# Regional Round-Up: Added License Rights and Limited Self-Distribution for Craft Distilleries in Kentucky and West Virginia

Feb 08, 2024

**Categories:**

Publications
Tax Law Defined™ Blog

**Authors:**

Charles M. Johnson
Daniel G. Mudd
Zachary D. Mills

As an update to our past regional round-ups in the alcohol space, Kentucky and West Virginia continue to push for legislation that will foster further growth in the burgeoning distilled spirits industry, including in 2024. This can be seen through the Kentucky General Assembly's recent introduction of two bills which, if passed, would loosen restrictions on the self-distribution of alcohol by craft distillers and increase the statutory limit on the number of retail package sale licenses, allowing both producers *and* retailers to grow their investment in the Commonwealth and meet the growing demand for bourbon and other spirits. Similarly, the West Virginia Legislature also recently introduced a bill to roll out t limited self-distribution rights for distilleries.

## Kentucky Continues to Pour It on Thick

***Kentucky Senate Bill 50 – Craft Distiller Limited Self-Distribution***

Generally, spirits and other varieties of alcohol are distributed through a "three-tiered" system, whereby manufacturers and producers must sell alcoholic beverages to wholesalers and distributors, who then sell the beverages to retailers.[1] Because each tier must traditionally be kept separate from the other two tiers, distillers generally must rely on wholesalers to get their products to customers.[2] In recent years, however, the Kentucky General Assembly has modified this three-tiered system in various ways to allow distillers to sell their products directly to customers under limited circumstances. As discussed in our prior article, in 2020, the General Assembly permitted certain direct-to-consumer distilled spirits sales with House Bill 415 Tot. Other exceptions to Kentucky's three-tiered system were also enacted in 2022 through House Bill 500, which allowed distilleries to have a satellite tasting


2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

room/retail store with full retail privileges per premise, as well as direct distribution of private barrel selection spirits through their gift shops, increased sampling at events, and other direct-to-consumer offerings.[3]

This year, 2024 Senate Bill (SB) 50, which was introduced in January and already passed the Senate almost unanimously last week, is well on its way to getting passed by both chambers. If enacted, SB 50 would allow craft distillers limited self-distribution of up to 5,000 gallons of distilled spirits per year directly to a licensed retailer.[4] This would put distilled spirits on the same level as craft wineries and breweries following the passage of similar laws in 2023 (SB 28) and 2021 (SB 15), respectively.

Under Kentucky law, "craft distillers" are distillers that produce 50,000 gallons or less of distilled spirits per year.[5] The changes proposed in SB 50 would be impactful for small distilleries without established distribution networks. "Micro-distilleries" without wholesaler partnerships would be able to get their products onto retailers' shelves and into the hands of customers to establish and grow their brands. Because wholesalers are often unwilling to distribute new and emerging brands until they reach a certain level of demand, growing distillers under SB 50 would be able to take matters into their own hands until they are large enough to warrant a partnership with a wholesaler or meet the new annual craft distiller thresholds.

Self-distributed spirits would be taxed as if distributed by wholesalers, and self-distributing distillers would pay these taxes directly to the Kentucky Department of Revenue.[6] Further, as was the case for Kentucky's recently passed beer and winery self-distribution laws, SB 50 also has provisions to protect wholesalers that have an existing relationship with aspiring self-distributing distilleries, including that these distilleries must provide wholesalers with advanced notice of sales of more than nine (9) liters of spirits to any given retailer on any given day and must also provide wholesalers with a quarterly report of self-distribution sales.[7] Self-distributing distillers must also report the total number of gallons self-distributed annually when renewing their craft distillers' licenses.


2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

### *Kentucky House Bill 455 – Increased Package Licenses and Transportation of Spirits*

Distilled spirits producers are not the only businesses that could benefit from the General Assembly's latest round of proposed changes to Kentucky's liquor laws—retailers are set to benefit from 2024 House Bill (HB) 455. In Kentucky, a retailer of distilled spirits and wine must hold a "quota" (meaning limited number) retail package license.[8] These retail package licenses are subject to a quota system, which sets a maximum number of licenses in a county based on that county's population.[9] Under the current version of KRS 241.066, the number of liquor licenses per county is limited to one license for every 2,300 residents (excluding Jefferson County, which has a limit of one license for every 1,500 residents).[10] The recently introduced HB 455, which has great support after discussions at the state and local levels with input from the distilled spirits and retail industries, would increase the cap on liquor licenses for counties with more than 100,000 residents, allowing these counties to issue a maximum of one license for every 2,000 residents.[11]

HB 455 holds significant potential for a place like Fayette County (Lexington), which has run out of quota retail package licenses recently due to the county's unique government structure (which keeps it at one license per 2,500 residents despite its larger population size) and due to new types of businesses that have been able to obtain a quota package license after recent changes in the law (e.g., hotels, shops, boutiques, etc.). Currently, prospective retailers in Lexington or other quota localities without available quota licenses must either try to acquire said license from a current license holder or instead wait for a license vacancy to be announced, submit an application, and hope to be selected among the other applicants vying for the same license. Vacancies only arise when a license is surrendered or revoked, resulting in an uncertain and irregular supply for applicants. If approved, HB 455 would increase the number of available licenses in Fayette County, enabling new business locations and growth in this space. Furthermore, given Lexington's prominence on the Kentucky Bourbon Trail, which attracted over two million visitors in 2022, this proposed bill aligns with the growing popularity of bourbon (and


2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

other distilled spirits) tourism there and across the Commonwealth.[12] Due to the dire need to fix this issue, HB 455 is marked as an emergency bill, and thus, if passed, it will have immediate effect.

HB 455 would also amend KRS 241.069 to allow a county to petition the Kentucky Alcohol Beverage Control Board to increase the number of quota retail package licenses in its jurisdiction.[13] At which point, the board will consider the population served by the county, recent retail sales figures, tourist destinations in the area, and other supplemental economic data provided to support the county's request. If the information submitted by the county supports the requested increase, the board will grant the request. At most, a county will be allowed to increase the number of retail quota licenses to one license per every 1,500 residents. This is critical to make any future adjustments needed by counties to meet changes in demand without the need to pass another statutory amendment. Finally, HB 455 includes some additional requirements for the delivery and direct transportation of distilled spirits to consumers.

## West Virginia Takes Small Sip of the Self-Distribution Trend via House Bill 4646

West Virginia is also looking to modify its alcohol distribution system to create a limited exception for distillers to self-distribute distilled spirits to private club owners located in the immediate vicinity of the distillery. House Bill (HB) 4646, for instance, would allow private clubs to purchase liquor directly from a distillery (including mini-distilleries and micro-distilleries) if (1) the private club bar is located within 10 miles of the distillery; and (2) the liquor was produced at the distillery.[14] West Virginia maintains a tied-house system where virtually all sales of liquor are through the West Virginia Alcohol Beverage Control Agency (WVABCA) warehouse system, except only for limited tastings at the distillery and for direct sales by the distillery for off-premises consumption (in which case the same existing level of taxes are paid, and there is constructive bailment by the WVABCA). Some distilleries also obtain an add-on license for on-premises private manufacturing clubs.


2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

Like Kentucky's SB 50, HB 4646 creates a limited exception to West Virginia's traditional three-tiered system of alcohol distribution. This bill, while slightly different in effect from SB 50, provides many of the same benefits as the Kentucky bill. Small distillers would not have to rely on relationships with distributors and wholesalers to get their products to private clubs and into customers' glasses. The proximity requirement is also potentially beneficial, as patrons can be easily directed to nearby distilleries after sampling their products at a bar. It also benefits private clubs, as distillers can recommend local bars that stock the distillery's products. This exception would greatly benefit new and small distilleries that may have a significant barrier to entering the market and competing with all other distilled spirits for shelf space. As such, HB 4646 provides a limited avenue for distilleries to develop their brand within 10 miles of the distillery.

The proposed changes to Kentucky's liquor laws in SB 50 and HB 455 are poised to allow Kentucky businesses to continue capitalizing on the "bourbon boom" seen in recent years. West Virginia is similarly attempting to amend its liquor distribution system to benefit local distillers and bar owners seeking to grow their operations amidst the continued rise in popularity of distilled spirits tourism.

If you have any questions about Kentucky's SB 50 and HB 455, West Virginia's HB 4646, or other state and local laws applicable to the spirits industry, you can reach out directly to Daniel Mudd, Charles Johnson, Zachary Mills, or any attorney on our firm's Consumable Goods Team.

---

[1] 804 KAR § 4:015.

[2] *Id.*

[3] 2021 HB 415.

[4] 2024 Senate Bill (SB) 50, https://apps.legislature.ky.gov/record/24rs/SB50.html .

[5] KRS § 243.120(2)(c).

[6] SB50, *supra*.


2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

[7] *Id.*

[8] KRS § 243.240.

[9] KRS § 241.066.

[10] *Id.*

[11] 2024 HB 455, https://apps.legislature.ky.gov/record/24rs/hb455.html.

[12] KY Bourbon Trail Press Release: KENTUCKY BOURBON TRAIL TOUR ATTENDANCE TOPS 2 MILLION FOR FIRST TIME EVER, https://kybourbontrail.com/kentucky-bourbon-trail-tour-attendance-tops-2-million-for-first-time-ever/

[13] HB 455, *supra*.

[14] WV HB 4646. https://www.wvlegislature.gov/Bill_Text_HTML/2024_SESSIONS/RS/bills/hb464

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.


2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

FBT Gibbons