

1 AN ACT raising revenue for pensions, making an appropriation therefor, and
 2 declaring an emergency.

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

4 ➔Section 1. KRS 243.884 is amended to read as follows:

- 5 (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer,
 6 wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine
 7 and distilled spirits and upon all distributors of beer.
- 8 (b) ***On and after June 1, 2018, the tax shall be imposed at the rate of fourteen***
 9 ***percent (14%)***~~Prior to July 1, 2015, the tax shall be imposed at the rate of~~
 10 ~~eleven percent (11%)~~ of the gross receipts of any such wholesaler or
 11 distributor derived from "sales at wholesale" or "wholesale sales" made within
 12 the Commonwealth except as provided in subsection (3) of this section.
- 13 (c) On and after July 1, 2015, ***and before June 1, 2018***, the following rates shall
 14 apply:
- 15 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at
 16 wholesale; and
 - 17 2. For wine and beer:
 - 18 a. Ten and three-quarters of one percent (10.75%) for wholesale sales
 19 or sales at wholesale made on or after July 1, 2015, and before
 20 June 1, 2016;
 - 21 b. Ten and one-half of one percent (10.5%) for wholesale sales or
 22 sales at wholesale made on or after June 1, 2016, and before June
 23 1, 2017; ***and***
 - 24 c. Ten and one-quarter of one percent (10.25%) for wholesale sales
 25 or sales at wholesale made on or after June 1, 2017, and before
 26 June 1, 2018; ~~and~~
 - 27 d. ~~Ten percent (10%) for wholesale sales or sales at wholesale made~~

1 ~~on or after June 1, 2018~~.

2 (2) Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay
3 and report the tax levied by this section on or before the 20th day of the calendar
4 month next succeeding the month in which possession or title of the distilled spirits,
5 wine or malt beverages is transferred from the wholesaler or distributor to retailers
6 or consumers in this state, in accordance with rules and regulations of the
7 Department of Revenue designed reasonably to protect the revenues of the
8 Commonwealth.

9 (3) Gross receipts from sales at wholesale or wholesale sales shall not include the
10 following sales:

11 (a) Sales made between wholesalers or between distributors; and

12 (b) Sales made by a small farm winery or wholesaler of wine produced by a small
13 farm winery, if that small farm winery produces no more than fifty thousand
14 (50,000) gallons of wine per year.

15 **(4) Three-fourteenths (3/14) of the moneys collected under this section shall be**
16 **deposited in the underfunded pension trust fund established in Section 3 of this**
17 **Act within five (5) days of receipt by the Department of Revenue.**

18 ➔Section 2. KRS 243.890 is amended to read as follows:

19 Except as provided in KRS 211.285 **and Section 3 of this Act**, receipts derived from
20 taxes assessed and collected under the provisions of this chapter shall be appropriated for
21 general fund purposes.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO
23 READ AS FOLLOWS:

24 **(1) There is hereby established in the State Treasury the underfunded pension trust**
25 **fund.**

26 **(2) The fund shall consist of moneys received from the alcohol wholesale sales tax**
27 **imposed in Section 1 of this Act, state appropriations, gifts, and grants.**

1 (3) The fund shall be administered by the Finance and Administration Cabinet.

2 (4) Amounts deposited in the fund shall be transferred on the first day of each
 3 calendar month to each public pension plan that is underfunded, in equal
 4 proportion.

5 (5) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal
 6 year shall not lapse but shall be carried forward into the next fiscal year.

7 (6) Any interest earnings of the fund shall become a part of the fund and shall not
 8 lapse.

9 (7) Moneys deposited in the fund are hereby appropriated for the purposes set forth
 10 in this section and shall not be appropriated or transferred by the General
 11 Assembly for any other purposes.

12 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER KRS 243 IS CREATED
 13 TO READ AS FOLLOWS:

14 No city, county, charter county, urban-county government, consolidated local
 15 government, or unified local government may impose a regulatory license fee upon the
 16 gross receipts of the sale of alcoholic beverages.

17 ➔Section 5. KRS 242.1292 is amended to read as follows:

18 (1) The provisions of this section shall be applicable only in any city with a population
 19 equal to or greater than twenty thousand (20,000) based upon the most recent
 20 federal decennial census notwithstanding any other provisions of this chapter
 21 relating to the wet or moist status in any county, city, or territory which may be to
 22 the contrary.

23 (2) In any city meeting the population requirements of subsection (1) of this section that
 24 is dry or moist in all or part of the city, and upon a determination that an economic
 25 hardship exists in one (1) or more of the voting precincts of the city in the manner
 26 prescribed in subsection (11) of this section, the governing body of the city shall by
 27 ordinance designate the precinct or precincts as a limited sale precinct or precincts

1 and shall provide for an election to be held in the precinct or precincts to take the
2 sense of the people of each precinct as to making that precinct wet territory. A
3 petition seeking a local option election under this section shall state "We the
4 undersigned registered voters hereby petition for an election on the following
5 question: 'Are you in favor of the sale of alcoholic beverages in (official name of
6 precinct)?'".

7 (3) The election shall be held in the precinct or precincts in the manner prescribed in
8 this chapter. The election shall not be deemed to be an election in the "same
9 territory" within the meaning of KRS 242.030(3).

10 (4) The question shall be presented to the voters in conformance with the requirements
11 of KRS 242.050 except that the form of the proposition shall be, "Are you in favor
12 of the sale of alcoholic beverages in (official name and designation of precinct)?".

13 (5) If a majority of the votes cast in any limited sale precinct in which an election is
14 held under this section are in favor of the sale of alcoholic beverages in that
15 precinct, the governing body of the city shall by ordinance create or provide for the
16 office of city alcoholic beverage control administrator.

17 (6) The governing body of the city shall adopt the comprehensive regulatory ordinance
18 covering the licensing and operation of establishments for the sale of alcoholic
19 beverages, including, but not limited to, distilled spirits and malt beverages, within
20 a limited sale precinct as set forth in this section. In relation to the ordinances
21 established by a city meeting the population requirements of subsection (1) of this
22 section under this subsection and subsection (7) of this section, review by the board,
23 if any, shall be limited to a determination that the ordinances do not exceed the
24 limits established for sale by statute, or administrative regulations promulgated by
25 the board under those statutes. In its discretion the governing body shall provide
26 without review by the board that:

27 (a) Only three (3) licenses permitting the package sale at retail of alcoholic

1 beverages shall be granted within the territorial limits of any limited sale
2 precinct.

3 (b) Only four (4) licenses to sell alcoholic beverages by the drink for consumption
4 on the premises by the general public shall be granted in any one (1) limited
5 sale precinct. One (1) license in each limited sale precinct may be reserved for
6 any newly established hotel, motel, or inn containing not less than fifty (50)
7 sleeping units and having dining facilities for not less than one hundred (100)
8 persons. The remaining three (3) licenses may be granted to a hotel, motel, or
9 inn meeting the requirements of this section or to bona fide restaurants open to
10 the general public having dining facilities for not less than one hundred (100)
11 persons. Additional licenses to sell alcoholic beverages by the drink for
12 consumption on the premises may be granted to social membership clubs
13 established and maintained for the benefit of members of bona fide fraternal
14 or veterans organizations.

15 (7) The governing body of the city may also incorporate in the regulatory ordinance any
16 other reasonable rules and regulations as it deems, necessary or desirable for the
17 proper administration and enforcement of this section, for the maintenance of public
18 order in a limited sale precinct, and for the issuance of any licenses permitted by
19 KRS 243.070.

20 (8) ~~Notwithstanding any limitations imposed on the city's taxing or licensing power by~~
21 ~~KRS 243.070, once any limited sale precinct has been established as wet territory,~~
22 ~~the governing body of the city may impose a regulatory license fee upon the gross~~
23 ~~receipts of each establishment located in the precinct and licensed to sell alcoholic~~
24 ~~beverages. The regulatory license fee may be levied at the beginning of each city~~
25 ~~budget period at the percentage rate reasonably estimated to fully reimburse the city~~
26 ~~for the estimated costs of any additional policing, regulatory, or administrative~~
27 ~~expenses related to the sale of alcoholic beverages in the city. The regulatory license~~

1 ~~fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a~~
2 ~~credit against the fee shall be allowed in an amount equal to any licenses or fees~~
3 ~~imposed by the city pursuant to KRS 243.070.~~

4 ~~(9)~~ Subject to the limitation imposed by subsection (3) of this section, no provision
5 contained in this section providing for the establishment of a limited sale precinct
6 shall preclude or abridge the right of the constitutionally qualified voters of the
7 precinct to petition for a subsequent election on the same question.

8 ~~(9)~~~~(10)~~ If an election is held pursuant to other provisions of KRS Chapter 242 in the
9 city or the county in which a limited sale precinct is located for the purpose of
10 taking the sense of the voters upon the question of the entire city or the entire
11 county becoming dry, wet, or moist, the status of that question in a limited sale
12 precinct shall be determined in the following manner:

13 (a) The status of a limited sale precinct shall not be affected by any election for
14 the entire city or the entire county if the limited sale precinct was established
15 less than five (5) years prior to the date of the proposed election for the entire
16 city or the entire county and if so the voters of any limited sale precinct shall
17 not vote in the election.

18 (b) If the limited sale precinct was established more than five (5) years prior to the
19 date of the proposed election for the entire city or the entire county, the voters
20 within each limited sale precinct shall be presented with the question, "Are
21 you in favor of continuing the sale of alcoholic beverages in (official name
22 and designation of precinct) as a limited sale precinct?". No other question
23 shall be presented to the voters of any limited sale precinct.

24 (c) The votes of each limited sale precinct shall be counted separately, and, if a
25 majority of the votes cast in the limited sale precinct are in favor of continuing
26 the sale of alcoholic beverages in the precinct as a limited sale precinct, then
27 the status shall continue within the precinct, except that if the city or the

1 county in which the limited sale precinct is located votes wet in the remainder
2 of the city or the county, the limited sale precinct status of any precinct may be
3 terminated by the governing body of the city or the county and the status of
4 the precinct shall be the same as that in effect for the remainder of the city or
5 the county.

6 ~~(10)~~~~(11)~~ Any precinct located entirely within any city meeting the population
7 requirements of subsection (1) of this section that is dry in all or part of the city
8 shall be designated as a limited sale precinct by the governing body of the city if:

9 (a) The governing body determines to its satisfaction that the general trade,
10 business, and economy of one (1) or more of the precincts within the city is
11 substantially, adversely affected by the legal sale of alcoholic beverages in any
12 neighboring or adjoining state, county, city, town, district, or precinct. For the
13 purpose of making this determination, the governing body may hold hearings,
14 examine witnesses, or receive evidence as it believes necessary or desirable
15 for the purpose; or

16 (b) The governing body receives a petition signed by a number of constitutionally
17 qualified voters of a precinct equal to thirty-three percent (33%) of the votes
18 cast in the precinct at the last preceding general election requesting the
19 governing body of the city to designate the precinct as a limited sale precinct.
20 The petition may consist of one (1) or more separate units and shall be filed
21 with the mayor of the city. In addition to the name of the voter, the petition
22 shall also state the voter's post office address and the correct date upon which
23 the voter's name is signed. Upon receipt of the petition, the mayor shall
24 present it to the governing body of the city at its next regularly scheduled
25 meeting and, after verifying that the petition is in compliance with the
26 requirements of this section, the governing body shall by ordinance
27 immediately designate the precinct to be a limited sale precinct.

1 ➔Section 6. KRS 244.440 is amended to read as follows:

2 (1) Every resident and nonresident distiller, rectifier, or winery and nonresident
3 wholesaler who owns, is the primary source of supply, or has an exclusive interest
4 in any particular brands, which are intended for sale or sold in this state, shall:

5 (a) Be licensed in this state;~~and shall~~

6 (b) Register, on a form~~to be~~ provided by the department, the names of the
7 wholesalers in this state to whom distributing rights have been granted for one
8 (1) or more or all of the brands and product names of distilled spirits or wine
9 offered for sale or sold in this state; and

10 (c) *Make its brands available to any wholesaler legally authorized to distribute*
11 *that product in this state, and shall not grant the distributing rights of any*
12 *particular brand to only one (1) wholesaler exclusively.*

13 (2) No distiller, rectifier, or winery shall offer to sell or sell, and no wholesaler shall
14 offer to purchase or purchase, any brands and product names that have not been
15 registered as provided by this section.

16 ➔Section 7. KRS 243.170 is amended to read as follows:

17 (1) A wholesaler may sell, deliver, and transport distilled spirits and wine at wholesale,
18 and from the licensed premises only, to:

19 (a) Other wholesalers;

20 (b) Retailers; or

21 (c) A point out of the state to persons authorized by the law of the state of their
22 residence, and by the United States government if located in the United States,
23 to receive the distilled spirits and wine.

24 (2) A wholesaler may purchase distilled spirits and wine at wholesale from licensed
25 distillers, rectifiers, wineries, or other wholesalers and from nonresidents authorized
26 by the law of the states of their residence, and by the United States government if
27 located in the United States, to make the sales. A wholesaler may not transport

1 distilled spirits and wine from any point to its own licensed premises, except as
2 provided in KRS 243.200.

3 (3) No wholesaler shall sell or contract to sell, give away, or deliver any distilled spirits
4 or wine to any person in Kentucky who is not licensed to receive, possess,
5 distribute, or sell distilled spirits and wine, and no wholesaler shall sell or contract
6 to sell, give away, or deliver any distilled spirits or wine to any consumer. This
7 section does not permit sales or deliveries of distilled spirits in Kentucky by
8 licensed wholesalers to nonresidents who are not licensed by their own states.

9 (4) A wholesaler may extend credit on distilled spirits and wine sold to retail licensees
10 for a period not to exceed thirty (30) days from the date of invoice, with the date of
11 invoice included in the total number of days. ~~When the thirty (30) day period has~~
12 ~~passed without payment in full, no wholesaler shall sell to the licensee except for~~
13 ~~cash on delivery.~~

14 **(5) A wholesaler shall make deliveries to retail licensees on a timely basis, and at no**
15 **time shall a delivery to a retail licensee exceed one (1) week after the date on**
16 **which the order was received.**

17 ➔Section 8. KRS 243.180 is amended to read as follows:

18 (1) A distributor's license shall authorize the licensee to:

19 (a) Purchase malt beverages from Kentucky breweries or from out-of-state
20 breweries or distributors licensed to do business by the state in which they are
21 located;

22 (b) Import a non-United States brand malt beverage from an importer or
23 wholesaler registered with the Kentucky Department of Revenue;

24 (c) Sell his or her products to the holder of a special nonbeverage alcohol license;
25 or

26 (d) Store malt beverages and to sell them only, from the licensed premises, to
27 other distributors, to licensed retailers, to any of its employees for home

1 consumption, and to charitable or fraternal organizations holding group
2 meetings, picnics, or outings.

3 (2) A distributor shall transport malt beverages only by a vehicle owned, rented, or
4 leased and operated by the distributor, which has affixed to its sides at all times a
5 sign of form and size prescribed by the state board, containing among other things
6 the name and license number of the licensee. No distilled spirits or wine shall be
7 transported on the same truck or vehicle with malt beverages, except by a common
8 carrier, unless the owner of such truck or vehicle holds a wholesaler's license.

9 (3) A distributor's license must be obtained for each separate warehouse, agent,
10 distributor, broker, jobber, or place of business from which orders are received or
11 beverages are distributed unless it is a licensed brewery.

12 **(4) A distributor shall make deliveries to retail licensees on a timely basis, and at no**
13 **time shall a delivery to a retail license exceed one (1) week after the date on**
14 **which the order was received.**

15 ➔Section 9. KRS 243.200 is amended to read as follows:

16 (1) A transporter's license may be issued as a primary license to a motor carrier
17 authorized to transact business in the Commonwealth by the Transportation Cabinet
18 or the Federal Motor Carrier Safety Administration or to another person engaged in
19 business as a common carrier. A person holding a transporter's license may
20 transport alcoholic beverages to or from the licensed premises of any licensee under
21 this chapter if both the consignor and consignee in each case are authorized by the
22 law of the states of their residence to sell, purchase, ship, or receive the alcoholic
23 beverages.

24 (2) The holder of a transporter's license shall cause each truck or vehicle to display the
25 name of the licensee and the state license numbers in a manner prescribed by an
26 administrative regulation promulgated by the board.

27 (3) An application for a transporter's license shall include a statement that the applicant,

1 if issued a license, shall allow any authorized investigators of the department to stop
2 and examine the cargo of any truck or vehicle in which alcoholic beverages are
3 being transported within the boundaries of the Commonwealth of Kentucky.

4 (4) Applicants for the transporter's license under this section, and their employees, shall
5 be exempt from the residency requirements of KRS 243.100.

6 (5) A licensee may move, within the same county, alcoholic beverages from one (1) of
7 the licensee's licensed premises to another without a transporter's license. A licensee
8 may move alcoholic beverages from one (1) of the licensee's licensed premises
9 located in one (1) county to a licensed premises located in another county, without a
10 transporter's license, with prior written approval of the administrator for good cause
11 shown. The licensee shall keep and maintain, in one (1) of its licensed premises,
12 adequate books and records of the transactions involved in transporting alcoholic
13 beverages from one (1) licensed premises to another in accordance with standards
14 established in administrative regulations promulgated by the board. The records
15 shall be available to the department and the Department of Revenue upon request.

16 (6) (a) A supplemental transporter's license may be issued to a quota retail
17 package licensee wishing to transport alcoholic beverages to another quota
18 retail package licensee where the retail premises have at least two-thirds
19 (2/3) common ownership if the licensee:

20 1. Derives not less than ninety percent (90%) of his or her cash receipts
21 from the sale of alcoholic beverages; and

22 2. Pays the annual supplemental transporter's license fee established in
23 Section 10 of this Act.

24 (b) The supplemental transporter's license fee shall permit a quota retail
25 package licensee to make unlimited yearly transactions between two (2)
26 retail premises designated on the license. A separate license shall be
27 required for each retail premise if the operator wishes to move alcoholic

1 beverages between other retail premises of at least two-thirds (2/3) common
2 ownership.

3 (c) A quota retail package licensee holding a supplemental transporter's license
4 under this subsection shall:

5 1. Maintain for three (3) years at one (1) of his or her retail premises
6 adequate books and records of the transactions involved in
7 transporting alcoholic beverages from one (1) licensed retail premise
8 to another in accordance with standards established in administrative
9 regulations promulgated by the department; and

10 2. Transport the alcoholic beverages in a truck that has:

11 a. Been marked with the supplemental transporter's license
12 number in conformity with administrative regulations of the
13 department; and

14 b. Interior dimensions in the cargo area of not greater than ten
15 (10) feet by fifteen (15) feet.

16 (d) The driver of a vehicle transporting alcohol under this subsection shall
17 maintain a copy of the supplemental transporter's license and bills of
18 lading, consignment, or other evidence of ownership of the cargo. Failure
19 of the driver to be in possession of these documents shall be prima facie
20 evidence of illegal trafficking. The transporting of distilled spirits and wine
21 without a transporter's license shall subject the offending party to the
22 penalties established in KRS 243.990.

23 (e) The transport of alcoholic beverages by the holder of a supplemental
24 transporter's license shall be from the retail premises of one (1) retail
25 licensee to another only.

26 (f) A supplemental transporter's license shall be limited to one (1) vehicle per
27 license. Nothing in this subsection shall prohibit retail licensees with at

1 least two-thirds (2/3) common ownership and multiple supplemental
2 transporter's licenses from use of the same designated vehicle.

3 (Z) Distilled spirits and wine may be transported by any licensed retailer selling
4 distilled spirits or wine, by the package or by the drink, from the premises of a
5 licensed wholesaler to the licensed premises of the retail licensee. Any retailer
6 transporting alcoholic beverages under this subsection shall do so in a vehicle
7 marked in conformity with administrative regulations of the board. Both the
8 wholesaler and the retailer engaging in activity under this subsection shall be
9 responsible for maintaining records documenting the transactions.

10 ➔Section 10. KRS 243.030 is amended to read as follows:

11 The following licenses that authorize traffic in distilled spirits and wine may be issued by
12 the distilled spirits administrator. Licenses that authorize traffic in all alcoholic beverages
13 may be issued by both the distilled spirits administrator and malt beverages administrator.

14 The licenses and their accompanying fees are as follows:

- 15 (1) Distiller's license:
 - 16 (a) Class A, per annum\$3,090.00
 - 17 (b) Class B (craft distillery), per annum.....\$1,000.00
- 18 (2) Rectifier's license:
 - 19 (a) Class A, per annum\$2,580.00
 - 20 (b) Class B (craft rectifier), per annum\$825.00
- 21 (3) Winery license, per annum\$1,030.00
- 22 (4) Small farm winery license, per annum\$110.00
 - 23 (a) Small farm winery off-premises retail license, per annum\$30.00
- 24 (5) Wholesaler's license, per annum\$2,060.00
- 25 (6) Quota retail package license, per annum.....\$570.00
- 26 (7) Quota retail drink license, per annum\$620.00
- 27 (8) Transporter's license, per annum\$210.00

1	<u>(9)</u> <i>Supplemental transporter's license</i>	<u>\$100.00</u>
2	(10) (9) Special nonbeverage alcohol license, per annum	\$60.00
3	(11) (10) Special agent's or solicitor's license, per annum	\$30.00
4	(12) (11) Bottling house or bottling house storage license,	
5	per annum	\$1,030.00
6	(13) (12) Special temporary license, per event	\$100.00
7	(14) (13) Special Sunday retail drink license, per annum	\$520.00
8	(15) (14) Caterer's license, per annum	\$830.00
9	(16) (15) Special temporary alcoholic beverage	
10	auction license, per event	\$100.00
11	(17) (16) Extended hours supplemental license, per annum	\$2,060.00
12	(18) (17) Hotel in-room license, per annum	\$210.00
13	(19) (18) Air transporter license, per annum	\$520.00
14	(20) (19) Sampling license, per annum	\$110.00
15	(21) (20) Replacement or duplicate license	\$25.00
16	(22) (21) Entertainment destination center license, per annum	\$7,730.00
17	(23) (22) Limited restaurant license, per annum.	\$780.00
18	(24) (23) Limited golf course license, per annum.....	\$720.00
19	(25) (24) Small farm winery wholesaler's license, per annum	\$110.00
20	(26) (25) Qualified historic site license, per annum	\$1,030.00
21	(27) (26) Nonquota type 1 license, per annum	\$4,120.00
22	(28) (27) Nonquota type 2 license, per annum.....	\$830.00
23	(29) (28) Nonquota type 3 license, per annum.....	\$310.00
24	(30) (29) Distilled spirits and wine storage license, per annum	\$620.00
25	(31) (30) Out-of-state distilled spirits and wine supplier's license, per annum	\$1,550.00
26	(32) (31) Limited out-of-state distilled spirits and	
27	wine supplier's license, per annum	\$260.00

1 ~~(33)~~~~(32)~~ Authorized public consumption license, per annum.....\$250.00

2 ~~(34)~~~~(33)~~ A nonrefundable fee of sixty dollars (\$60) shall be charged to process each
3 new transitional license pursuant to KRS 243.045.

4 ~~(35)~~~~(34)~~ Other special licenses the board finds necessary for the proper regulation and
5 control of the traffic in distilled spirits and wine and provides for by administrative
6 regulation. In establishing the amount of license taxes that are required to be fixed
7 by the board, it shall have regard for the value of the privilege granted.

8 ~~(36)~~~~(35)~~ The fee for each of the first five (5) supplemental bar licenses shall be the
9 same as the fee for the primary retail drink license. There shall be no charge for
10 each supplemental license issued in excess of five (5) to the same licensee at the
11 same premises.

12 A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each
13 new application under this section, except for subsections (4), (8), ~~(10)~~~~(9)~~, ~~(11)~~~~(10)~~,
14 ~~(13)~~~~(12)~~, ~~(16)~~~~(15)~~, ~~(20)~~~~(19)~~, and ~~(21)~~~~(20)~~ of this section. The application fee shall
15 be applied to the licensing fee if the license is issued; otherwise it shall be retained by the
16 department.

17 ➔Section 11. KRS 244.040 is amended to read as follows:

18 (1) **Except as provided in subsection (6) of this section,** a brewer or distributor shall
19 not sell alcoholic beverages to any person in this state for any consideration except
20 for cash paid at or before the time of delivery.

21 For purposes of this section, "cash" includes the sale of malt beverages by electronic
22 transfers if the following conditions are met:

23 (a) The use of electronic transfers shall be voluntary and shall be agreed to by the
24 affected brewer, distributor, and retailer;

25 (b) The brewer shall not pay or credit back in any way to the distributor any share
26 of the cost that is attributable to the electronic transfer;

27 (c) The distributor shall not pay or credit back in any way to the retailer any share

- 1 of the cost that is attributable to the electronic fund transfer;
- 2 (d) The transfer of funds shall be initiated by the brewer or the distributor;
- 3 (e) The distributor may debit the retailer's bank account for the exact amount due
4 based on the amount of alcoholic beverages delivered;
- 5 (f) Electronic fund transfers that are rejected or denied at the time of sale for any
6 reason shall be treated in the same manner as checks drawn on insufficient
7 funds; and
- 8 (g) Each participating retail licensee and each distributor maintain accurate
9 records of all electronic fund transfers in accordance with department statutes
10 and administrative regulations.
- 11 (2) A brewer or distributor shall not furnish or deliver any returnable bottled malt
12 beverage without collecting a minimum container charge or deposit of sixty cents
13 (\$0.60) per case of twenty-four (24) twelve-ounce bottles or its equivalent in the
14 same manner that the price of the malt beverage is collected.
- 15 (3) This section shall not prohibit a licensee from crediting to a purchaser the actual
16 prices charged for packages or containers returned by the original purchaser as a
17 credit on any sale, or from refunding to any purchaser the amount paid by the
18 purchaser for containers or as a deposit on containers when the title is retained by
19 the vendor, if the containers or packages have been returned to the brewer or
20 distributor.
- 21 (4) No right of action shall exist to collect any claim for credit extended contrary to this
22 section.
- 23 (5) This section shall not apply to sales by wholesalers or distributors to licensees that
24 are private clubs or voluntary associations.
- 25 **(6) A brewer or distributor may extend credit on malt beverages sold to retail**
26 **licensees for a period not to exceed thirty (30) days from the date of the invoice,**
27 **with the date of the invoice included in the total number of days.**

1 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO
2 READ AS FOLLOWS:

3 (1) When a city annexes or proposes to annex any territory, any person who pursues
4 litigation against the annexation shall have standing in a court of law to do so if
5 that person:

6 (a) Owns property within the territory that is being annexed or has been
7 annexed by a city; or

8 (b) Owns property, is a registered voter, or otherwise resides within a county
9 election precinct contained either wholly or partially within the territory
10 subject to the annexation.

11 (2) (a) Any litigation arising from the authority granted by this section shall be
12 subject to the applicable statutory limitations on civil actions contained in
13 KRS Chapter 413 or any other applicable law.

14 (b) Notwithstanding paragraph (a) of this subsection, for causes of action
15 accruing before the effective date of this Act, but on or after January 1,
16 2004, the applicable statutory limitations on civil actions contained in KRS
17 Chapter 413 or any other applicable law shall begin to run on the effective
18 date of this Act.

19 (3) The authority granted by this section shall be construed to be in addition to any
20 standing to pursue litigation existing in statute, common law, or the Rules of
21 Civil Procedure.

22 (4) This section shall be retroactive to January 1, 2004.

23 ➔Section 13. KRS 235.125 is amended to read as follows:

24 The person whose name appears on a certificate of number as the owner of a vessel shall
25 remove the number and validation sticker from the vessel when:

26 (1) ~~{The vessel is documented by the Coast Guard; or~~

27 ~~(2) }The certificate of number is invalid under KRS 235.180; or~~

1 ~~(2)~~~~(3)~~ The vessel is no longer principally used in the state where the certificate was
 2 issued.

3 ➔Section 14. KRS 235.210 is amended to read as follows:

- 4 (1) A motorboat shall not be required to be numbered under this chapter if it is:
- 5 (a) ~~[Already covered by a number in full force and effect which has been awarded~~
 6 ~~to it pursuant to federal law or a federally approved numbering system of~~
 7 ~~another state; provided, that such boat shall not have been within this state for~~
 8 ~~a period in excess of sixty (60) consecutive days;~~
- 9 ~~(b)~~—]A motorboat from a country other than the United States temporarily using
 10 the waters of this state;
- 11 ~~(b)~~~~(c)~~ A motorboat whose owner is the United States, a state or a subdivision
 12 thereof, except when such boat is leased to the public for compensation it
 13 must be registered according to KRS 235.080(2);
- 14 ~~(c)~~~~(d)~~ A ship's lifeboat used or intended to be used as such;
- 15 ~~(d)~~~~(e)~~ A motorboat belonging to a class of boats which has been exempted
 16 from numbering by the department after said agency has found that the
 17 numbering of motorboats of such class will not materially aid in their
 18 identification; and, if an agency of the federal government has a numbering
 19 system applicable to the class of motorboats to which the motorboat in
 20 question belongs, after the department has further found that the motorboat
 21 would also be exempt from numbering if it were subject to the federal law.

22 (2) Boats exempt from registration may be required by the department to apply for an
 23 official identification number to be displayed in accordance with KRS 235.110.

24 ➔Section 15. KRS 235.230 is amended to read as follows:

- 25 (1) The owner of a boat marina shall keep a record, **for any vessel which is designed or**
 26 **permitted by him to be operated as a motorboat,** of:
- 27 **(a)** The name and address of the person or persons hiring ~~the~~~~[any]~~ vessel ~~which~~

1 ~~is designed or permitted by him to be operated as a motorboat};~~

2 (b) The identification number *of the vessel*~~{thereof}~~;

3 (c) ~~{and }~~The departure time and date;~~;~~ and

4 (d) The expected time of return.

5 The record shall be preserved for at least six (6) months.

6 (2) Neither the owner of a boat marina, nor his agent or employee shall permit any
7 motorboat or any vessel owned or leased by him to be operated as a motorboat to
8 depart from his premises unless it has been provided, either by the owner or the
9 renter, with the equipment required pursuant to KRS 235.200 and any rules and
10 regulations made pursuant thereto, except that the operator need not have the
11 certificate of registration in his possession.

12 (3) The certificate of registration and number for vessels leased or rented by a marina
13 may be retained on shore by the owner of the marina or his representative at the
14 place from which the vessel departs or returns to the possession of the livery or his
15 representative.~~;~~ ~~provided,~~ However, the operator shall have with him a copy of the
16 lease or rental agreement signed by the marina owner or an authorized
17 representative of the marina and by the person leasing or renting the vessel that
18 contains the vessel's number which appears on the certificate of number and the
19 period of time for which the vessel is leased or rented.

20 (4) By July 15, 2000, the owner of a marina shall provide access to sewage pumpout
21 facilities for the owners of motorboats with marine toilet facilities. For the purpose
22 of this subsection a sewage pumpout facility means equipment designed to receive
23 the discharge of sewage from a marine sanitation device and allow the disposal of
24 the sewage in a manner that prevents the sewage from entering the waters of the
25 state. To provide access to sewage pumpout facilities a marina owner may, by way
26 of illustration and not to limit the options available to a marina owner:

27 (a) Build and operate pumpout facilities;

1 (b) Contract with another marina owner with pumpout facilities, if the contracting
2 marinas are not more than eight (8) water miles apart and accessible in a way
3 that does not require motorboats to be trailered; and

4 (c) Contract with a person licensed under KRS 211.972 to provide pumpout
5 facility service, if the service is available during normal business hours
6 including holidays and if the service can be provided within a reasonable time
7 upon request by a motorboat owner.

8 ~~[(5) For any period of contracted mooring at a marina longer than twenty four (24)
9 hours, the owner of a boat shall provide to the marina owner or his or her agent or
10 employee the title, or equivalent document, for the boat. The owner of the marina or
11 his or her agent or employee shall retain the title or a copy of the title in the marina's
12 records for the period of time, beyond twenty four (24) hours, for which the marina
13 is contracted to provide mooring to the boat.]~~

14 ➔Section 16. KRS 376.270 is amended to read as follows:

15 (1) Any person engaged in the business of selling, repairing or furnishing accessories or
16 supplies for motor vehicles shall have a lien on the motor vehicle for the reasonable
17 or agreed charges for repairs, work done or accessories or supplies furnished for the
18 vehicle, and for storing or keeping the vehicle, and, **except as provided for boats in**
19 **subsection (2) of this section,** may detain any motor vehicle in his possession on
20 which work has been done by him until the reasonable or agreed charge therefor has
21 been paid. The lien shall not be lost by the removal of the motor vehicle from the
22 garage or premises of the person performing labor, repairing or furnishing
23 accessories or supplies therefor, if the lien shall be asserted within six (6) months by
24 filing in the office of the county clerk a statement showing the amount and cost of
25 materials furnished or labor performed on the vehicle. The statement shall be filed
26 in the same manner as provided in the case of a mechanic's and materialman's lien,
27 after the removal of the vehicle, unless the owner of the vehicle consents to an

1 additional extension of time, in which event the lien shall extend for the length of
2 time the parties agree upon. The agreement shall be reduced to writing and signed
3 by the parties thereto.

4 **(2) A marina shall not interfere with a boat owner's right to take possession of his or**
5 **her boat and remove it from the marina, including a boat against which the**
6 **marina has commenced a civil action to enforce a possessory lien prior to the**
7 **effective date of this Act.**

8 ➔Section 17. KRS 243.157 is amended to read as follows:

- 9 (1) A microbrewery license shall authorize the licensee to perform the following
10 functions:
- 11 (a) Engage in the business of a brewer under the terms and conditions of KRS
12 243.150, provided that production of malt beverages at the microbrewery shall
13 not exceed fifty thousand (50,000) barrels in one (1) year;
 - 14 (b) Serve on the premises complimentary samples of malt beverages produced by
15 the microbrewery in amounts not to exceed sixteen (16) ounces per patron,
16 provided the microbrewery is located in wet territory;
 - 17 (c) Sell malt beverages produced on the premises of the microbrewery to licensed
18 distributors;
 - 19 (d) Sell malt beverages produced on the premises of the microbrewery for on- and
20 off-premises purposes in accordance with subsection (3)(b) and (c) of this
21 section; and
 - 22 (e) Sell malt beverages produced on the premises of the microbrewery to
23 consumers at fairs, festivals, and other similar types of events located in wet
24 territory, in accordance with subsection (3)(b)2. and 3. and subsection (3)(c)2.
25 and 3. of this section. The cumulative amount of malt beverages purchased by
26 a consumer by the drink and by the package from a microbrewery under this
27 paragraph shall not exceed two hundred eighty-eight (288) ounces per day.

1 (2) A microbrewery license shall not be deemed to be incompatible with any other
2 license except for a distributor's license under the provisions of KRS 243.180.

3 (3) In accordance with the provisions of this section, a microbrewery license holder
4 may:

5 (a) Hold retail drink and package licenses both on and off the premises of the
6 microbrewery. The holder of a microbrewery license is exempt from the
7 provisions of KRS 244.570 and 244.590 as applied to any retail licenses held
8 by the microbrewery license holder, and from any other sections which would
9 restrict the co-ownership of the microbrewery license and any retail licenses
10 described in this section;

11 (b) Sell malt beverages produced on the premises of the microbrewery for on-
12 premises purposes without having to transfer physical possession of those
13 malt beverages to a licensed distributor provided:

14 1. The microbrewery possesses a retail drink license for those premises;
15 2. The microbrewery has a written contract with a licensed distributor
16 authorizing the distributor to purchase and distribute the microbrewery's
17 malt beverages to any other retailer; and

18 3. The microbrewery provides to the distributor a monthly report of the
19 quantity of malt beverages produced at the microbrewery and sold at
20 retail at the microbrewery under the provisions of its retail drink license.

21 The report required under this subparagraph shall:

22 a. Be provided to the distributor on or before the tenth day of the
23 month next succeeding the month in which the malt beverages
24 were produced and sold at the microbrewery; and

25 b. Be provided on a form promulgated by the board by administrative
26 regulation. The information provided on the form shall be reported
27 to the Department of Revenue at the time and in the manner

1 required by that department in accordance with its powers under
2 KRS 131.130(3) and any administrative regulation promulgated
3 thereunder.

4 Nothing in this subparagraph shall require a distributor to verify the
5 accuracy of the information provided by the microbrewery in its report;
6 and

7 (c) Sell malt beverages produced on the premises of the microbrewery for off-
8 premises purposes without having to transfer physical possession of those
9 malt beverages to a licensed distributor provided that:

10 1. The microbrewery possesses a retail package license for those premises;
11 2. The microbrewery has a written contract with a licensed distributor
12 authorizing the distributor to purchase and distribute the microbrewery's
13 malt beverages to any other retailer; and

14 3. The microbrewery provides to the distributor a monthly report of the
15 quantity of malt beverages produced at the microbrewery under the
16 provisions of its retail package license. The report required under this
17 subparagraph shall:

18 a. Be provided to the distributor on or before the tenth day of the
19 month next succeeding the month in which the malt beverages
20 were produced and sold at the microbrewery; and

21 b. Be provided on a form promulgated by the board by administrative
22 regulation. The information provided on the form shall be reported
23 to the Department of Revenue at the time and in the manner
24 required by that department in accordance with its powers under
25 KRS 131.130(3) and any administrative regulation promulgated
26 thereunder.

27 Nothing in this subparagraph shall require a distributor to verify the

1 accuracy of the information provided by the microbrewery in its report;
2 and

3 4. The amount of malt beverages purchased by a customer during a visit to
4 the microbrewery's premises does not exceed two hundred eighty-eight
5 (288) ounces per customer per day.

6 (4) The provisions of subsection (3)(b) and (c) of this section shall apply only to malt
7 beverages that are produced by the microbrewery at its licensed premises and:

8 (a) Offered for sale by the microbrewery at that same premises under the
9 microbrewery's retail drink or package license; or

10 (b) Offered for sale by the microbrewery at a fair, festival, or other similar type of
11 event as authorized under subsection (1)(e) of this section.

12 All other malt beverages produced by the microbrewery which are offered for retail
13 sale shall be sold and physically transferred to a licensed distributor in compliance
14 with all other relevant provisions of KRS Chapters 241 to 244, and a licensed
15 microbrewery shall not otherwise affect sales of malt beverages directly to retail
16 customers except as provided in subsection (3)(b) and (c) of this section.

17 (5) (a) A microbrewery selling malt beverages in accordance with subsection (3)(b)
18 and (c) of this section shall collect and provide the licensed distributor all
19 taxes due under KRS 243.884. The tax shall be computed, at the rate
20 established in Section 1 of this Act, on~~of eleven percent (11%) of~~ the
21 wholesale value of the malt beverages sold by the microbrewery under the
22 provisions of subsection (3)(b) and (c) of this section. For the purposes of this
23 subsection "wholesale value" shall be determined in accordance with the
24 contract required under subsection (3)(b)2. and (c)2. of this section, as
25 applicable.

26 (b) The licensed distributor shall be responsible for remitting these amounts to the
27 Commonwealth as provided in KRS 243.884(1). ~~In accordance with KRS~~

1 ~~243.886, the licensed distributor shall be allowed to deduct one percent (1%)~~
2 ~~of the tax remitted under this subsection, provided the amount due is not~~
3 ~~delinquent at the time of payment.]~~ Nothing in this subsection shall require the
4 licensed distributor to verify the amount of taxes collected and provided by
5 the microbrewery to be the true and accurate amount which is due according
6 to KRS 243.884; nor shall the distributor be responsible for remittance of
7 taxes due in the event the microbrewery fails to collect and provide the
8 amounts owed under the provisions of this subsection.

9 (c) A microbrewery shall pay the excise tax on malt beverages in accordance with
10 KRS 243.720(3) and 243.730 and shall be entitled to the credit set forth in
11 KRS 243.720(3)(b).

12 (6) A microbrewery shall not be located in dry or moist territory.

13 (7) An employee of a microbrewery may sample the products produced by that
14 microbrewery for purposes of education, quality control, and product development.

15 (8) This section does not exempt the holder of a microbrewery license from the
16 provisions of KRS Chapters 241 to 244, nor from any rules of the board as
17 established by administrative regulations, nor from regulation by the board, except
18 as expressly stated in this section. The provisions of this section shall not be
19 deemed inconsistent with the provisions of KRS 244.602.

20 (9) Nothing in this section shall be construed to vitiate the policy of this
21 Commonwealth, as set forth in KRS 244.167 and 244.602, supporting an orderly
22 three (3) tier system for the production and sale of malt beverages.

23 ➔Section 18. KRS 243.110 is amended to read as follows:

24 (1) Except as provided in subsection (3) of this section, each kind of license listed in
25 KRS 243.030 shall be incompatible with every other kind listed in that section and
26 no person or entity holding a license of any of those kinds shall apply for or hold a
27 license of another kind listed in KRS 243.030.

- 1 (2) (a) Each kind of license listed in KRS 243.040(1), (3), or (4) shall be
2 incompatible with every other kind listed in KRS 243.040(1), (3), or (4), and
3 no person holding a license of any of those kinds shall apply for or hold a
4 license of any other kind listed in KRS 243.040(1), (3), or (4).
- 5 (b) A brewery holding a license listed in KRS 243.040(5) or (8) shall not apply
6 for or hold a license listed in KRS 243.040(3) or (4).
- 7 (3) (a) The holder of a quota retail package license may also hold a quota retail drink
8 license, an NQ1 retail drink license, an NQ2 retail drink license, a
9 supplemental transporter's license, or a special nonbeverage alcohol license.
- 10 (b) The holder of a transporter's license may also hold a distilled spirits and wine
11 storage license.
- 12 (c) The holder of a distiller's license may also hold a rectifier's license, a special
13 nonbeverage alcohol license, a winery license, or a small farm winery license.
- 14 (d) A commercial airline system or charter flight system retail license, a
15 commercial airline system or charter flight system transporter's license, and a
16 retail drink license if held by a commercial airline or charter flight system may
17 be held by the same licensee.
- 18 (e) A Sunday retail drink license and supplemental license may be held by the
19 holder of a primary license.
- 20 (4) Any person may hold two (2) or more licenses of the same kind.
- 21 (5) A person or entity shall not evade the prohibition against applying for or holding
22 licenses of two (2) kinds by applying for a second license through or under the name
23 of a different person or entity. The state administrator shall examine the ownership,
24 membership, and management of applicants, and shall deny the application for a
25 license if the applicant is substantially interested in a person or entity that holds an
26 incompatible license.
- 27 ➔Section 19. KRS 243.360 is amended to read as follows:

- 1 (1) All persons, except an applicant for the same license for the same premises, or an
2 applicant for an out-of-state malt beverage supplier's license, limited out-of-state
3 malt beverage supplier's license, out-of-state distilled spirits and wine supplier's
4 license, limited out-of-state distilled spirits and wine supplier's license,
5 supplemental bar license, extended hours supplemental license, a special agent or
6 solicitor's license, a special nonbeverage alcohol license, a transporter's license, a
7 supplemental transporter's license, a special Sunday drink license, a hotel in-room
8 license, a sampling license, or a special temporary drink license shall, before
9 applying for a license, advertise by publication their intention to apply for a license
10 in the newspaper for legal notices under KRS 424.120 for the county or city whose
11 local administrator has local jurisdiction over the proposed premises.
- 12 (2) The notice shall contain the following information:
- 13 (a) The notice shall state: the name and address of the applicant and the name and
14 address of each principal owner, partner, member, officer, and director if the
15 applicant is a partnership, limited partnership, limited liability company,
16 corporation, governmental agency, or other business entity recognized by law;
- 17 (b) The notice shall specifically state the location of the premises for which the
18 license is sought, the type of business, and the type of license being requested;
19 and
- 20 (c) The notice shall state the date the application will be filed and shall contain
21 the following statement: "Any person, association, corporation, or body politic
22 may protest the approval of the license by writing the Department of
23 Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601,
24 within thirty (30) days of the date of legal publication."
- 25 (3) Any protest received after the thirty (30) day period has expired shall not be
26 considered a valid legal protest by the board.
- 27 (4) Substantial compliance with the information listed in subsection (2) of this section

1 shall be sufficient to comply with this section.

2 ➔Section 20. The following KRS sections are repealed:

3 243.075 Certain wet or moist local governments may impose regulatory license fees on
4 gross receipts of the sale of alcoholic beverages of establishments selling alcoholic
5 beverages -- Regulatory license fees levied on gross receipts of the sale of alcoholic
6 beverages of establishments selling beverages by the drink following determination
7 of economic hardship -- Annual levies -- Credits -- Applicability of county
8 regulatory license fee when cities also levy license fee -- Enactment of fee following
9 election after July 15, 2014 -- Rate of fee established after July 15, 2014 --
10 Administrative regulations -- Use of revenue received from regulatory license fee --
11 Penalties for violation -- Party suing city or county for violation responsible for
12 attorney fees if city or county found not to be in violation -- Definition.

13 243.886 Reimbursement for collecting and reporting.

14 376.272 Marina may enforce lien on boat asserted pursuant to KRS 376.270 by civil
15 action.

16 ➔Section 21. Whereas recreational activities and products are an essential part of
17 Kentucky's economy and the public pension system of the Commonwealth is in dire need
18 of funding, an emergency is declared to exist, and Sections 1 to 12 and 15 to 20 of this
19 Act take effect upon its passage and approval by the Governor or upon its otherwise
20 becoming a law.

21 ➔Section 22. Sections 13 and 14 of this Act take effect January 1, 2019.