

CHAPTER 110**(SB 50)**

AN ACT relating to alcoholic beverages.

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

➔Section 1. KRS 243.0305 is amended to read as follows:

- (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under KRS 242.1243 and that has a gift shop or other retail outlet on its premises may conduct the activities permitted under this section as a part of its distiller's license.
- (2) (a) For purposes of all retail drink and package sales that occur pursuant to subsection (3), (4), (7), (9), (10), ~~(11)~~ (12), **or (13)** of this section, the distillery shall:
 1. Be permitted to transfer its products from the distillery proper to the location where those retail sales occur without having to transfer physical possession of those distilled spirits to a licensed wholesaler; and
 2. Without otherwise reporting those distilled spirits to a licensed wholesaler, report those retail sales and pay all taxes required to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its powers under KRS 131.130(3).
- (b) 1. A distiller selling distilled spirits in accordance with this subsection shall pay all wholesale sales taxes due under KRS 243.884. For the purposes of this subsection, "wholesale sales" means a sale of distilled spirits made by a distiller under subsection (3)(b), (4), (7), (9), (10), ~~(11)~~ (12), **and (13)** of this section, if required by KRS 243.884, excluding sales made by a distiller under subsection (4)(a)3. and (b) of this section that utilize a licensed wholesaler.
2. A distiller shall pay the excise tax on distilled spirits in accordance with KRS 243.720 and 243.730.
- (c) All other distilled spirits that are produced by the distillery shall be sold and physically transferred in compliance with all other relevant provisions of KRS Chapters 241 to 244.
- (3) A distiller may sell its own private selection packages and souvenir packages at retail:
 - (a) To consumers in accordance with KRS 243.027 to 243.029 if it holds a direct shipper license; and
 - (b) To distillery visitors of legal drinking age, in quantities not to exceed an aggregate of nine (9) liters per purchaser per day.
- (4) A distiller may conduct private selection events and sell private selection packages at retail, as follows:
 - (a) Distillers may sell private selection packages to consumers who participated in a private selection event only by:
 1. Shipping the private selection packages in accordance with KRS 243.027 to 243.029 if the distiller holds a direct shipper license, but these sales and shipments shall be exempt from the quantity limitations established in KRS 243.028(1);
 2. Selling the private selection packages to the participating consumers directly from the distillery premises, but these sales shall be exempt from the quantity limitations established in subsection (3)(b) of this section; or
 3. Selling the private selection packages through a wholesaler and to a licensed retailer of the consumer's choice. The distillery and wholesaler's cooperation in facilitating the sale of the private selection packages to the retailer of the consumer's choice shall not be deemed a violation of KRS 244.240.
 - (b) Except as provided in KRS 243.036, distillers may sell private selection packages to retail licensees that participated in a private selection event only through a licensed wholesaler.

- (c) A distillery shall make available for purchase not less than seventy percent (70%) of its annual private selection packages to licensed wholesalers and shall maintain records of such transactions in accordance with KRS 244.150.
 - (d) Distillers may sell private selection packages to wine and distilled spirits wholesalers, malt beverage distributors, and microbreweries that hold a quota retail drink or quota retail package license that participated in a private selection event if the private selection packages resulting from the event are sold only through a licensed retailer.
- (5) Hours of sale for souvenir packages sold at retail and private selection packages sold at retail shall be in conformity with KRS 244.290(3).
- (6) Except as provided in this section, souvenir package and private selection package sales to distillery visitors shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.
- (7) Souvenir packages sold to distillery visitors under subsection (3)(b) of this section, which are not made available to wholesalers licensed in Kentucky or elsewhere, shall be registered by the licensed distiller with the department and shall be sold exclusively to in-person distillery visitors in quantities not to exceed three (3) liters per person per day.
- (8) Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding a sampling license may allow visitors to sample distilled spirits under the following conditions:
- (a) Sampling shall be permitted only on the licensed premises during regular business hours;
 - (b) A distillery shall not charge for the samples; and
 - (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces of samples per visitor per day, except in connection with a private selection event.
- (9) Notwithstanding the provisions of KRS 243.110, in accordance with this section, a distillery located in wet territory or in any territory that has authorized the limited sale of alcoholic beverages under an election held pursuant to KRS 242.1243 may:
- (a) Hold an NQ2 retail drink license for the sale of alcoholic beverages on the distillery premises; and
 - (b) Employ persons to engage in the sale or service of alcohol under an NQ2 license, if each employee completes the department's Server Training in Alcohol Regulations program within thirty (30) days of beginning employment.
- (10) A distiller may sell to consumers at fairs, festivals, and other similar types of events located in wet territory. A distiller may:
- (a) Sell alcoholic beverages by the drink, containing spirits distilled or bottled on the premises of the distillery;
 - (b) Sell by the package in quantities not to exceed nine (9) liters per person, per day; and
 - (c) Serve complimentary samples not to exceed one and three-fourths (1-3/4) ounces per person, per day.
- (11) A distiller may offer for sale in its gift shop products that were produced in collaboration with a brewer or microbrewer, except that:
- (a) These packages shall not be exclusive to the distiller's gift shop; and
 - (b) The distiller shall purchase the jointly branded souvenir package only from a licensed malt beverage distributor or a microbrewery pursuant to KRS 243.157(1)(f). A microbrewery selling and delivering the jointly branded souvenir package directly to a distiller under this subsection shall provide notice to the distributor of any self-distribution delivery by electronic or other means.
- (12) (a) ***A distiller that holds a Class B distiller's license but does not hold a Class A distiller's license under KRS 243.030 may sell and deliver to any licensed retailer up to five thousand (5,000) gallons of distilled spirits annually, sold under a brand name owned or exclusively licensed to the distillery, provided the distilled spirits were:***
- 1. Produced by the distillery;***
 - 2. Produced for the distillery under a written contract with another licensed manufacturer; or***

3. *Bottled for or by the distillery.*

- (b) *Any products sold and delivered under this subsection that are not otherwise registered by a licensed wholesaler shall be registered by the distillery with the department.*
- (c) *Any products sold and delivered under this subsection shall be delivered by the distillery in vehicles owned and operated by the distillery, displaying the distillery's name and license number.*
- (d) *The distillery is responsible for payment of all applicable taxes and reporting of self-distributed distilled spirits.*
- (e) *The distillery may extend credit on distilled spirits sold to retail licensees for a period not to exceed thirty (30) days from the date of invoice, with the date of invoice included in the total number of days.*
- (f) *A distillery shall report self-distribution sales under this subsection as follows:*
 - 1. *For a sale of in excess of nine (9) liters to any given retailer on any given day, the distillery shall provide at least twenty-four (24) hours advance written or electronic notice to wholesalers that have an existing business relationship with the distillery and that distribute the products the distillery is self-distributing. If advance notice is not practicable, the distillery shall notify the wholesaler within one (1) business day of delivery;*
 - 2. *A distillery shall submit a quarterly report of its self-distribution sales under this subsection to wholesalers that have an existing business relationship with the distillery and that distribute the products the distillery is self-distributing. The quarterly report shall describe the type, quantity, and price of the product that was self-distributed, the retail delivery location, and the date of delivery of the self-distribution sales in the most recently completed quarter preceding the due date of the report; and*
 - 3. *Each distillery engaging in self-distribution sales under this subsection shall report to the department the total number of gallons self-distributed annually at the time of the renewal of its Class B distiller's license.*

(13) A distiller that sells souvenir packages and serves complimentary samples in accordance with this section at any of its licensed premises may, for each such premises, maintain one (1) separately licensed off-premises retail sales outlet and engage in the activities and hold the licenses authorized in subsections (3), (4), (8), (9), ~~and (11)~~, and (12) of this section if the off-premises retail sales outlet premises are located in wet territory or in a precinct that has authorized alcoholic beverage sales by the distillery under KRS 242.1243. The distiller shall pay the fee required under KRS 243.030 for each off-premises retail sales outlet it maintains.

~~(14)~~~~(13)~~ Except as expressly stated in this section, this section does not exempt the holder of a distiller's license from:

- (a) The provisions of KRS Chapters 241 to 244;
- (b) The administrative regulations of the board; and
- (c) Regulation by the board at all the distiller's licensed premises.

~~(15)~~~~(14)~~ Nothing in this section shall be construed to vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages.

➔Section 2. KRS 243.710 is amended to read as follows:

Each wholesaler *or self-distributing distiller* shall pay to the Department of Revenue five cents (\$0.05) per case on each case of distilled spirits sold by *the wholesaler or self-distributing distiller* ~~him~~ in the state. This tax shall be computed each month according to the report required to be filed by KRS 243.850 and shall be paid on or before the date in each succeeding month when reports are required to be filed.

➔Section 3. KRS 243.884 is amended to read as follows:

- (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits, all distributors of beer, all direct shipper licensees shipping alcohol to a consumer at a Kentucky address, all distillers making sales pursuant to KRS 243.0305(3), (4)(a)1. and 2. and (c), (7), (9), (10), ~~and~~ (12), *and (13)*, all microbreweries selling malt beverages under KRS 243.157, and all small farm wineries selling wine under KRS 243.155.

- (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent (11%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth, except as provided in subsection (3) of this section. For the purposes of this section, the gross receipts of a microbrewery making "wholesale sales" shall be calculated by determining the dollar value amount that the microbrewer would have collected had it conveyed to a distributor the same volume sold to a consumer as allowed under KRS 243.157 (3)(b) and (c).
 - (c) On and after July 1, 2015, the following rates shall apply:
 - 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at wholesale; and
 - 2. For wine and beer:
 - a. Ten and three-quarters of one percent (10.75%) for wholesale sales or sales at wholesale made on or after July 1, 2015, and before June 1, 2016;
 - b. Ten and one-half of one percent (10.5%) for wholesale sales or sales at wholesale made on or after June 1, 2016, and before June 1, 2017;
 - c. Ten and one-quarter of one percent (10.25%) for wholesale sales or sales at wholesale made on or after June 1, 2017, and before June 1, 2018; and
 - d. Ten percent (10%) for wholesale sales or sales at wholesale made on or after June 1, 2018.
 - (d) On and after March 12, 2021, the following rates shall apply for direct shipper sales:
 - 1. For distilled spirits shipments, eleven percent (11%) for wholesale sales or sales at wholesale; and
 - 2. For wine and beer shipments, ten percent (10%) for wholesale sales or sales at wholesale.
 - (e) For direct shipper sales or sales made pursuant to KRS 243.0305, if a wholesale price is not readily available, the direct shipper licensee or distillery shall calculate the wholesale price to be seventy percent (70%) of the retail price of the alcoholic beverages.
- (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, microbreweries, distillers, and direct shipper licensees shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine, or malt beverages is transferred from the wholesaler or distributor to retailers, or by microbreweries, distillers, or direct shipper licensees to consumers in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (3) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:
- (a) Sales made between wholesalers or between distributors;
 - (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a small farm winery in a calendar year made by:
 - 1. The small farm winery; or
 - 2. A wholesaler of that wine produced by the small farm winery; and
 - (c) Sales made between a direct shipper licensee and a consumer located outside of Kentucky.

Signed by Governor April 5, 2024.