



Aug 16, 2021

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A Review in Brew: The Bluegrass State's New Alcohol Sampling Laws

There is arguably nothing Kentuckians love more than a glass of bourbon or a cold beverage brewed in the Bluegrass State. In fact, many events located in the Commonwealth would be amiss to not include some sort of tasting experience for the participants. Yet, organizing a tasting experience has never been an easy task for event organizers. Thanks to Kentucky legislators, as of July 15, 2020, new avenues are now available for Kentucky event organizers to have tastings at their events. This article discusses these new avenues, their benefits, and, importantly, their drawbacks.

Historically, the Commonwealth did not allow retailers to give away alcohol free of charge without approval from the Kentucky Department of Alcoholic Beverage Control (the "ABC"). In 2000, however, Kentucky began to create and amend laws allowing for alcohol retailers to provide samples of wine and distilled spirits to their customers.

Kentucky Revised Statute ("KRS") 243.0307 now permits certain eligible alcohol license holders in the Commonwealth to obtain a "Sampling License."

The Sampling License: The Good

Using the Sampling License authorizes retailers "to allow customers to sample, free of charge, distilled spirits, wine, and malt beverages" [\[1\]](#) if certain conditions are satisfied, which vary depending on the holder of the license and are discussed in greater depth below. Specifically, holders of the licenses listed below may apply for a Sampling License with a \$110 annual fee. [\[2\]](#)

- A quota retail drink license;
- A quota retail package license;
- A nonquota retail malt beverage package license;
- An NQ1 license;
- An NQ2 license;

- An NQ4 retail malt beverage drink license; or
- A distiller's license.

The Sampling License: The Fine Print

The following conditions are placed on the use of a Sampling License:

- Samplings may only occur on licensed premises, [\[3\]](#) by the licensee [\[4\]](#) holding a Sampling License, during regular business hours;
- Customers must be limited to certain serving sizes, depending on the type of retailer (one ounce of distilled spirits samples per day, six ounces of wine samples per day, or twelve ounces of malt beverage [\[5\]](#) samples per day [\[6\]](#));
- The ABC must be notified at least seven days in advance of conducting a free sampling event; and
- The sampling event cannot exceed four consecutive hours between noon and 8:00 p.m.

Retailers that are issued a Sampling License on the basis of holding a quota retail package license may also sell sample distilled spirits and wine under the Sampling License if:

- The sale is made on a licensed premises during regular business hours;
- The retailer limits a customer's purchased products to two ounces of distilled spirits, nine ounces of wine, and sixteen ounces of malt beverages per day; and
- The retail price of a malt beverage sample must be at least the retailer's purchase cost of the sample. [\[7\]](#)

Notably, the new law limits the total volume of paid and free samples that any one customer can receive to two ounces of distilled spirits per day and nine ounces of wine per day. [\[8\]](#)

The Sampling License: Is It Worth It?

Kentucky lawmakers are taking strides to modernize the Commonwealth's alcohol licensing laws to align with the state's

booming industry. Our prior article, [“States Pursue Changes to Allow Direct Shipment and Delivery of Craft Spirits,”](#) confirms this effort. The new Sampling License law is another example of Kentucky’s commitment to modernizing its alcohol laws. Yet, as explained in this article, the new law comes with plenty of its own strings attached.

The reality is that the new Sampling License can be effectively utilized for small-scale events; however, for large events, the limitations placed on sampling sizes and the strict requirements set forth in the law are tough hurdles to overcome for event organizers. For that reason, event organizers should not let the excitement surrounding this new Sampling License overtake the reliability and predictability of the previously existing routes to providing alcohol at an event. Those avenues include, among others:

- Obtaining recognition from the ABC that the event is a fair or festival and permitting licensed distillers and microbrewers to sell their products at the event under KRS 243.157 and KRS 243.0305, respectively;
- Partnering with a licensed caterer; or
- Obtaining a special temporary license to “sell, serve, and deliver alcoholic beverages by the drink, for consumption” during the event under KRS 243.260.

These prior avenues come with their own restrictions, but they are generally not as limiting on the volume that each event participant can be given, which can be an important limitation to event organizers planning a large-scale event.

Kentucky breweries, wineries, and distilleries contribute significantly to the state’s economic development. The continuing modernization of Kentucky’s alcohol licensing laws is something to toast to as it will help advance the impact and success of Kentucky’s booming alcohol and hospitality industries. But event organizers should carefully analyze which avenue to take when contracting for the provision of alcohol at an event.

For more information on the updated alcohol licensing laws and which avenue would be best for your event, contact [Charles Johnson](#), [Daniel Mudd](#), or [Edward Rivin](#) of Frost Brown Todd’s

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Note: Ashley Nkadi co-authored this article while working as a summer associate at Frost Brown Todd. Ashley is a J.D. candidate at the University of Cincinnati College of Law. She is not a licensed attorney.

[1] KRS 243.0307(2).

[2] KRS 243.030.

[3] The term “license” means any license issued under KRS Chapters 241 through 244 and the term “premises” means “the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on.” KRS 241.010(34), (44). Prior to conducting a sampling event, licensees should verify with the Kentucky ABCA that the sampling license permits sampling of the specific alcoholic beverages at the specific licensed venue.

[4] “Licensee” means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244. KRS 241.010(35).

[5] “Malt beverage” means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider. KRS 241.010(38).

[6] “Malt beverage” encompasses beer since beer is produced from malt. See 6 USCA 5052.

[7] Importantly, the same limitations are not placed on the sale of distilled spirits or wine samples.

[8] KRS 243.0307(6).

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