 club, or nonprofit or for-profit entity maintaining or operating a club room, club
20 rooms, or premises from which the general public is excluded;
- 21 (48) "Private selection event" means a private event with a licensed distiller during
22 which participating consumers, retail licensees, wholesalers, distributors, or a
23 distillery's own representatives select a single barrel or a blend of barrels of the
24 distiller's products to be specially packaged for the participants;
- 25 (49) "Private selection package" means a bottle of distilled spirits sourced from the
26 barrel or barrels selected by participating consumers, retail licensees, wholesalers,
27 distributors, microbreweries that hold a quota retail drink or quota retail package

- 1 license, or a distillery's own representatives during a private selection event;
- 2 (50) "Public nuisance" means a condition that endangers safety or health, is offensive to
3 the senses, or obstructs the free use of property so as to interfere with the
4 comfortable enjoyment of life or property by a community or neighborhood or by
5 any considerable number of persons;
- 6 (51) "Qualified historic site" means:
- 7 (a) A contributing property with dining facilities for at least fifty (50) persons at
8 tables, booths, or bars where food may be served within a commercial district
9 listed in the National Register of Historic Places;
- 10 (b) A site that is listed as a National Historic Landmark or in the National
11 Register of Historic Places with dining facilities for at least fifty (50) persons
12 at tables, booths, or bars where food may be served;
- 13 (c) A distillery which is listed as a National Historic Landmark and which
14 conducts souvenir retail package sales under KRS 243.0305; or
- 15 (d) A not-for-profit or nonprofit facility listed on the National Register of Historic
16 Places;
- 17 (52) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits,
18 malt, or wine by any process other than as provided for on distillery premises, and
19 every person who, without rectifying, purifying, or refining distilled spirits by
20 mixing alcoholic beverages with any materials, manufactures any imitations of or
21 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,
22 spirits, cordials, bitters, or any other name;
- 23 (53) "Repackaging" means the placing of alcoholic beverages in any retail container
24 irrespective of the material from which the container is made;
- 25 (54) "Restaurant" means a facility where the usual and customary business is the
26 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
27 and that receives at least fifty percent (50%) of its food and alcoholic beverage

- 1 receipts from the sale of food at the premises;
- 2 (55) "Retail container" means any bottle, can, barrel, or other container which, without a
3 separable intermediate container, holds alcoholic beverages and is suitable and
4 destined for sale to a retail outlet, whether it is suitable for delivery or shipment to
5 the consumer or not;
- 6 (56) "Retail sale" means any sale of alcoholic beverages to a consumer, including those
7 transactions taking place in person, electronically, online, by mail, or by telephone;
- 8 (57) "Retailer" means any licensee who sells and delivers any alcoholic beverage to
9 consumers, except for manufacturers with limited retail sale privileges and direct
10 shipper licensees;
- 11 (58) "Riverboat" means any boat or vessel with a regular place of mooring in this state
12 that is licensed by the United States Coast Guard to carry forty (40)~~one hundred~~
13 ~~(100)~~ or more passengers for hire on navigable waters in or adjacent to this state;
- 14 (59) "Sale" means any transfer, exchange, or barter for consideration, and includes all
15 sales made by any person, whether principal, proprietor, agent, servant, or
16 employee, of any alcoholic beverage;
- 17 (60) "Service bar" means a bar, counter, shelving, or similar structure used for storing or
18 stocking supplies of alcoholic beverages that is a workstation where employees
19 prepare alcoholic beverage drinks to be delivered to customers away from the
20 service bar;
- 21 (61) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with
22 intent to sell, and the delivery of any alcoholic beverage;
- 23 (62) "Small farm winery" means a winery whose wine production is not less than two
24 hundred fifty (250) gallons and not greater than five hundred thousand (500,000)
25 gallons in a calendar year;
- 26 (63) "Souvenir package" means a special package of distilled spirits available from a
27 licensed retailer that is:

- 1 (a) Available for retail sale at a licensed Kentucky distillery where the distilled
2 spirits were produced or bottled; or
- 3 (b) Available for retail sale at a licensed Kentucky distillery but produced or
4 bottled at another of that distiller's licensed distilleries in Kentucky;
- 5 (64) "State administrator" or "administrator" means the distilled spirits administrator or
6 the malt beverages administrator, or both, as the context requires;
- 7 (65) "State park" means a state park that has a:
- 8 (a) Nine (9) or eighteen (18) hole golf course; or
9 (b) Full-service lodge and dining room;
- 10 (66) "Supplemental bar" means a bar, counter, shelving, or similar structure used for
11 serving and selling distilled spirits or wine by the drink for consumption on the
12 licensed premises to guests and patrons from additional locations other than the
13 main bar;
- 14 (67) "Territory" means a county, city, district, or precinct;
- 15 (68) "Urban-county administrator" means an urban-county alcoholic beverage control
16 administrator;
- 17 (69) "Valid identification document" means an unexpired, government-issued form of
18 identification that contains the photograph and date of birth of the individual to
19 whom it is issued;
- 20 (70) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise
21 move alcoholic beverages or any products, equipment, or appurtenances used to
22 manufacture, bottle, or sell these beverages;
- 23 (71) "Vintage distilled spirit" means:
- 24 (a) A private selection package; or
25 (b) A package or packages of distilled spirits that:
- 26 1. Are in their original manufacturer's unopened container;
27 2. Are not owned by a distillery; and

- 1 3. Are not otherwise available for purchase from a licensed wholesaler
2 within the Commonwealth;
- 3 (72) (a) "Vintage distilled spirits seller" means a nonlicensed person at least twenty-
4 one (21) years of age who is:
- 5 1. An administrator, executor, receiver, or other fiduciary who receives and
6 sells vintage distilled spirits in execution of the person's fiduciary
7 capacity;
- 8 2. A creditor who receives or takes possession of vintage distilled spirits as
9 security for, or in payment of, debt, in whole or in part;
- 10 3. A public officer or court official who levies on vintage distilled spirits
11 under order or process of any court or magistrate to sell the vintage
12 distilled spirits in satisfaction of the order or process; or
- 13 4. Any other person not engaged in the business of selling alcoholic
14 beverages.
- 15 (b) "Vintage distilled spirits seller" does not mean:
- 16 1. A person selling alcoholic beverages as part of an approved KRS
17 243.630 transfer; or
- 18 2. A person selling alcoholic beverages as authorized by KRS 243.540;
- 19 (73) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- 20 (74) "Weak cider" means any fermented fruit-based beverage containing more than one
21 percent (1%) but less than seven percent (7%) alcohol by volume;
- 22 (75) "Wet" means a territory in which a majority of the electorate voted to permit all
23 forms of retail alcohol sales by a local option election under KRS 242.050 or
24 242.125 on the following question: "Are you in favor of the sale of alcoholic
25 beverages in (name of territory)?"
- 26 (76) "Wholesale sale" means a sale to any person for the purpose of resale;
- 27 (77) "Wholesaler" means any person who distributes alcoholic beverages for the purpose

1 of being sold at retail, but it shall not include a subsidiary of a manufacturer or
2 cooperative of a retail outlet;

3 (78) "Wine" means the product of the normal alcoholic fermentation of the juices of
4 fruits, with the usual processes of manufacture and normal additions, and includes
5 champagne and sparkling and fortified wine of an alcoholic content not to exceed
6 twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry
7 cider and also includes preparations or mixtures vended in retail containers if these
8 preparations or mixtures contain not more than fifteen percent (15%) of alcohol by
9 volume. It does not include weak cider; and

10 (79) "Winery" means any place or premises in which wine is manufactured from any
11 fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are
12 compounded, except a place or premises that manufactures wine for sacramental
13 purposes exclusively.

14 ➔Section 2. Whereas it is crucial to support small businesses in today's rapidly
15 changing economy, an emergency is declared to exist, and this Act takes effect upon its
16 passage and approval by the Governor or upon its otherwise becoming a law.