

2016 Legislative Changes to Kentucky's Alcohol Laws

Senate Bill 11 Fact Sheet

The Kentucky General Assembly passed Senate Bill 11 (SB 11) into law during the 2016 legislative session. The passage of SB 11 will result in changes to Kentucky's alcoholic beverage statutes. This fact sheet is to provide a brief explanation about the changes to Kentucky law that will become effective on July 15, 2016. SB 11 can be read in its entirety

at: <http://www.lrc.ky.gov/record/16RS/SB11/HCS1.pdf>.

ELECTIONS



Elimination of Population Requirement for City Local Option Elections

KRS 242.125

KRS 242.125 was amended to eliminate the population requirement for cities to hold a local option election. As a result, any incorporated city, regardless of size, may hold a local option election to become wet separately from a dry or moist county.



Moist Local Option Election for Distilleries in Dry Territories

KRS 242.1243

A new section of KRS Chapter 242 authorizes a new type of moist precinct local option election for distilleries located in dry or moist territories. If passed, distilleries will have the following limited alcoholic beverage sales:

- Souvenir package bottle sales at a gift shop,
- Limited sampling under a sampling license and
- Retail drink sales under an NQ-3 retail drink license

This new statute will expire in three (3) years after July 15, 2016 unless reenacted.

LOCAL ORDINANCES



Elimination of Population Requirement for City or County Ordinances to Permit Sunday sales and Sales after Midnight

KRS 244.290; KRS 244.480

KRS 244.290 and 244.480 were amended to allow ALL cities and counties, regardless of population, to enact ordinances to permit licensees to remain open and sell distilled spirits, wine or malt beverages on Sunday or after midnight.



Elimination of Population Requirement for City or County Ordinances to Prohibit Election Day Sales

KRS 244.290; 244.480

KRS 244.290 and 244.480 were amended to allow ALL cities and counties, regardless of population, to enact ordinances to prohibit retail alcohol sales during the hours that polls are open on any primary, regular, local option or special election days. For such ordinances to be effective, they must be enacted after June 25, 2013.



Local License Renewal Schedule to Be the Same as the State

KRS 243.090

KRS 243.090 was amended to require most alcohol licenses issued by a city or county administrator to expire on the same date as the corresponding state license. All licenses issued after January 1, 2017, by a city or county administrator must be renewable on the date established by the Department of Alcoholic Beverage Control for the expiration of state licenses issued for premises located in the city or county. The state licensing monthly renewal schedule is based on counties and found at 804 KAR

4:390. <http://www.lrc.ky.gov/kar/804/004/390.htm>

During the first year, if the new date for renewal does not occur on the date established by the Department for expiration of the state license, the city or county administrator shall prorate the cost of the renewal license or provide a prorated provisional license.



Any Moist Limited Restaurant (LR) Territory Can Authorize Issuance of LR-50 Licenses

KRS 243.034; 241.010(35)

KRS 243 creates an economic hardship exception to election laws and allows “any city or county” that held a LR-100 election prior to January 1, 2016 to issue an ordinance allowing LR-50 licenses if an economic hardship is declared. A LR-50 license does not permit the limited restaurant to have a bar area or sell alcoholic beverages separately from a meal sale.

DISTILLERIES



Souvenir Package Sales by Distilleries

KRS 241.010; KRS 243.0305

A licensed distiller located in a wet or “distillery” moist territory is now permitted to sell retail souvenir package bottles of any distilled spirit produced or bottled at that distillery location or at a different Kentucky licensed distillery of the same company. All souvenir package bottles sold by distillery at retail must be available for sale from a licensed retailer. Distillers are now permitted souvenir package sales in quantities not to exceed 4.5 liters per visitor per day.

The hours of sale for souvenir packages by distillery are controlled by KRS 244.290 which permits alcohol sales from 6:00 a.m. to 12:00 a.m. midnight, Monday through Saturday, as the state default times. However, cities and counties have authority to enact ordinances to permit souvenir package sales by distilleries on Sunday.



Retail Drink Sales by a Distillery

KRS 243.0305

A licensed distillery located in wet or distillery moist territory is now able to obtain a NQ-3 retail drink license which will authorize retail alcoholic beverage drink sales at the distillery premises.

A licensed distillery that sells its own products by the drink under a NQ-3 license is not required, like with souvenir package sales, to transfer physical possession of those alcoholic beverages to a licensed wholesaler under an “invoicing” system that meets statutory requirements.

Distillery employees who sell and serve alcoholic beverages under a NQ-3 retail drink license must complete the Department's Server Training in Alcohol Regulations ("STAR") education program within thirty (30) days of beginning employment.

Free Items on Distillery Tours and Charity Events

KRS 244.130

A distiller, if in conjunction with a distillery tour or a charity event, may provide the following free items:

- Consumer-branded nonalcoholic novelty items whose actual retail cost does not exceed seventy-five dollars (\$75) per item; and
- Production by-products.

Sampling

KRS 244.050

Distilleries holding sampling licenses are now permitted to provide 1.75 ounces of free samples of distilled spirits per visitor per day.

SAMPLING LICENSE

Sampling License

KRS 244.050

Free Samples: A sampling license held by quota retail drink licensee, a quota retail package licensee, or a NQ-2 licensee, authorizes free samples to a consumer for:

- One (1) ounce of distilled spirits per day; or
- Six (6) ounces of free wine samples per day.

No free samples of malt beverages are permitted.

Paid samples: A quota retail package licensee holding a sampling license may also sell samples as follows:

- No more than two (2) ounces of distilled spirits per day;
- No more than nine (9) ounces of wine per day;
- No more than sixteen (16) ounces of malt beverages per day (package store must also hold a non-quota retail malt beverage package license).

Total samples: No customer shall be allowed to receive a combination of free and purchased samples totaling more than:

- Two (2) ounces of distilled spirits per day; and
- Nine (9) ounces of wine per day.

Free and paid samples shall not constitute drink sales.

RECTIFIERS



Rectifier's License

KRS 243.030; KRS 243.070; KRS 243.120

The Rectifier's license has been divided into two types: "Class A" and "Class B (craft rectifier)." The fee for the Class B type is \$825.00 per year and available to any operation that rectifies fifty thousand (50,000) gallons or less of distilled spirits per year. Operations which rectify more than that amount, must obtain the Class A type license whose fee is \$2,580.00 per year.

BREWERIES/MICROBREWERIES



Brewer's License

KRS 243.150

A licensed brewer located in wet territory will now be able to sell its produced malt beverages by the drink for consumption on the premises. Brewery retail drink sales must be conducted in a tap room attached to the brewery and may not exceed two hundred eighty-eight (288) ounces per customer per day. A brewery is also allowed to sell "growlers", which are refillable retail beer package sales. Growler requirements are set forth in 804 KAR 11:040.



Refrigerated Coolers Provided by a Brewer or Distributor

KRS 244.590

A brewer or distributor may now give a refrigerated cooler to a retailer.



Microbrewery License

KRS 243.157

The maximum production cap for a microbrewery license has been increased from 25,000 barrels per year to 50,000 barrels per year.

A microbrewery license now authorizes the microbrewery to sell its own malt beverages, by the package and by the drink, to consumers at fairs, festivals, and other similar types of events located in wet territory. A microbrewery may not sell more than two hundred eighty-eight (288) ounces per customer per day. Like on-premises sales, a microbrewery is not required to transfer physical possession of such malt beverages sold to a licensed distributor under an "invoicing" system that meets statutory requirements.

SMALL FARM WINERIES



Small Farm Wineries

KRS 241.010; 243.155

The maximum production cap for a small farm winery license has been increased from 50,000 gallons per year to 100,000 gallons per year.

For only one production year, a licensed small farm winery can agree to provide "custom crushing services" for another small farm winery in need. "Custom crushing" means that a small farm winery crushes, processes, ferments, bottles, or any combination of such services, the grapes, fruits, or other agricultural products of the other small farm winery. The resulting wine is considered the wine of the small farm winery that provides the fruit. The small farm winery providing the custom crushing services may exclude the wine produced from its annual production gallonage.

AUTHORIZED PUBLIC CONSUMPTION



Authorized Public Consumption" (APC) License

KRS 241.010(16); KRS 243.060; KRS 244.085

A "commercial quadricycle" business will now be able to obtain a new type of license called an authorized public consumption ("APC") license. See, KRS 243.089. An APC license authorizes the quadricycle business to permit patrons to bring unopened packages of alcoholic beverages onto the licensed premises and open and drink them in non-descriptive plastic cups after boarding, and while riding, the quadricycle.

A "commercial quadricycle" is defined as a vehicle equipped with a minimum of ten (10) pairs of fully operative pedals for people's legs to power it exclusively and which:

- Has four (4) wheels;
- Is operated in a manner similar to that of a bicycle;
- Is equipped with a minimum of thirteen (13) seats for passengers;
- Has a unibody design;
- Is equipped with a minimum of four (4) hydraulically operated brakes;
- Is used for commercial tour purposes; and
- Is operated by the vehicle owner or an employee of the owner.

To qualify for an APC license, the commercial quadricycle business must:

- Have a business office in premises;
- Have 2 million in general liability insurance;
- Possess a permit issued by local city government; and
- City must choose to permit the operation of an APC licensed quadricycle business by enacting a comprehensive ordinance that complies with statutory requirements.

If a city chooses to permit the operation of an APC licensed quadricycle business, it must enact an ordinance that addresses:

- Hours of operation;
- Local licensing requirements;
- Any additional insurance requirements;
- Standards for the approval of authorized travel routes;
- Safety and equipment standards;
- Local inspection requirements;
- Standards for vehicle operation; and
- Standards for loading and unloading passengers.

BED AND BREAKFAST BUSINESSES



Bed and Breakfast Business

KRS 241.010; 243.086

A "bed and breakfast" business may obtain a NQ-3 retail drink license. A NQ-3 licensed bed and breakfast is able to sell alcoholic beverages to registered guests staying at the business. To qualify for licensure, the bed and breakfast must hold a permit under KRS Chapter 219 and have an innkeeper who resides

on, or adjacent to the bed and breakfast premises during periods of visitor occupancy.

TEMPORARIES



Change in Name of Special Temporary License

KRS 243.033; KRS 243.036

The name of the Special Temporary Distilled Spirits and Wine Auction license will be changed to Special Temporary Alcoholic Beverage Auction license so malt beverages can now be auctioned or raffled at charity events. Holders of the temporary alcoholic beverage license may also purchase, transport receive, possess, store, sell and deliver limited special labeled bottles of distilled spirits, wine and malt beverages to be sold at charity events. Small farm wineries, brewers and microbrewers are included in the entities that can give or donate products for auction or raffle.

DISCOUNTS



Discounts in the Usual Course of Business

KRS 241.010; 244.240

Distilled spirits and wine wholesalers are permitted to give "discounts in the usual course of business" to retail licensees. A "discount in the usual course of business" generally means a price reduction, rebate, refund, or other discount given by the wholesaler to a retailer pursuant to an agreement made at the time of the sale of the product involved.

POWDERED ALCOHOL



Powdered Alcohol is Banned

KRS 241.010; KRS 244.652

Powdered or crystal alcohol is illegal. Powdered alcohol is similar to "Kool-aid" or "Crystal Light" as it is a powder that can be mixed with water to produce an alcoholic beverage drink. Kentucky, like many other states, has now banned this product.