

1 AN ACT relating to alcohol in dry or moist territories and declaring an emergency.

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

3 ➔Section 1. KRS 242.230 is amended to read as follows:

4 (1) No person in dry territory shall sell, barter, loan, ~~[give, ]~~procure for, or  
5 ***provide***~~[furnish]~~ another, or keep or transport for sale, barter, or loan, directly or  
6 indirectly, any alcoholic beverage.

7 (2) No person in moist territory shall sell, barter, loan, ~~[give, ]~~procure for, or  
8 ***provide***~~[furnish]~~ another, or keep or transport for sale, barter, or loan, directly or  
9 indirectly, any alcoholic beverage unless the sale of that alcoholic beverage has  
10 been specifically authorized in that moist territory under a limited local option  
11 election.

12 (3) No person shall possess any alcoholic beverage unless it has been lawfully acquired  
13 and is intended to be used lawfully, and in any action the defendant shall have the  
14 burden of proving that the alcoholic beverages found in his or her possession were  
15 lawfully acquired and were intended for lawful use.

16 ***(4) (a) It shall not be a violation of this section for a person to possess or consume,***  
17 ***or to provide alcoholic beverages to others in dry or moist territory, if:***

18 ***1. The alcoholic beverages were lawfully purchased in wet or moist***  
19 ***territory;***

20 ***2. The alcoholic beverages are not sold to any person in dry or moist***  
21 ***territory;***

22 ***3. Any person possessing or consuming alcohol is twenty-one (21) years***  
23 ***of age or older;***

24 ***4. The possession, consumption, or provision occurs at a private***  
25 ***residence or private event, regardless of whether the venue is a public***  
26 ***place; and***

27 ***5. The possession, consumption, or provision does not occur at a public***

1 place in violation of KRS Chapter 222.

2 (b) For purposes of this section, an event is public, not private, if any member  
3 of the public is permitted to enter or attend the event upon payment of  
4 consideration.

5 ➔Section 2. KRS 242.260 is amended to read as follows:

6 (1) It shall be unlawful for any person to bring into, transfer to another, deliver, or  
7 distribute in any dry or moist territory, except as provided in subsection (2) of this  
8 section, any alcoholic beverage, regardless of its name. Each package of such  
9 beverage so brought, transferred, or delivered in such territory shall constitute a  
10 separate offense. Nothing in this section shall be construed to prevent any distiller  
11 or manufacturer or any authorized agent of a distiller, manufacturer, or wholesale  
12 dealer from transporting or causing to be transported by a licensed carrier any  
13 alcoholic beverage to their distilleries, breweries, wineries, or warehouses where the  
14 sale of such beverage may be lawful, either in or out of the state.

15 (2) Subsection (1) of this section shall also apply to any moist territory unless the sale  
16 of the alcoholic beverage in question has been specifically authorized in that moist  
17 territory under a limited local option election.

18 (3) No properly licensed common carrier or any of its employees acting on behalf of a  
19 consignor shall be liable for a violation of this section.

20 (4) Proof that the purchaser represented in writing that the delivery address is located in  
21 wet territory shall be an absolute defense to a violation of this section on behalf of a  
22 retailer, winery, small farm winery, or distillery in connection with the delivery or  
23 shipment of alcoholic beverages purchased at retail.

24 (5) It shall not be a violation of this section for a person to bring alcoholic beverages  
25 that were lawfully purchased in wet or moist territory into dry or moist territory to  
26 a private residence, or to a private event regardless of whether the venue is a  
27 public place, for personal consumption or consumption by others so long as the

1 possession, consumption, or provision does not occur at a public place in  
2 violation of KRS Chapter 222. For purposes of this subsection, an event is  
3 public, not private, if any member of the public is permitted to enter or attend the  
4 event upon payment of consideration.

5 ➔Section 3. KRS 243.020 is amended to read as follows:

- 6 (1) A person shall not do any act authorized by any kind of license with respect to the  
7 manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic  
8 beverages unless the person holds or is an agent, servant, or employee of a person  
9 who holds the kind of license that authorizes the act.
- 10 (2) The holding of any permit from the United States government to traffic in alcoholic  
11 beverages without the corresponding requisite state and local licenses shall in all  
12 cases raise a rebuttable presumption that the holder of the United States permit is  
13 unlawfully trafficking in alcoholic beverages.
- 14 (3) Except as permitted by KRS 243.033, 243.036, 243.155, 243.157, and 243.260, a  
15 person, conducting a place of business patronized by the public, who is not a  
16 licensee authorized to sell alcoholic beverages, shall not permit any person to sell,  
17 barter, loan, give away, or drink alcoholic beverages on the premises of the  
18 ~~licensee's~~ place of business.
- 19 (4) A licensee shall not permit any consumer to possess, give away, or drink alcoholic  
20 beverages on the licensed premises that are not purchased from the licensee.
- 21 (5) Any distilled spirits or wine in excess of three (3) gallons (twelve (12) liters) shall  
22 not be stored or kept except upon the licensed premises of a licensee.
- 23 (6) In a moist territory, the only types of licenses that may be issued are those that  
24 directly correspond with the types of sales approved by the voters through moist  
25 elections within the territory, unless otherwise specifically authorized by statute.

26 ➔Section 4. KRS 243.033 is amended to read as follows:

- 27 (1) A caterer's license may be issued as a supplementary license to a caterer that holds a

1 quota retail package license, a quota retail drink license, an NQ1 license, an NQ2  
2 license, or a limited restaurant license.

3 (2) The caterer's license may be issued as a primary license to a caterer in any wet  
4 territory or in any moist territory under KRS 242.1244 for the premises that serves  
5 as the caterer's commissary and designated banquet hall. No primary caterer's  
6 license shall authorize alcoholic beverage sales at a premises that operates as a  
7 restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and  
8 key at the licensed premises during the time that the alcoholic beverages are not  
9 being used in conjunction with a catered function.

10 (3) The caterer's license shall authorize the caterer to:

11 (a) Purchase and store alcoholic beverages in the manner prescribed in KRS  
12 243.088, 243.250, and 244.260;

13 (b) Transport, sell, serve, and deliver alcoholic beverages by the drink at locations  
14 away from the licensed premises or at the caterer's designated banquet hall in  
15 conjunction with the catering of food and alcoholic beverages for a customer  
16 and the customer's guests, in:

17 1. Cities and counties established as moist territory under KRS 242.1244 if  
18 the receipts from the catering of food at any catered event are at least  
19 seventy percent (70%) of the gross receipts from the catering of both  
20 food and alcoholic beverages;

21 2. Wet cities and counties in which quota retail drink licenses are not  
22 available if the receipts from the catering of food at any catered event  
23 are at least fifty percent (50%) of the gross receipts from the catering of  
24 both food and alcoholic beverages; or

25 3. All other wet territory if the receipts from the catering of food at any  
26 catered event are at least thirty-five percent (35%) of the gross receipts  
27 from the catering of both food and alcoholic beverages;

- 1 (c) Receive and fill telephone orders for alcoholic beverages in conjunction with  
2 the ordering of food for a catered event; and
- 3 (d) Receive payment for alcoholic beverages served at a catered event on a by-  
4 the-drink, cash bar, or by-the-event basis. The caterer may bill the customer  
5 for by-the-function sales of alcoholic beverages in the usual course of the  
6 caterer's business.
- 7 (4) A caterer licensee shall not cater alcoholic beverages at locations for which retail  
8 alcoholic beverage licenses or special temporary licenses have been issued. A  
9 caterer licensee may cater a fundraising event for which a special temporary  
10 alcoholic beverage auction license has been issued under KRS 243.036.
- 11 (5) A caterer licensee shall not cater alcoholic beverages on Sunday except in territory  
12 in which the Sunday sale of alcoholic beverages is permitted under the provisions of  
13 KRS 244.290 and 244.480.
- 14 (6) A caterer licensee shall not cater alcoholic beverages at an event hosted by the  
15 caterer licensee or hosted as a joint venture of the caterer licensee.
- 16 (7) The location at which alcoholic beverages are sold, served, and delivered by a  
17 caterer, pursuant to this section, shall not constitute a public place for the purpose of  
18 KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at  
19 which the function being catered is held shall be excluded from the public place  
20 provisions of KRS Chapter 222.
- 21 (8) The caterer licensee shall post a copy of the licensee's caterer's license at the  
22 location of the function for which alcoholic beverages are catered.
- 23 (9) All restrictions and prohibitions applying to a quota retail drink licensee and an  
24 NQ4 retail malt beverage drink licensee not inconsistent with this section shall  
25 apply to the caterer licensee.
- 26 (10) The caterer licensee shall maintain records as set forth in KRS 244.150 and in  
27 administrative regulations promulgated by the board.

1 *(11) Notwithstanding subsection (3)(b) of this section, a caterer may serve alcoholic*  
2 *beverages to guests who are twenty-one (21) years of age or older at a private*  
3 *event in dry territory if:*

4 *(a) The alcoholic beverages were lawfully purchased in a wet or moist territory:*

5 *1. By an individual; or*

6 *2. At the caterer's licensed premises in wet or moist territory; and*

7 *(b) The alcoholic beverages are not sold in dry territory to guests at the private*  
8 *residence or private event regardless of whether the venue is a public place.*

9 ➔Section 5. Whereas the inability to possess, consume, or provide alcoholic  
10 beverages at a private residence, or at a private event regardless of whether the venue is a  
11 public place, is a hindrance to individual freedoms and commerce, and individuals may  
12 find themselves subject to needless prosecution if these are not corrected immediately, an  
13 emergency is declared to exist, and this Act takes effect upon its passage and approval by  
14 the Governor or upon its otherwise becoming a law.