

COUNTY OF WOLFE
WOLFE COUNTY FISCAL COURT
ORDINANCE NO _____

TITLE : AN ORDINANCE AMENDING THE ALLOWABLE BUSINESS HOURS
FOR SALE OF ALCOHOLIC BEVERAGES.

WHEREAS, the Wolfe County Fiscal Court has determined that hours of operation for all
facilities selling alcoholic beverages should be extended:

NOW THEREFORE, BE IT ORDAINED BY THE WOLFE COUNTY FISCAL
COURT, WOLFE COUNTY, KENTUCKY AS FOLLOWS.

The business hours for sale of alcoholic beverages by those businesses or entities
licenced to sell alcoholic beverages shall be extended till 2 a.m. (previously was 12
midnight).

Introduced and given first reading at a meeting of the Wolfe County Fiscal Court
on December 7, 2004 and fully adopted at a meeting of said Fiscal Court held on
the _____ day of _____ 200_____.

Raymond Hurst,
Wolfe County Judge Executive

ATTEST:

S. Kenneth Lindon
Wolfe County Clerk

2008 OCT 30 A 11: 08
ALCOHOLIC
BEVERAGE CONTROL

254
244

AN ORDINANCE RELATING TO THE IMPOSITION
OF FEES FOR DISTILLED SPIRITS RETAIL PACKAGE
LICENSE AND MALT BEVERAGE RETAILERS LICENSE

WHEREAS K.R.S 243.060 authorizes the Fiscal Court of Wolfe
County, Kentucky to impose license fees for the privilege of
trafficking in alcoholic beverages in Wolfe County:

Be it ordained by the Fiscal Court of the County of Wolfe,
Commonwealth of Kentucky;

(1) The following kind of distilled spirits and wine licenses
fees shall be:

(a) Retail package license per annum\$400.00

(2) The following kind of malt beverage licenses fee shall
be:

(a) Retailers license per annum, new applicants.....\$400.00

(b) Retailers license per annum, renewals..... 150.00

Publicly read on May 14, 1991 and May 21, 1991.

This ordinance becomes effective upon May 21st,
19 91.

Danny R. Bowers
COUNTY JUDGE/EXECUTIVE

ATTEST:

S. Kenneth Sanders
FISCAL COURT CLERK

103

COMMONWEALTH OF KENTUCKY
WOLFE FISCAL COURT

ORDER

IT IS HEREBY ORDERED that the County Clerk shall enter the certificate of the results of the wet-dry election held in Wolfe County on April 13, 1991 on the Order book of the County Judge-Executive.

SO ORDERED this 15th day of April, 1991.

Danny R. Brewer
DANNY R. BREWER
WOLFE COUNTY JUDGE-EXECUTIVE

ATTEST:

[Signature]
WOLFE COUNTY CLERK

RECORDED
2003 OCT 30 A 11: 08
CLERK OF COURSE CONTROL

GAY CAMPBELL; DONALD B.
BREWER; and DANNY BREWER,
In his official capacity as
County Judge-Executive and
County Alcohol Beverage
Control Administrator of
Wolfe County, Kentucky

APPELLEES

REVERSING

* * * * *

BEFORE: DYCHE, GARDNER and HUDDLESTON, Judges.

DYCHE, JUDGE. On April 13, 1991, the citizens of Wolfe County voted to end county-wide prohibition of alcoholic beverage sales. KRS 242.020-.200. On July 3, 1991, the statutorily-required number of registered voters in each of Wolfe County's sixteen voting precincts filed a petition with the County Judge-Executive seeking an election on the issue in each of the sixteen precincts. The election was scheduled for July 20, 1991.

This action was initiated by appellees as taxpayers and applicants for licenses to sell alcoholic beverages in Wolfe County; the complaint sought an injunction preventing the election, asserting that KRS 242.030(5) forbade same. That statute provides: "No election shall be held in the same territory oftener than once in every three (3) years."

The trial court granted the injunction and this appeal followed. The trial court based its judgment on "fairness," finding that:

Fairness is the name of the game in this Court and in any other Court in this Commonwealth and thus, we must basically answer two (2) questions in this cause:

1. Would it be fair to allow what amounts to another county wide election on the question of the sale of alcoholic beverages within three (3) years of April 13, 1991?
2. What effect, if any, would allowing said election have on KRS. 242.030 (5)?

If there is any certainty in the field of law regarding the sale of alcoholic beverages it is certain that had the Wet forces lost the April 13, 1991 election KRS 242.030 (5) would have prohibited a like election for a period of three (3) years. The Ball v. Hill [infra] case tells us that the Dry forces in three (3) precincts out of Bell County may have another election, but where is the cut off or maximum amount of precincts that could legally petition for another election? Fortunately this Court is not faced with that question because in this cause all sixteen (16) precincts request another election. Whether you look at it singly or cumulative, sixteen out of sixteen amounts to a county wide election which is expressly prohibited by KRS 242.030 (5). To honor such a request would act to render KRS 242.030 (5) meaningless and common sense would dictate a finding that it was not the intent of our legislature to permit this statute to be circumvented.

Our highest Court has consistently ruled otherwise. We are bound by those decisions. SCR 1.030(8)(a).

The contentions of the appellants are:
(1) That to permit the "drys" to have a local option election in a precinct within less than three years after an election in which the magisterial district containing the precinct has

voted "wet," is unwarranted discrimination and denies equal protection of the laws, because the "wets" are not accorded a corresponding privilege when the district has voted "dry," (2) that KRS 242.030(5) should be construed to mean that when a local option election held in a territory has resulted against prohibition, another election may not be held within three years in any political unit embraced in the territory.

This court consistently has taken a position adverse to the appellants' contentions. The position was reaffirmed in Fuson v. Howard, 305 Ky. 843, 205 S.W.2d 1018, and was adhered to in Stephens v. Stumbo, Ky., 239 S.W.2d 995. We continue to abide by those decisions.

Ball v. Hill, Ky., 240 S.W.2d 628, 628-629 (1951).

The prohibition against "a second vote within three years, has reference to an election in the identical territory." Board of Trustees v. Scott, 125 Ky. 545, 567, 101 S.W. 944, 950 (1907).

And although all sixteen Wolfe County precincts will happen to be voting at this one election, the territory is not identical, as the votes and results will be precinct by precinct; the ballot cast by a voter in one precinct cannot and will not have any effect on the status of prohibition in any other precinct, unlike a county-wide election.

The judgment of the Wolfe Circuit Court is reversed.

ALL CONCUR.

ATTORNEY FOR APPELLANTS

Mark A. Maddox
West Liberty, Kentucky

ATTORNEYS FOR APPELLEE

John R. Hansen
Hazard, Kentucky

Billy L. Oliver
Campton, Kentucky