



PUBLIC PROTECTION CABINET

Andy Beshear
Governor

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Kerry B. Harvey
Secretary

ORDER

Effective: May 5, 2020 at 5:00 p.m.

On March 6, 2020, Governor Andy Beshear signed Executive Order 2020-215, declaring a state of emergency in the Commonwealth of Kentucky due to the outbreak of the COVID-19 virus, a public health emergency. As part of continuing efforts to prevent the spread of COVID-19 virus through in-person contact, Governor Beshear's "Healthy at Home" Executive Order 2020-257 signed March 25, 2020, only permits life-sustaining businesses to remain open.

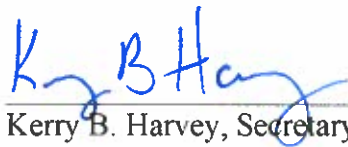
On March 16, 2020, and in order to minimize in-person interaction which is the primary means of transmission of COVID-19, the Cabinet for Health and Family Services, Department of Public Health, and Public Protection Cabinet, Alcoholic Beverage Control, ordered that liquor, beer, and wine sales in the Commonwealth of Kentucky are restricted to carry-out, delivery, and drive-thru services only. Consequently, licensed establishments offering only on-premise consumption were required to close until further notice. Additionally, licensed establishments that are permitted to remain open through carry-out, delivery, and drive-thru services are experiencing a significant decline in demand for alcoholic beverages due to the prohibition of on-premise consumption and overall less economic activity. As a result of these retail establishment closures and reduced demand, certain alcohol beverages, specifically malt beverages, purchased by retail alcohol licensees are unlikely to be sold before expiration of the product's code date, causing substantial economic losses for both the retailer and malt beverage distributor. The United States Department of the Treasury's Tax and Trade Bureau has recognized these hardships and issued guidance interpreting favorably the restrictions on the return of alcohol beverage products purchased to sell during times when demand was expected to be high. (TTB Newsletter, March 13, 2020).

In order to diminish the economic hardship on retail alcohol licensees and malt beverage distributors, and pursuant to KRS 39A.180, the Department of Alcoholic Beverage Control (the "Department") hereby orders the following supplemental rules, in effect until May 31, 2020, to allow retailers and distributors sufficient opportunity to appropriately adjust inventory during this public health emergency:

1. Notwithstanding the provisions of KRS 244.560 and 244.590(1)(c), and any local ordinance to the contrary, licensed malt beverage distributors may pick up from licensed retail accounts whole package, unbroken cases, and untapped kegs that are at risk of going unsold to consumers prior

to expiration of the product code date. Such close-to-code products may be reintroduced into the market at another retail account at which it is anticipated that the product would be sold prior to the code date. Such pick-ups are permitted, but not mandatory.

2. Malt beverage distributors may provide each respective retailer a refund or credit of the actual price charged for malt beverages returned to the distributor as authorized by this Order.
3. All other statutes and regulations governing the sale and delivery of malt beverages and wine and spirits at wholesale, including the cash sales requirement for malt beverages, shall remain in full force and effect.
4. Nothing in this Order permits the delivery or sale of alcoholic beverages in dry territories;
5. Nothing in this Order is intended to permit consignment sales otherwise prohibited by state or federal law;
6. Nothing in this Order is intended to otherwise affect the laws governing the sale and distribution of alcohol set forth in the Kentucky Revised Statutes, the Kentucky Administrative Regulations, previously issued orders pursuant to Executive Order 2020-215, or in local ordinance; and
7. The Department's enforcement division may take appropriate action to enforce this Order.


Kerry B. Harvey, Secretary


Allyson Taylor, Commissioner
Department of Alcoholic Beverage Control