

1 AN ACT relating to state parks.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO
4 READ AS FOLLOWS:

5 *Notwithstanding any other law, the department shall issue an NOI license under*
6 *Section 4 of this Act to sell alcoholic beverages by the drink to any state park in dry,*
7 *wet, or moist territory, subject to the limitations and exceptions stated in this section.*

8 *(1) As used in this section, "county" means the county, urban-county government,*
9 *charter county, consolidated local government, or unified local government of*
10 *jurisdiction.*

11 *(2) Unless alcoholic beverage sales by the drink at a state park were authorized by a*
12 *local option election to establish wet territory or by a local option election under*
13 *Section 3 of this Act:*

14 *(a) If the entirety of a state park is located in either a city or a county, the fiscal*
15 *court or legislative body of the local government of that city or county may*
16 *by local ordinance prohibit the sale of alcoholic beverages by the drink at*
17 *that state park;*

18 *(b) If a state park lies partly in the territory of a city and partly in the territory*
19 *of a county, the fiscal court or legislative body of either the city or the*
20 *county may by local ordinance prohibit the sale of alcoholic beverages by*
21 *the drink at the entire state park; and*

22 *(c) If the entirety of a state park is located in a city, the fiscal court or local*
23 *government of the county containing that city shall not supersede, reverse,*
24 *or modify the decision or lack of a decision by the legislative body of the city*
25 *regarding alcoholic beverage sales by the drink at that state park.*

26 *(3) If a city or consolidated local government issues NOI licenses under KRS*
27 *243.070, the city or consolidated local government shall not use its licensing*

1 authority to deny or delay an NOI license to any state park within its territory
2 except as allowed under subsection (2) of this section.

3 (4) Even if a state park is located or partly located in dry or moist territory, the state
4 park shall be exempt from the application of KRS 242.190 to 242.430. If a state
5 park is located in a wet or moist territory that changes its status to become dry or
6 moist through a local option election, the state park shall be exempt from the
7 change in status.

8 (5) Any state park that lawfully operated under an NOI license before the effective
9 date of this Act shall retain the status it held before that date.

10 ➔Section 2. KRS 241.010 is amended to read as follows:

11 As used in KRS Chapters 241 to 244, unless the context requires otherwise:

12 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
13 whatever source or by whatever process it is produced;

14 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether
15 patented or not, containing alcohol in an amount in excess of more than one percent
16 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every
17 spurious or imitation liquor sold as, or under any name commonly used for,
18 alcoholic beverages, whether containing any alcohol or not. It does not include the
19 following products:

20 (a) Medicinal preparations manufactured in accordance with formulas prescribed
21 by the United States Pharmacopoeia, National Formulary, or the American
22 Institute of Homeopathy;

23 (b) Patented, patent, and proprietary medicines;

24 (c) Toilet, medicinal, and antiseptic preparations and solutions;

25 (d) Flavoring extracts and syrups;

26 (e) Denatured alcohol or denatured rum;

27 (f) Vinegar and preserved sweet cider;

- 1 (g) Wine for sacramental purposes; and
- 2 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
3 use;
- 4 (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,
5 or process that mixes liquor, spirits, or any other alcohol product with pure
6 oxygen or by any other means produces a vaporized alcoholic product used for
7 human consumption;
- 8 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,
9 nebulizer, atomizer, or other device that is designed and intended by the
10 manufacturer to dispense a prescribed or over-the-counter medication or a
11 device installed and used by a licensee under this chapter to demonstrate the
12 aroma of an alcoholic beverage;
- 13 (4) "Automobile race track" means a facility primarily used for vehicle racing that has a
14 seating capacity of at least thirty thousand (30,000) people;
- 15 (5) "Bed and breakfast" means a one (1) family dwelling unit that:
- 16 (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are
17 occupied for sleeping purposes by persons not members of the single-family
18 unit;
- 19 (b) Holds a permit under KRS Chapter 219; and
- 20 (c) Has an innkeeper who resides on the premises or property adjacent to the
21 premises during periods of occupancy;
- 22 (6) "Board" means the State Alcoholic Beverage Control Board created by KRS
23 241.030;
- 24 (7) "Bottle" means any container which is used for holding alcoholic beverages for the
25 use and sale of alcoholic beverages at retail;
- 26 (8) "Brewer" means any person who manufactures malt beverages or owns, occupies,
27 carries on, works, or conducts any brewery, either alone or through an agent;

- 1 (9) "Brewery" means any place or premises where malt beverages are manufactured for
2 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
3 and storerooms connected with the premises; or where any part of the process of the
4 manufacture of malt beverages is carried on; or where any apparatus connected with
5 manufacture is kept or used; or where any of the products of brewing or
6 fermentation are stored or kept;
- 7 (10) "Building containing licensed premises" means the licensed premises themselves
8 and includes the land, tract of land, or parking lot in which the premises are
9 contained, and any part of any building connected by direct access or by an entrance
10 which is under the ownership or control of the licensee by lease holdings or
11 ownership;
- 12 (11) "Caterer" means a person operating a food service business that prepares food in a
13 licensed and inspected commissary, transports the food and alcoholic beverages to
14 the caterer's designated and inspected banquet hall or to an agreed location, and
15 serves the food and alcoholic beverages pursuant to an agreement with another
16 person;
- 17 (12) "Charitable organization" means a nonprofit entity recognized as exempt from
18 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.
19 501(c)) or any organization having been established and continuously operating
20 within the Commonwealth of Kentucky for charitable purposes for three (3) years
21 and which expends at least sixty percent (60%) of its gross revenue exclusively for
22 religious, educational, literary, civic, fraternal, or patriotic purposes;
- 23 (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or
24 more alcohol by volume and includes hard cider and perry cider;
- 25 (14) "City administrator" means city alcoholic beverage control administrator;
- 26 (15) "Commercial airport" means an airport through which more than five hundred
27 thousand (500,000) passengers arrive or depart annually;

- 1 (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10)
2 pairs of fully operative pedals for propulsion by means of human muscular power
3 exclusively and which:
- 4 (a) Has four (4) wheels;
 - 5 (b) Is operated in a manner similar to that of a bicycle;
 - 6 (c) Is equipped with a minimum of thirteen (13) seats for passengers;
 - 7 (d) Has a unibody design;
 - 8 (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
 - 9 (f) Is used for commercial tour purposes; and
 - 10 (g) Is operated by the vehicle owner or an employee of the owner;
- 11 (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage
12 Control;
- 13 (18) "Convention center" means any facility which, in its usual and customary business,
14 provides seating for a minimum of one thousand (1,000) people and offers
15 convention facilities and related services for seminars, training and educational
16 purposes, trade association meetings, conventions, or civic and community events
17 or for plays, theatrical productions, or cultural exhibitions;
- 18 (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
19 guilty, the decision of a court, or the finding of a jury, irrespective of a
20 pronouncement of judgment or the suspension of the judgment;
- 21 (20) "County administrator" means county alcoholic beverage control administrator;
- 22 (21) "Department" means the Department of Alcoholic Beverage Control;
- 23 (22) "Dining car" means a railroad passenger car that serves meals to consumers on any
24 railroad or Pullman car company;
- 25 (23) "Discount in the usual course of business" means price reductions, rebates, refunds,
26 and discounts given by wholesalers to distilled spirits and wine retailers pursuant to
27 an agreement made at the time of the sale of the merchandise involved and are

- 1 considered a part of the sales transaction, constituting reductions in price pursuant
2 to the terms of the sale, irrespective of whether the quantity discount was:
- 3 (a) Prorated and allowed on each delivery;
 - 4 (b) Given in a lump sum after the entire quantity of merchandise purchased had
5 been delivered; or
 - 6 (c) Based on dollar volume or on the quantity of merchandise purchased;
- 7 (24) "Distilled spirits" or "spirits" means any product capable of being consumed by a
8 human being which contains alcohol in excess of the amount permitted by KRS
9 Chapter 242 obtained by distilling, mixed with water or other substances in
10 solution, except wine, hard cider, and malt beverages;
- 11 (25) "Distiller" means any person who is engaged in the business of manufacturing
12 distilled spirits at any distillery in the state and is registered in the Office of the
13 Collector of Internal Revenue for the United States at Louisville, Kentucky;
- 14 (26) "Distillery" means any place or premises where distilled spirits are manufactured for
15 sale, and which are registered in the office of any collector of internal revenue for
16 the United States. It includes any United States government bonded warehouse;
- 17 (27) "Distributor" means any person who distributes malt beverages for the purpose of
18 being sold at retail;
- 19 (28) "Dry" means a territory in which a majority of the electorate voted to prohibit all
20 forms of retail alcohol sales through a local option election held under KRS Chapter
21 242;
- 22 (29) "Election" means:
- 23 (a) An election held for the purpose of taking the sense of the people as to the
24 application or discontinuance of alcoholic beverage sales under KRS Chapter
25 242; or
 - 26 (b) Any other election not pertaining to alcohol;
- 27 (30) "Horse racetrack" means a facility licensed to conduct a horse race meeting under

- 1 KRS Chapter 230;
- 2 (31) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public,
3 designed primarily to serve transient patrons;
- 4 (32) "Investigator" means any employee or agent of the department who is regularly
5 employed and whose primary function is to travel from place to place for the
6 purpose of visiting licensees, and any employee or agent of the department who is
7 assigned, temporarily or permanently, by the commissioner to duty outside the main
8 office of the department at Frankfort, in connection with the administration of
9 alcoholic beverage statutes;
- 10 (33) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- 11 (34) "Licensee" means any person to whom a license has been issued, pursuant to KRS
12 Chapters 241 to 244;
- 13 (35) "Limited restaurant" means:
- 14 (a) A facility where the usual and customary business is the preparation and
15 serving of meals to consumers, which has a bona fide kitchen facility, which
16 receives at least seventy percent (70%) of its food and alcoholic beverage
17 receipts from the sale of food, which maintains a minimum seating capacity of
18 fifty (50) persons for dining, which has no open bar, which requires that
19 alcoholic beverages be sold in conjunction with the sale of a meal, and which
20 is located in a wet or moist territory under KRS 242.1244; or
- 21 (b) A facility where the usual and customary business is the preparation and
22 serving of meals to consumers, which has a bona fide kitchen facility, which
23 receives at least seventy percent (70%) of its food and alcoholic beverage
24 receipts from the sale of food, which maintains a minimum seating capacity of
25 one hundred (100) persons of dining, and which is located in a wet or moist
26 territory under KRS 242.1244;
- 27 (36) "Local administrator" means a city alcoholic beverage administrator, county

- 1 alcoholic beverage administrator, or urban-county alcoholic beverage control
2 administrator;
- 3 (37) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or
4 description, manufactured from malt wholly or in part, or from any substitute for
5 malt, and includes weak cider;
- 6 (38) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- 7 (39) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person
8 engaged in the production or bottling of alcoholic beverages;
- 9 (40) "Minor" means any person who is not twenty-one (21) years of age or older;
- 10 (41) "Moist" means a territory in which a majority of the electorate voted to permit
11 limited alcohol sales by any one (1) or a combination of special limited local option
12 elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242,
13 242.1243, 242.1244, or 242.1292;
- 14 (42) "Population" means the population figures established by the federal decennial
15 census for a census year of the current yearly population estimates prepared by the
16 Kentucky State Data Center, Urban Studies Center of the University of Louisville,
17 Louisville, Kentucky, for all other years;
- 18 (43) "Premises" means the land and building in and upon which any business regulated
19 by alcoholic beverage statutes is operated or carried on. "Premises" shall not include
20 as a single unit two (2) or more separate businesses of one (1) owner on the same
21 lot or tract of land, in the same or in different buildings if physical and permanent
22 separation of the premises is maintained, excluding employee access by keyed entry
23 and emergency exits equipped with crash bars, and each has a separate public
24 entrance accessible directly from the sidewalk or parking lot. Any licensee holding
25 an alcoholic beverage license on July 15, 1998, shall not, by reason of this
26 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
27 of the license;

- 1 (44) "Primary source of supply" or "supplier" means the distiller, winery, brewer,
2 producer, owner of the commodity at the time it becomes a marketable product,
3 bottler, or authorized agent of the brand owner. In the case of imported products, the
4 primary source of supply means either the foreign producer, owner, bottler, or agent
5 of the prime importer from, or the exclusive agent in, the United States of the
6 foreign distiller, producer, bottler, or owner;
- 7 (45) "Private club" means a nonprofit social, fraternal, military, or political organization,
8 club, or entity maintaining or operating a club room, club rooms, or premises from
9 which the general public is excluded;
- 10 (46) "Public nuisance" means a condition that endangers safety or health, is offensive to
11 the senses, or obstructs the free use of property so as to interfere with the
12 comfortable enjoyment of life or property by a community or neighborhood or by
13 any considerable number of persons;
- 14 (47) "Qualified historic site" means:
- 15 (a) A contributing property with dining facilities for at least fifty (50) persons at
16 tables, booths, or bars where food may be served within a commercial district
17 listed in the National Register of Historic Places;
- 18 (b) A site that is listed as a National Historic Landmark or in the National
19 Register of Historic Places with dining facilities for at least fifty (50) persons
20 at tables, booths, or bars where food may be served;
- 21 (c) A distillery which is listed as a National Historic Landmark and which
22 conducts souvenir retail package sales under KRS 243.0305; or
- 23 (d) A not-for-profit or nonprofit facility listed on the National Register of Historic
24 Places;
- 25 (48) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or
26 wine by any process other than as provided for on distillery premises, and every
27 person who, without rectifying, purifying, or refining distilled spirits by mixing

- 1 alcoholic beverages with any materials, manufactures any imitations of or
2 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,
3 spirits, cordials, bitters, or any other name;
- 4 (49) "Repackaging" means the placing of alcoholic beverages in any retail container
5 irrespective of the material from which the container is made;
- 6 (50) "Restaurant" means a facility where the usual and customary business is the
7 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
8 and that receives at least fifty percent (50%) of its food and alcoholic beverage
9 receipts from the sale of food at the premises;
- 10 (51) "Retail container" means any bottle, can, barrel, or other container which, without a
11 separable intermediate container, holds alcoholic beverages and is suitable and
12 destined for sale to a retail outlet, whether it is suitable for delivery to the consumer
13 or not;
- 14 (52) "Retail sale" means any sale where delivery is made in Kentucky to any consumers;
- 15 (53) "Retailer" means any licensee who sells and delivers any alcoholic beverage to
16 consumers, except for producers with limited retail sale privileges;
- 17 (54) "Riverboat" means any boat or vessel with a regular place of mooring in this state
18 that is licensed by the United States Coast Guard to carry one hundred (100) or
19 more passengers for hire on navigable waters in or adjacent to this state;
- 20 (55) "Sale" means any transfer, exchange, or barter for consideration, and includes all
21 sales made by any person, whether principal, proprietor, agent, servant, or
22 employee, of any alcoholic beverage;
- 23 (56) "Service bar" means a bar, counter, shelving, or similar structure used for storing or
24 stocking supplies of alcoholic beverages that is a workstation where employees
25 prepare alcoholic beverage drinks to be delivered to customers away from the
26 service bar;
- 27 (57) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with

- 1 intent to sell, and the delivery of any alcoholic beverage;
- 2 (58) "Small farm winery" means a winery whose wine production is not less than two
3 hundred fifty (250) gallons and not greater than one hundred thousand (100,000)
4 gallons in a calendar year;
- 5 (59) "Souvenir package" means a special package of distilled spirits available from a
6 licensed retailer that is:
- 7 (a) Available for retail sale at a licensed Kentucky distillery where the distilled
8 spirits were produced or bottled; or
- 9 (b) Available for retail sale at a licensed Kentucky distillery but produced or
10 bottled at another of that distiller's licensed distilleries in Kentucky;
- 11 (60) "State administrator" or "administrator" means the distilled spirits administrator or
12 the malt beverages administrator, or both, as the context requires;
- 13 (61) "State park" means a state park administered by the Department of Parks under
14 KRS Chapter 148~~that has a:~~
- 15 ~~(a) Nine (9) or eighteen (18) hole golf course; or~~
- 16 ~~(b) Full-service lodge and dining room];~~
- 17 (62) "Supplemental bar" means a bar, counter, shelving, or similar structure used for
18 serving and selling distilled spirits or wine by the drink for consumption on the
19 licensed premises to guests and patrons from additional locations other than the
20 main bar;
- 21 (63) "Territory" means a county, city, district, or precinct;
- 22 (64) "Urban-county administrator" means an urban-county alcoholic beverage control
23 administrator;
- 24 (65) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise
25 move alcoholic beverages or any products, equipment, or appurtenances used to
26 manufacture, bottle, or sell these beverages;
- 27 (66) "Vintage distilled spirit" means a package or packages of distilled spirits that:

- 1 (a) Are in their original manufacturer's unopened container;
- 2 (b) Are not owned by a distillery; and
- 3 (c) Are not otherwise available for purchase from a licensed wholesaler within
- 4 the Commonwealth;
- 5 (67) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- 6 (68) "Weak cider" means any fermented fruit-based beverage containing more than one
- 7 percent (1%) but less than seven percent (7%) alcohol by volume;
- 8 (69) "Wet" means a territory in which a majority of the electorate voted to permit all
- 9 forms of retail alcohol sales by a local option election under KRS 242.050 or
- 10 242.125 on the following question: "Are you in favor of the sale of alcoholic
- 11 beverages in (name of territory)?";
- 12 (70) "Wholesale sale" means a sale to any person for the purpose of resale;
- 13 (71) "Wholesaler" means any person who distributes alcoholic beverages for the purpose
- 14 of being sold at retail, but it shall not include a subsidiary of a manufacturer or
- 15 cooperative of a retail outlet;
- 16 (72) "Wine" means the product of the normal alcoholic fermentation of the juices of
- 17 fruits, with the usual processes of manufacture and normal additions, and includes
- 18 champagne and sparkling and fortified wine of an alcoholic content not to exceed
- 19 twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry
- 20 cider and also includes preparations or mixtures vended in retail containers if these
- 21 preparations or mixtures contain not more than fifteen percent (15%) of alcohol by
- 22 volume. It does not include weak cider; and
- 23 (73) "Winery" means any place or premises in which wine is manufactured from any
- 24 fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are
- 25 compounded, except a place or premises that manufactures wine for sacramental
- 26 purposes exclusively.
- 27 ➔Section 3. KRS 242.022 is amended to read as follows:

- 1 (1) (a) To promote economic development and tourism in any dry or moist county,
2 urban-county government, charter county, consolidated local government,
3 unified local government, or city, in which a state park is located, a local
4 option election for the limited sales of alcoholic beverages by the drink may
5 be held in a city, county, urban-county government, charter county,
6 consolidated local government, or unified local government precinct where
7 the state park's qualifying lodge or golf course is located.
- 8 (b) A petition seeking a local option election under this section shall state "We
9 the undersigned registered voters hereby petition for an election under KRS
10 242.022 on the following question: 'Are you in favor of the sale of alcoholic
11 beverages by the drink at the state park located in (name of precinct)?'".
- 12 (2) A local option election for the limited sale of alcoholic beverages by the drink held
13 under subsection (1) of this section shall be conducted in the same manner as
14 specified in KRS 242.020 to 242.040 and 242.060 to 242.120. The form of the
15 proposition to be voted upon shall be "Are you in favor of the sale of alcoholic
16 beverages by the drink at the state park located in the (name of precinct)?".
- 17 (3) When a majority of the votes cast at an election held under subsections (1) and (2)
18 of this section are in favor of establishing moist territory, the entire state park shall
19 become moist in the manner specified in KRS 242.200.
- 20 **(4) The results of a local option election held under this section shall supersede any**
21 **decision made under subsection (2) of Section 1 of this Act by the legislative body**
22 **of a city, urban-county government, charter county, consolidated local**
23 **government, unified local government, or the fiscal court of a county regarding**
24 **the sale of alcoholic beverages by the drink at state parks located in that precinct.**
- 25 **(5) As used in this section, "state park" means a state park that has a:**
26 **(a) Nine (9) or eighteen (18) hole golf course; or**
27 **(b) Full-service lodge and dining room.**

1 ➔Section 4. KRS 243.082 is amended to read as follows:

- 2 (1) A "Nonquota type 1" or "NQ1" retail drink license may be issued to an applicant
3 operating as, or in:
- 4 (a) A convention center or a convention hotel complex;
 - 5 (b) A horse racetrack;
 - 6 (c) An automobile racetrack;
 - 7 (d) A railroad system;
 - 8 (e) A commercial airlines system or charter flight system; or
 - 9 (f) A state park.
- 10 (2) Any licensee holding an NQ1 retail drink license located in a qualifying convention
11 center or a convention hotel complex, horse racetrack, an automobile racetrack, or
12 state park may purchase, receive, possess, and sell alcoholic beverages at retail by
13 the drink for consumption on the licensed premises. The license shall permit all
14 alcoholic beverage sales on the premises without additional supplemental licenses.
15 The licensee shall purchase alcoholic beverages only from licensed wholesalers or
16 distributors. The holder of an NQ1 retail drink license under this section shall store
17 alcoholic beverages in the manner prescribed in KRS 244.260.
- 18 (3) A qualifying convention center or a convention hotel complex holding an NQ1
19 retail drink license may also hold a supplemental hotel in-room service license.
- 20 (4) A qualifying railroad system holding an NQ1 retail drink license may purchase,
21 receive, possess, and sell alcoholic beverages at retail by the drink or by the
22 package, upon any train that includes a dining car and is operated by the licensee in
23 the state. Sales shall be made only while the train is in motion. A railroad system
24 holding an NQ1 retail drink license may sell alcoholic beverages in unbroken
25 packages smaller than two hundred (200) milliliters of distilled spirits and one
26 hundred (100) milliliters of wine and may purchase alcoholic beverages from
27 nonresidents.

- 1 (5) A qualifying commercial airlines system or charter flight system holding an NQ1
2 retail drink license may purchase, receive, possess, and sell alcoholic beverages at
3 retail by the drink, and by miniature bottle, for consumption upon regularly
4 scheduled or charter flights of the licensee, in and out of Kentucky. The license
5 shall authorize the licensee to store alcoholic beverages for retail sale at a location
6 or locations, if operating from more than one (1) airport in Kentucky, as designated
7 on the license application.
- 8 (6) An NQ1 retail drink license may be issued to any qualifying applicant within a state
9 park meeting the criteria established in KRS 241.010 so long as the state park
10 **qualifies to sell alcoholic beverages by the drink under Section 1 of this Act or if**
11 **the state park** is located, in whole or in part, within:
- 12 (a) Any wet territory; or
- 13 (b) Any precinct that has authorized the sale of alcoholic beverages under KRS
14 242.022.