

1 AN ACT relating to wine corkage.

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 *(1) The holder of a "Nonquota type 2" or "NQ2" retail drink license or a limited*  
6 *restaurant license may provide corkage at its licensed premises subject to the*  
7 *following conditions:*

8 *(a) A patron may bring up to two (2) unopened bottles of wine for consumption*  
9 *on the premises in conjunction with a meal;*

10 *(b) The licensee or its employee shall open the bottles and serve the wine, and*  
11 *may charge a fee for this service; and*

12 *(c) A patron may not bring wine that is available for purchase at the licensed*  
13 *premises.*

14 *(2) A patron may remove his or her partially consumed bottle of wine from the*  
15 *premises subject to the following conditions:*

16 *(a) The partially consumed bottle shall be:*

17 *1. Resealed by the licensee or its employee; and*

18 *2. Placed in a bag or other container that is secured in a manner that*  
19 *makes it visibly apparent if the container has been subsequently*  
20 *tampered with or opened; and*

21 *(b) The licensee shall provide a dated receipt to the patron.*

22 ➔Section 2. KRS 243.020 is amended to read as follows:

23 (1) A person shall not do any act authorized by any kind of license with respect to the  
24 manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic  
25 beverages unless the person holds or is an independent contractor, agent, servant, or  
26 employee of a person who holds the kind of license that authorizes the act, or is a  
27 third party utilized by a direct shipper licensee as set forth in KRS 243.027.

- 1 (2) The holding of any permit from the United States government to traffic in alcoholic  
2 beverages without the corresponding requisite state and local licenses shall in all  
3 cases raise a rebuttable presumption that the holder of the United States permit is  
4 unlawfully trafficking in alcoholic beverages.
- 5 (3) Except as permitted by KRS 243.033, 243.036, 243.155, 243.157, and 243.260, a  
6 person, conducting a place of business patronized by the public, who is not a  
7 licensee authorized to sell alcoholic beverages, shall not permit any person to sell,  
8 barter, loan, give away, or drink alcoholic beverages on the premises of the place of  
9 business.
- 10 (4) Except as permitted by Section 1 of this Act, a licensee shall not permit any  
11 consumer to possess, give away, or drink alcoholic beverages on the licensed  
12 premises that are not purchased from the licensee.
- 13 (5) In a moist territory, the only types of licenses that may be issued are those that  
14 directly correspond with the types of sales approved by the voters through moist  
15 elections within the territory, unless otherwise specifically authorized by statute.
- 16 ➔Section 3. KRS 243.034 is amended to read as follows:
- 17 (1) A limited restaurant license may be issued to an establishment meeting the  
18 definition criteria established in KRS 241.010~~[(36)]~~ as long as the establishment is  
19 within:
- 20 (a) Any wet territory; or
- 21 (b) Any moist precinct that has authorized the sale of alcoholic beverages under  
22 KRS 242.1244.
- 23 (2) A limited restaurant license shall authorize the licensee to purchase, receive,  
24 possess, and sell alcoholic beverages at retail by the drink for consumption on the  
25 licensed premises or off-premises consumption pursuant to KRS 243.081. The  
26 licensee shall purchase alcoholic beverages only from licensed wholesalers or  
27 distributors. The licensee may provide corkage at its licensed premises subject to

1 *the provisions of Section 1 of this Act.* The license shall not authorize the licensee  
 2 to sell alcoholic beverages by the package.

3 (3) The holder of a limited restaurant license shall maintain at least seventy percent  
 4 (70%) of its gross receipts from the sale of food and maintain the minimum  
 5 applicable seating requirement required for the type of limited restaurant license.

6 (4) A limited restaurant as defined by KRS 241.010~~[(36)(a)]~~ shall:

7 (a) Only sell alcoholic beverages incidental to the sale of a meal; and

8 (b) Not have an open bar and shall not sell alcoholic beverages to any person who  
 9 has not purchased or does not purchase a meal.

10 ➔Section 4. KRS 243.084 is amended to read as follows:

11 (1) A "Nonquota type 2" or "NQ2" retail drink license may be issued to an applicant  
 12 operating as, or in:

13 (a) A hotel that:

14 1. Contains at least fifty (50) sleeping units; and

15 2. Receives from its total food and alcoholic beverage sales at least fifty  
 16 percent (50%) of its gross receipts from the sale of food;

17 (b) A restaurant;

18 (c) An airport;

19 (d) A riverboat;

20 (e) A distiller; or

21 (f) A business located within, or adjacent to, an entertainment destination center  
 22 licensed premises.

23 (2) A holder of an NQ2 retail drink license may purchase, receive, possess, and sell  
 24 alcoholic beverages at retail by the drink for consumption on the licensed premises  
 25 or off-premises consumption pursuant to KRS 243.081. The licensee shall purchase  
 26 alcoholic beverages only from licensed wholesalers or distributors. *The licensee*  
 27 *may provide corkage at its licensed premises subject to the provisions of Section 1*

1        *of this Act.* A distiller may purchase its own products for retail drink sales under  
2        KRS 243.0305. The holder of an NQ2 retail drink license shall store alcoholic  
3        beverages in the manner prescribed in KRS 244.260.

- 4        (3) (a) To qualify for an NQ2 license, a riverboat shall have a regular or alternative  
5                place of mooring in a wet county or city of this state.  
6                (b) If a riverboat moors or makes landfall in a location other than its regular or  
7                alternate regular place of mooring, all alcoholic beverages shall be kept  
8                locked.  
9                (c) A riverboat licensed under this subsection shall not take on or discharge  
10                passengers when mooring or making landfall in dry option territory.

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

- 12        (1) It shall be unlawful for any person to bring into, transfer to another, deliver, or  
13                distribute in any dry or moist territory, except as provided in subsection (2) of this  
14                section, any alcoholic beverage, regardless of its name. Each package of such  
15                beverage so brought, transferred, or delivered in such territory shall constitute a  
16                separate offense. Nothing in this section shall be construed to prevent any distiller  
17                or manufacturer or any authorized agent of a distiller, manufacturer, or wholesale  
18                dealer from transporting or causing to be transported by a licensed carrier any  
19                alcoholic beverage to their distilleries, breweries, wineries, or warehouses where the  
20                sale of such beverage may be lawful, either in or out of the state.  
21        (2) Subsection (1) of this section shall also apply to any moist territory unless the sale  
22                of the alcoholic beverage in question has been specifically authorized in that moist  
23                territory under a limited local option election.  
24        (3) No properly licensed common carrier or any of its employees acting on behalf of a  
25                consignor shall be liable for a violation of this section.  
26        (4) Proof that the purchaser represented in writing that the delivery address is located in  
27                wet territory shall be an absolute defense to a violation of this section on behalf of a

1           retailer, winery, small farm winery, or distillery in connection with the delivery or  
2           shipment of alcoholic beverages purchased at retail.

3       (5) It shall not be a violation of this section for a person to bring alcoholic beverages  
4           that were lawfully purchased in wet or moist territory into dry or moist territory to a  
5           private residence, or to a private event regardless of whether the venue is a public  
6           place, for personal consumption or consumption by others so long as the possession,  
7           consumption, or provision does not occur at a public place in violation of KRS  
8           Chapter 222. For purposes of this subsection, an event is public, not private, if any  
9           member of the public is permitted to enter or attend the event upon payment of  
10          consideration.

11       **(6) It shall not be a violation of this section if an individual is acting in accordance**  
12       **with the provisions of Section 1 of this Act.**