



COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
500 Mero Street 2NE33  
Frankfort, KY 40601  
502-564-4850 phone  
502-564-1442 fax  
<http://abc.ky.gov>

Date received

AOR NO.: \_\_\_\_\_  
FOR ABC USE ONLY

### ADVISORY OPINION REQUEST FORM

Attach additional pages as necessary and any documentation, research, or other evidence that you request the Department to consider.

Name of Requestor (individual or business entity): Johnson County Fiscal Court by Johnson County Attorney

Address: 225 Court Street-P.O.Box 1287

City: Paintsville State: KY County: Johnson

Zip Code: 41240 Phone Number: 606-789-8286

Email: michael.endicott@ky.gov; endicotm@bellsouth.net

The above individual or business entity requests an:  Advisory opinion  Reconsideration request

If this is a reconsideration request or comment, the application Advisory opinion number: na

Question or issue to be addressed: SEE ATTACHED

Applicable statutes, regulations, ordinances, or other authority: KRS 244.540 and chapter 244 of KRS

Proposed response, comment, or basis for reconsideration request: \_\_\_\_\_

To your knowledge, is the question for which you request an advisory opinion or reconsideration pending before, under investigation by, or recently decided by a court or government entity?  Yes  No

If yes, please identify the court or government agency, any case or proceeding number, and filing dates of the proceeding or investigation \_\_\_\_\_

Signature of Requestor or Requestor's Agent [Signature] Date 8/7/23

Signer's Name and title if requestor is a business entity Johnson County ATTORNEY Date 8/7/2023

## BACKGROUND INFORMATION

I am requesting an advisory opinion regarding the proposed sale of alcohol on property owned by the Johnson County Board of Education .

As background information, pursuant to KRS 160.293 the Johnson County Fiscal Court(JCFC) and the Johnson County Board of Education(BOE) along with a third- party private developer has tentatively agreed to enter into a joint project. The BOE is in the process of constructing a new high school and all other normal facilities that would be located on property adjoining the proposed joint project location. The project area is outside of the school district's facility plan. The third-party private developer has agreed to build and pay for a building of approximately 50,000 square feet. This building will be used as a bowling alley, recreational activities, and a restaurant for families and children. The private developer will pay for the building's construction. The private developer proposes to sell food and alcohol in a confined area as part of the business plan. Consistent with statutory requirement under KRS 160.293 the agreement between the fiscal court and board of education once finalized will have been approved by both the Kentucky Department of Education and Office of Attorney General.

The BOE will lease the real property, site of the building and access to same, to the JCFC who in turn will lease the building/realty to the third-party private developer as a long-term lease.

Part of the building will be dedicated solely for the use of the BOE for athletic training facility. BOE will have priority use of the bowling alleys for practice as well as state and regional tournaments. The third-party private developer will be operating the bowling alley and accommodate school functions i.e., tournaments and practice etc.

The benefit to the parties is obvious, the BOE is provided use of a training facility and priority use of the bowling alley. The JCFC will receive occupational tax revenue and a much-needed recreational facility for the community. However, for this project to be economically viable for the private developer, alcohol will need to be sold on the premises .

After reviewing the applicable statutes, the following questions have arisen:

- 1.) Can alcohol be sold on property owned by the school system that is leased to the JCFC and if so, are there any restrictions on the days and times which it can be sold?

I cannot find any direct statutory prohibitions but did note that KRS 244.540 does prohibit advertising of malt beverages. Since the project is on school owned property (although leased to the Fiscal court), Our office has not been able to verify a proposed project like this anywhere in the state to date.

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