



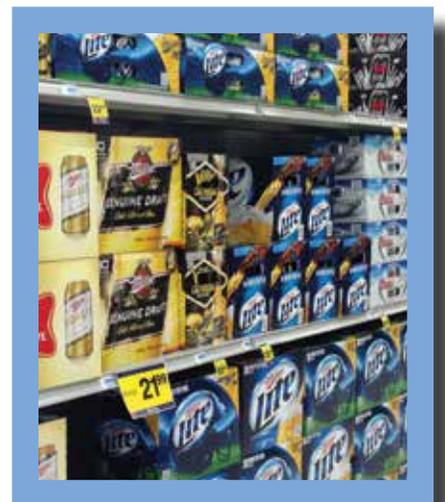
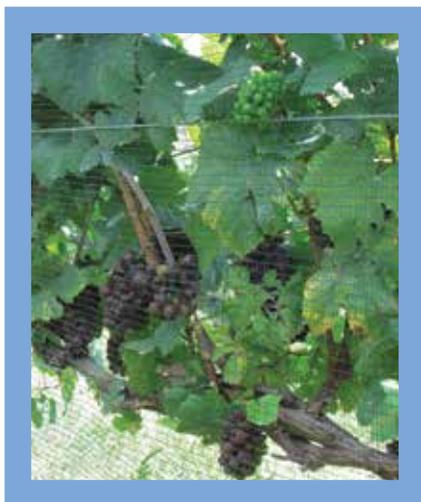
GOVERNOR'S

TASK FORCE

ON THE STUDY OF

KENTUCKY'S

ALCOHOLIC BEVERAGE CONTROL LAWS





EXECUTIVE SUMMARY

Following the repeal of national Prohibition, Kentucky lawmakers enacted legislation governing the sale and licensing of alcoholic beverages in the Commonwealth. Over time, incremental changes were made, but only to address specific one-time issues. The result has been a patchwork of laws and regulations that are duplicative, outdated and cumbersome to administer.

In July 2012, Governor Steve Beshear appointed a 22-member task force to look at this issue. Those members included legislators from both houses of the General Assembly, industry representatives and other groups that deal each day with alcoholic beverage control issues across the Commonwealth. Primarily, the task force was to address three areas of concern—licensing, local option elections and public safety.

Public Protection Cabinet Secretary Robert Vance was appointed to chair the task force. He formed three committees to focus the work of the full task force, mirroring the three areas of concern pointed out in the Governor's Executive Order that formed the task force.

All three committees met numerous times from August through November, seeking input not only from those appointed to the task force, but bringing in others who could add additional perspective that aided in the formation of the committees' final recommendations. All three committees submitted reports to the task force and these committee reports are realleged and incorporated by reference herein.

There are a total of 34 recommendations approved by the full task force. Additionally, there are several issues that the task force did not take action on but felt they were worth noting as items future working groups should address. Following is a summation of each committee's work and recommendations.



“Many groups, including licensees, state regulators, law enforcement and private citizens have called for statutory reform. They agree that Kentucky’s current laws do not adequately account for a 21st-century economy and standard of law.”

Gov. Steve Beshear

Local Option Election

The Local Option Election Committee, chaired by ABC Commissioner Tony Dehner, was asked to examine the current laws and regulations to determine where changes could easily be effected either through statutory or regulatory changes. A summation of those recommendations follows:

- **Issue: Add definition for “territory” into KRS 241.010, Definitions.**

Chapter 242 contains many references to “territories” having local option elections. See KRS 242.020 and KRS 242.030. However,



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since the term “territories” is not defined, the chapter presently does not actually identify which geographic units can have local option elections.

Recommendation: Amend KRS 241.010 to include the definition of “territory” as defined prior to its 1998 repeal.

- **Issue: Re-codify KRS 243.155(3) and include all types of local option elections. Repeal KRS 230.360(2) and KRS 243.155(3).**

KRS Chapter 242, the local option chapter, does not include all types of local option elections created by the legislature. Since much of the state remains dry, passage of bills dealing with alcohol is often difficult. As a result, the alcoholic beverage control laws are a patchwork of sometimes conflicting provisions enacted at different times for specific purposes outside the statutory scheme.

Recommendation: Repeal KRS 230.360(2) and KRS 243.155(3) and re-codify them as separate statutes in KRS Chapter 242.

- **Issue: Remove unrelated subjects, e.g., licensing requirements, regulatory rules, city ordinance laws, from KRS Chapter 242.**

KRS Chapter 242, the local option election chapter, includes unrelated subjects such as licensing requirements, regulatory rules and city ordinance laws. The alcoholic beverage control laws are a patchwork of sometimes conflicting provisions enacted at different times for specific purposes outside the statutory scheme. Such patchwork legislation has resulted in these unrelated topics being placed in the local option chapter.

Recommendation: All unrelated subjects such as licensing requirements, regulatory rules and city ordinance laws should be removed from KRS Chapter 242, the local option chapter.

- **Issue: Amend KRS 241.010, Definitions, to recognize new varying degrees of wetness created by special limited local option elections.**

KRS Chapter 242 terms such as “wet” and “dry” and “prohibition in effect” do not recognize the new varying degrees of wetness created by the special limited local option elections which were created in 2000 for small farm wineries, limited restaurants and golf courses, where only certain types of alcohol sales are permitted.

Such patchwork legislation has resulted in these unrelated topics being placed in the local option chapter.



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From 1948 to 2000, the local option election laws remained largely unchanged. A county or city (of the first four classes) could have a local option election to allow or prohibit ALL forms of alcoholic beverage sales in the voting territory. See KRS 242.050, KRS 242.125, KRS 242.190 and KRS 242.200. In 2000, the legislature created three new special “limited” local option elections which were alternatives to the “all or nothing” norm.

As a result of these new special limited local option elections, many cities and counties now permit only limited alcohol sales in some form. When the 2000 laws and later laws were enacted, KRS Chapter 242 was not also amended to reflect the newly created degrees of wetness. The chapter needs to be amended to recognize these new degrees of wetness.

Recommendation: KRS 241.010 should be amended to include definitions of “wet” and “moist.” The definition of “dry territory” should be amended. The definition of “prohibition” should be repealed.

ABC Statistic—Kentucky has 32 “wet” counties, 39 “dry” counties and 35 “moist” cities located within dry counties. (Revised 8/14/12)

- **Issue: Address new varying degrees of wetness authorized by special limited local option election statutes.**

In 1948, the legislature enacted KRS 242.125 to exempt cities of the first four classes from the “county unit rule.” That enactment enabled such cities to vote separately from the county in determining their own wet or dry status. KRS 242.125 is difficult to understand and does not currently address the new varying degrees of wetness authorized by the special limited local option election statutes created in 2000 and later. As a result of these new special local option elections, many cities and counties now permit limited alcohol sales in some form but are not fully wet.



Recommendations: KRS 242.125 should be amended to recognize all possible combinations of “wet,” “dry” and “moist” status of cities and counties so as to permit them to hold full wet elections even though they may be moist.

KRS 242.125 should be amended so as to be clearly understandable.

KRS 242.125 should be amended to reflect that a territory’s vote to become fully wet (whether successful or not) has no effect on that territory’s moist status by reason of a different type of limited local option election.



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KRS 242.125 should be amended to provide that once a city votes to become wet, a county vote has no effect on the status of the city.

KRS 242.125 should be amended to provide that city residents are part of the county and therefore can vote in county elections regardless of the status of the city.

- **Issue: Amend KRS Chapter 242, Local option, to provide that a territory remains dry after a special limited local option election.**

KRS Chapter 242 at best only tacitly implies that ordinary alcoholic beverage license types are prohibited in territories which vote to permit only limited alcohol sales under the 2000 special limited wet local option elections.



KRS Chapter 242 does not specifically state that territories remain dry after special limited local option elections so as to prohibit all forms of retail alcohol sales except for the limited type of moistness permitted by the election. As a result, applicants continue to apply for alcoholic beverage licenses which were not authorized by the voters in a special limited local option territory, e.g., they apply for liquor package licenses in KRS 242.185(6) limited restaurant (LR) territory.

Recommendations: KRS Chapter 242 should be amended to specifically provide that a territory remains dry after a special limited local option election so as to prohibit all forms of retail alcohol sales except for the limited type of moistness and retail sales permitted by the special election.

KRS Chapter 243, the licensing chapter, should be amended to specifically provide that only certain corresponding types of licenses may be issued in special limited local option election territories, e.g., only LR licenses may be issued in KRS 242.185(6) LR territories.

- **Issue: Wording of local option petitions**

KRS Chapter 242, Local option, does not prescribe the wording for local option election petitions. As a result, there is often confusion and litigation as to whether a petition qualifies when the wording of the petition differs greatly from the ballot question. Courts have held that a petition does not have to mirror the ballot question identically while the ballot question does have to comply strictly

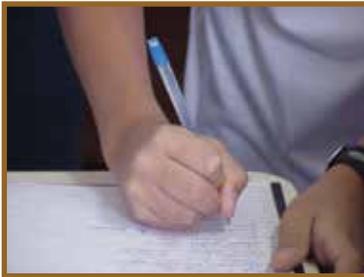


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with the statutory question. If an order directing a local option election copied poor petition language, the election would be invalidated if challenged.

Recommendation: KRS 242.020 should be amended (or a new statute enacted) to provide for the language to be used in the petition for each different type of local option election under KRS 242.030, KRS 242.050, KRS 242.125, KRS 242.185(6), KRS 242.1244, KRS 243.155(3), KRS 242.123, KRS 230.350, KRS 242.1242 and KRS 242.1292. KRS 242.020 should also be amended to create a new section so as to codify court rulings which provide that substantial compliance with petition wording is sufficient.

Criminals often use a Social Security number to steal a person's identity.



- **Issue: Amend KRS 242.020(2), Petition for election, to delete the requirement that a person state their Social Security number when signing a petition.**

Criminals often use a Social Security number to steal a person's identity in order to access resources or obtain credit and other benefits in that person's name. Petitions for local option elections are circulated throughout a community, which increases the risk that criminals will obtain and unlawfully use another person's Social Security number.

Recommendation: Amend KRS 242.020(2) so as to delete the requirement that a person provide their Social Security number when signing a petition.

- **Issue: Repeal KRS 242.130 through 242.180; amend the KRS 241.010(2) definition of "alcoholic beverages."**

KRS Chapter 242 permits a local option election for a type of wetness that has not existed from the time it was authorized some 70 years ago. In 1942, the legislature created a special limited local option election by which territories could permit limited sales of 3.2 percent beer only. In the 70 years since, no territory has voted to become a limited 3.2 percent beer territory. Because this type of local option election has not been used, and the legislature has created more attractive limited local option elections for communities, the 3.2 percent limited local option election is not needed.

Recommendation: Repeal KRS 242.130 through 242.180. The definition of "alcoholic beverages" in KRS 241.010(2) also must be amended correspondingly. Subsection (i) exempts 3.2 percent



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beer from being an alcoholic beverage if its sale is approved by a KRS 241.130 local option election. This definition exception always has created confusion and it becomes moot once KRS 242.130 is repealed.

- **Issue: Amend KRS 242.1297, Election in a precinct in a city of the third class where the entire city is wet territory, to delete language that a precinct cannot hold a local option election more often than every five years.**

KRS Chapter 242 has an apparent conflict involving the wait periods for precinct local option elections in third-class cities. KRS 242.030(5) provides that the same territory, including a precinct, cannot hold a local option election more than once every three years. However, KRS 242.1297 provides that a precinct cannot hold a local option election more often than once every five years.

The three-year wait period is the general wait period that applies to all territories. Alcoholic beverage statutes that treat cities of certain classes and counties differently always create confusion.

Recommendation: Amend KRS 242.1297 to delete the language therein providing that a precinct cannot hold a local option election more often than once every five years.

If a precinct or city has its own local option election, all businesses which sell alcoholic beverages in the county must be closed for the entire day of the election.

- **Issue: Repeal KRS 242.100, Traffic in alcoholic beverage on election day local option election held prohibited.**

KRS 242.100 provides that if a precinct or city has its own local option election, all businesses which sell alcoholic beverages in the county must be closed for the entire day of the election. Under the judicially recognized “county unit rule,” and KRS 242.125, when a city or county votes to become wet, a precinct in the county or city is permitted to have its own separate election to return to dry status. As written, KRS 242.100 requires every business in a county holding an alcoholic beverage license to be closed for the entire day (not just prohibit alcohol sales), if any local option election occurs in the county.

Recommendation: Repeal KRS 242.100 in its entirety.

- **Issue: Appointment of election officers for local option elections**

KRS 242.090 provides that county boards of election are to appoint election officers for local option elections in the manner provided by general election laws, with an exception. Although general



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election laws provide for equal division of officers between political parties, KRS 242.090 modifies that requirement to provide “equal division of officers between those favoring and those opposing the proposition.”

KRS 242.070 and KRS 242.080 prescribe procedures whereby citizens opposing or supporting alcoholic beverage sales can petition to nominate election officers, certify challengers and witnesses to the counting of the votes and certification of the results, and provide persons to guard the boxes containing the votes which have been cast.



KRS 242.070, KRS 242.080 and KRS 242.090 are difficult and inefficient to implement, particularly for local option elections which can be held on the same day as a primary or general election.

Recommendations: Amend KRS 242.090 to delete the requirement of equal division of precinct officers between those favoring and those opposing the proposition. Amend KRS 242.090 to provide that precinct election officers for all local option elections be appointed pursuant to KRS 117.045, as for primary and general elections.

Amend KRS 242.090 to incorporate provisions of KRS 117.315 to 117.318 so as to provide for the appointment of challengers by groups favoring or opposing the local option election.

KRS 242.070 and KRS 242.080, which provide for challengers, witnesses at the count and persons to guard the boxes, would be repealed.

- **Issue: Recanvass procedure for local option elections**

A recanvass provides a candidate with an alternative to litigation to check the accuracy of a reported vote. A recanvass causes the county board of election to recanvass and check the voting machines and absentee votes cast so as to ensure that a vote count is accurate. There is no cost to a person requesting a recanvass.

Local option elections are often close and there was actually a tie in one recent election. A recanvass procedure for local option elections would provide groups favoring or opposing alcohol sales with an alternative to the cost of litigation to check a vote count.



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A canvass would further provide guidance to those groups in determining whether to pursue a recount/contest, and would likely deter unnecessary litigation.

Recommendation: Amend KRS 242.120 to provide a new section that provides a canvass procedure for local option elections consistent with KRS 117.305.

Important Identified Issues Needing Additional Study

- KRS Chapter 242 presently does not codify the judicially recognized “county unit rule,” which permits a county precinct to vote and return to dry status if the county has voted wet.
- Although the county unit rule and KRS 242.125 allow a precinct to separately vote to become dry, they do not specifically address whether such a dry precinct later can vote again to return to wet status.
- Although the county unit rule and KRS 242.125 permit precinct-only elections, the chapter does not provide how the ballot should be worded.
- The chapter does not currently identify whether a precinct must wait three years to have its own local option election following a city or county election.
- The Local Option Election Committee discussed that the costs of special local option elections are borne by county government, even for city elections.
- The chapter does not treat all classes of cities the same and allows only precincts in second-class cities to become wet.
- Although counties without third-class cities and fourth-class cities vote to permit all forms of alcohol sales, liquor drink licenses cannot be issued. A county without a fourth-class city cannot authorize even restaurant drink licenses.
- The chapter is inconsistent by allowing fifth-class and sixth-class cities to hold limited restaurant local option elections, but not regular local option elections.
- The Local Option Election Committee has made recommendations regarding alcohol sale prohibitions during local option elections.



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Alcohol sales also are prohibited during the polling hours of primary and general elections.

- KRS 242.190(2), and interpreting Office of Attorney General Opinions, address the resulting wet/dry status of portions of a dry county precinct that are annexed into a wet city, or portions of a city precinct between wet and dry precincts that become part of a different city precinct when boundary lines are redrawn. KRS Chapter 242 does not address the resulting wet/dry status of portions of a county precinct between wet and dry county precincts that become part of a different precinct when boundary lines are redrawn.



Licensing

The Licensing Committee, chaired by ABC Malt Beverage Administrator Stephanie Stumbo, had the daunting task of looking through more than **80** license types that Kentucky **currently issues and administers** (emphasis added). One of the key tasks of this committee was to determine where and how these licenses could be consolidated in order to diminish that number without reducing the rights and privileges currently granted to licensees. The committee held seven meetings and its members and others did a great deal of “homework” in making sure it came up with recommendations that will have a positive impact on the industry. A summation of those recommendations follows:

- **Issue: Two-year licenses for producers, wholesalers/ distributors**



Producers and wholesalers/distributors undergo business changes from time to time including business location changes and corporate restructuring. Because KRS 243.630 requires approval of such changes by new application and fee, such licensees should be given the option of renewing on a one-year or two-year basis.

Recommendations: Amend KRS 243.090(1) to provide that, “Except as provided in Section 4, all licenses issued by the department, except special event or temporary licenses, shall be valid for a period of no more than one year.”

Create a new Section (4) to KRS 243.090 to provide that all producers and wholesalers/distributors of alcoholic beverages shall have the option of obtaining or renewing licenses for a one-year term or a two-year term.



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- **Issue: Temporary license abuse**

In recent years, the department has seen an increase in special temporary licenses across the state, and a corresponding increase in abuse. Some applicants are obtaining temporary licenses for a specific day every week for several months. A for-profit applicant will apply for a temporary license and be denied because the contemplated event is purely for profit and not related to a charitable, civic or community event.

ABC Statistic—There were 1,513 Temporary Alcoholic Drink licenses issued during FY12, the fees for which totaled \$87,350.

The department has received temporary license applications for cage fights, weekly rock concerts, etc. Denied applicants often reapply with a letter from a legitimate charity by which the charity claims to “sponsor” the event. Usually, the for-profit promoter approaches a real charity and agrees to give them some money from alcohol sales in exchange for the letter and sponsorship. By such arrangements, the charity may receive \$200, but the for-profit promoter makes \$3,000 from alcohol sales for an event, as an example.



The most frequently abused situation for temporary licenses involves for-profit individuals and organizations who obtain temporary licenses purportedly for a “charitable” sponsored event.

Many temporary license applicants also claim to be part of a “civic” event without any approval or endorsement by the local government.

Recommendations: Amend 804 KAR 4:250, Section 3, to prevent a private promoter from being able to exchange a charity’s sponsorship letter for a small donation.

Amend 804 KAR 4:250 to include a definition of an organized civic or community sponsored event to mean “any public gathering of broad appeal where citizens are invited and encouraged to attend without significant cost of admission that is sponsored or acknowledged by the city or county government in which the event is conducted including, but not limited to, any convention, conference, celebration, pageant, parade, festival, fair, public display, commemoration or other type of public assemblage conducted for benefit and enjoyment of the general public.”

Amend 804 KAR 4:250 to provide that applications by for-profit individual, corporation or organization applicants for a temporary license in conjunction with an organized civic or community sponsored event must submit some written or documentary



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evidence of the civic nature of the event, such as, but not limited to, promotional materials or news articles evidencing the local government's knowledge of, and support for, the event for which the applicant seeks a temporary license.

- **Issue: Modification of license renewal schedule**

Prior to enactment of KRS 243.090(2) in 1998, all license renewals were performed by the department in June, so that the department's licensing division was very busy that month. The department promulgated 804 KAR 4:390 to provide a monthly renewal so as to distribute the renewal work throughout the year.

Although well-intended, renewals based on zip codes are confusing for local ABC administrators, distributors/wholesalers and retailers.

Distributors/wholesalers cannot legally sell alcoholic beverages to a retailer whose license has expired. Because of the confusion, it is difficult for them to keep track of license renewals despite active online licensing status check ability.

Recommendations: Amend 804 KAR 4:390 to modify the renewal schedule. All wet counties, except for Jefferson and Fayette counties, would continue to be renewed based upon zip codes for a specific month. Renewal batching would be continued but consolidated to one month. All licenses in Jefferson County would expire in the same month. All licenses in Fayette County would expire in the same month. Licenses in several county zip codes for different months would also be consolidated.

The department proposes that all licenses in county zip codes that expire in January, February and March be consolidated so as to expire in **January**.

The department proposes that all licenses in county zip codes that expire in April and May be consolidated so as to expire in **April**.

The department proposes that all licenses in county zip codes that expire in **June** would remain the same and simply add Grant County licenses to this month. Grant County licenses currently expire in November.

The department proposes that August be designated for all batch renewals. There would be approximately 1,790 license renewals for **August**.

ABC Statistic—*The department issues 5,897 licenses to retail premises annually.*



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The department proposes that all licenses in Jefferson County would be renewed in **October**.

The department proposes that all licenses in Fayette County would expire in **November**. Campbell, Kenton and Boone counties are already renewed in November and would remain the same.

The department proposes that all out-of-state licenses would continue to expire and be renewed in **December**.

The department's proposal would provide for renewals of licenses in all 120 counties so that if a dry county votes to permit alcohol sales, a license renewal date will already exist.

In 40 years, the department nor the Department of Revenue has ever attempted to enforce a bond against a surety.

- **Issue: Eliminate bonds**

Based upon 40 years of department institutional knowledge, neither the department nor the Department of Revenue has ever attempted to enforce a bond against a surety. The bonding requirement often delays issuance of licenses and license renewals.

Recommendations: Amend KRS 243.400, KRS 243.730, 804 KAR 4:030 and 804 KAR 4:200 to eliminate bonding requirements.

Repeal KRS 243.410.

- **Issue: Caterers employed by charities who obtain special temporary distilled spirits and wine auction licenses**



Some charities contract with caterers to cater fundraising events for them. Some of the fundraising events involve special temporary distilled spirits and wine auctions.

When KRS 243.036(4) was enacted in 1992, the special temporary distilled spirits and wine auction license did not exist so that section was only intended to prevent caterers from catering at the same locations covered by temporary liquor, wine or beer licenses. When the special temporary distilled spirits and wine auction license was created in 1996, KRS 243.036(4) was not amended accordingly.

Since a "special temporary distilled spirits and wine auction license" is a "temporary" license, it is unclear whether KRS 243.030(4) prohibits a caterer from catering fundraising events for which a KRS 243.036 special temporary distilled spirits and wine auction license has been issued.



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Recommendation: Amend KRS 243.030(4) to add a sentence at the end of the section which provides that caterers are permitted to cater fundraising events for which a KRS 243.036 special temporary distilled spirits and wine auction license has been issued.

- **Issue: Master files for businesses with multiple licenses**

Each licensed premise has a separate licensing application and file. Several businesses have multiple locations throughout the state. Currently, each premise location is separately licensed which requires a business with several licensed premises to submit much the same information about ownership, officers, directors, managerial employees and criminal background checks for each separate premises. If a material change occurs with the business ownership and officers, the business must separately update all information for each separately licensed location.

By allowing businesses to initially submit only common information for their business and update common information only once when a material change in ownership or management occurs, the licensing process is simplified for both the licensees and the department's licensing division. This type of licensing authorization is generally referred to as a "master file" licensing process.

Recommendation: Amend KRS 243.380 to create a new section which provides that businesses with more than two licensed premises would be required to submit only common information about ownership, officers, directors, managerial employees and criminal background checks (if current) once initially for all separately licensed premises in one master file. The new section would further provide that such businesses would need to amend only master file information for KRS 243.390(2) material changes or KRS 243.630 ownership transfers.

- **Issue: Eliminating blender's license as unnecessary and renaming vintner's license to winery license**

As a way of reducing and simplifying the current licensing system, the Licensing Committee has also identified the elimination of unnecessary licenses as a way of reducing the number of license types.



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Although the number and type of producer licenses are reasonable, the blender's license appears to be not needed.

A rectifier's license appears to permit all the same functions as a blender's license does without the restrictive conditions of a blender's license. See KRS 241.010(35), KRS 241.130 and KRS 243.140. Since the license fee is the same and the holder of a rectifier license has more production flexibility, there is no benefit in obtaining a blender's license. The department's licensing division cannot recall ever issuing a blender's license.



The task force was also directed to simplify the laws to make them more understandable. Inconsistent terms cause confusion. Although most people are familiar with the term "winery," many do not know that a vintner also produces wine. Furthermore, the licensing scheme uses inconsistent terms in creating a small farm winery license (KRS 243.155) for wineries that produce less than 50,000 gallons in a calendar year. See KRS 241.010(45). Wineries exceeding 50,000 gallons in a calendar year must obtain a vintner's license. See KRS 243.120.

Recommendations: Repeal KRS 243.140 which creates the blender's license. Amend any statutes that reference blender's license so the license is deleted.

Repeal the definition of "vintner" in KRS 243.010(50). Amend the definition of "winery" in KRS 243.010(55) to contain the current exception of the vintner definition so that a winery would not include premises where wine is manufactured for sacramental purposes exclusively.

Amend all statutes and regulations which reference vintner and replace that term with winery. See KRS 243.030(4), KRS 243.110, KRS 243.120, KRS 243.230, KRS 243.170, KRS 243.340, KRS 243.360, KRS 243.400, KRS 243.410, KRS 244.167, KRS 244.240, 804 KAR 1:050, 804 KAR 1:070, 804 KAR 4:030 and 804 KAR 4:280.

Amend KRS 243.060 (county licenses) and KRS 243.070 (city licenses), if applicable, consistent with this recommendation and result of Recommendation No. 19.



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- **Issue: Bundling souvenir retail liquor license with distiller's license**

Since most distilleries obtain a supplemental souvenir retail liquor license, it appears that the supplemental license could be easily eliminated and merged into activities permitted by a distiller's license.

Beginning in the 1980s, the legislature began to exponentially increase the types of alcohol licenses in order to circumvent the quota system and permit certain activities as requested by licensees based on evolving business needs. Over the years, various supplemental licenses have been created to specifically permit certain activities by existing licensees. As a way of reducing and simplifying the current licensing system, the Licensing Committee has identified the bundling/merging of supplemental licenses into primary license types as a possible way of reducing the number of license types.

Since most distilleries obtain a supplemental souvenir retail liquor license, it appears that the supplemental license could be easily eliminated and merged into activities permitted by a distiller's license.

Recommendations: Amend KRS 243.0305's title from "souvenir retail liquor license" to "souvenir package retail sales by distilleries license."

Amend KRS 243.0305(1) to provide that only licensed distilleries located in a wet territory and having gift shops or other retail outlets on their premises, may sell souvenir packages at retail as provided in the section. Amend KRS 243.0305 to remove references to souvenir retail license and reword to provide that the distiller's license permits souvenir package sales with all the same restrictions and privileges currently existing.

Amend KRS 243.030(26) to remove souvenir retail liquor license and the cost of \$500 per annum.

Amend any statutes that reference a souvenir retail liquor license so that license type is deleted. See KRS 243.030 and KRS 243.110.

Since the souvenir retail liquor license will be eliminated and privileges of those licenses bundled into the distiller's license, KRS 243.030(1) would be amended to increase the annual license fee for a distiller's license from the current cost of \$2,500 to a revised amount as determined in Recommendation No. 19 so that changes remain revenue neutral.

Alternatively, the annual fee for the distiller's license would be determined pursuant to Recommendation No. 19.



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The Licensing Committee's recommendation on a revised fee schedule is: The Office of State Budget Director, the Legislative Research Commission's budget staff and the Public Protection Cabinet's GAPS Division of Budgets study this recommendation, utilize the department's Fiscal Year 2011 (FY11) and Fiscal Year 2012 (FY12) data (Appendices A, B and C following the task force recommendations), and develop a new licensing fee scheme that remains revenue neutral for the department and that distributes any fee changes equitably across all license types.

Amend KRS 243.060 (county licenses) and KRS 243.070 (city licenses) consistent with this recommendation and result of Recommendation No. 19.

- **Issue: Storage licenses**



Various supplemental and new licenses have been created over the years to specifically permit certain activities requested by existing licensees based on evolving business needs. Because new license types have been created piecemeal at different times for different specific purposes, many similar storage license types exist.

One license type can permit different activities based upon statutory application. For example, KRS 243.033 was amended in 2007 to permit different activities by caterers in different territories dependent upon the wet status, or moist or limited wet status, of that territory.

The storage licenses are similar license types so they could be easily merged to permit different activities dependent upon the type of desired business activity currently permitted by existing storage licenses.

By merging storage licenses into two types of licenses, a malt beverage storage license and a distilled spirits/wine storage license, the legislature can easily amend these statutes in the future if requested by existing licensees or businesses based on evolving business models for some sort of storage ability. New license types would no longer be created.

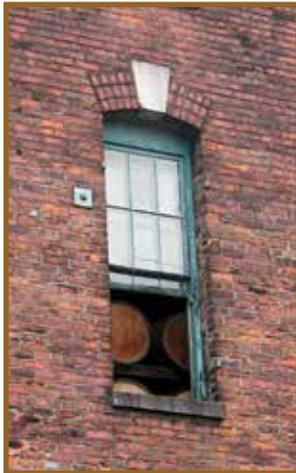
Recommendations: Create new business authorized statutes for a malt beverage storage license and a distilled spirits/wine storage license.

Repeal 804 KAR 4:130, 804 KAR 4:140, 804 KAR 4:200 and KRS 243.350.



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Current laws relating to storage of alcoholic beverages could be simplified more and made even easier to understand.



Amend KRS 243.030 to include a distilled spirits/wine storage license.

The annual fee for the distilled spirits/wine storage license would be determined pursuant to Recommendation No. 19.

Amend KRS 243.040 to include a malt beverage storage license.

The annual fee for the malt beverage storage license would be determined pursuant to Recommendation No. 19.

The Licensing Committee's recommendation on a revised fee schedule is: The Office of State Budget Director, the Legislative Research Commission's budget staff and the Public Protection Cabinet's GAPS Division of Budgets study this recommendation, utilize the department's FY11 and FY12 data (Appendices A, B and C following the task force recommendations), and develop a new licensing fee scheme that remains revenue neutral for the department and that distributes any fee changes equitably across all license types.

Amend KRS 243.030 to remove special storage or special warehouse license and bonded warehouse license.

Amend KRS 243.040 to remove special off-premises retail storage license, malt beverage warehouse license, and distributor's storage license.

Amend any statute that uses the term "special storage or warehouse license," "bonded warehouse license," "special off-premises retail storage license," "malt beverage warehouse license," or "distributor's storage license," and replace with "distilled spirits/wine storage license" or "malt beverage storage license." See KRS 243.360.

Amend KRS 243.060 (county licenses) and KRS 243.070 (city licenses), if applicable, consistent with this recommendation and result of Recommendation No. 19.

It should be noted that the current laws relating to storage of alcoholic beverages could be simplified more and made even easier to understand. However, a directive of the Licensing Committee was to maintain current laws without increasing or decreasing privileges. The current recommendation that incorporates existing laws accomplishes that purpose. The Licensing Committee



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hopes that successful efforts by the task force will result in future simplification efforts.

- **Issue: Transporter licenses**

As stated in prior recommendations, various supplemental and new licenses have been created over the years to specifically permit certain activities requested by existing licensees based on evolving business needs. Because new license types have been created piecemeal at different times for different specific purposes, many different transporter license types exist.

The transportation licenses are similar license types. For this reason, they could be easily merged into one license type so as to permit different activities dependent upon the type of activity desired that is currently permitted by existing law.

By merging transportation licenses into one license type, the legislature can easily amend the business authorized statute in the future if requested by existing licensees or businesses based on evolving business needs requiring some new transportation activity. New types of transportation licenses would no longer be created.



Furthermore, businesses and persons wishing to learn about applicable transportation laws would no longer be confused in trying to locate them among a hodge-podge of chapters, statutes and regulations. Persons would be able to find and examine one statute dealing with transportation and be able to quickly know applicable laws on the subject.

Recommendation: Create a new business authorized statute for a combo transporter license. Since the air transporter license is significantly different from the other transporter license types, it should remain a separate license type.

- **Issue: Retail drink licenses**

Retail drink (on-premises) licenses permit alcoholic beverage sales to consumers for on-premise consumption only. Conversely, retail package (off-premises) licenses permit alcoholic beverage sales to consumers for off-premise consumption only. Kentucky's licensing scheme currently utilizes the off-premises/on-premises license categories for retail sales of distilled spirits and wine, but inconsistently does not maintain this distinction for retail beer sales.



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Beginning in the 1980s, the legislature began to exponentially increase the types of retail liquor drink licenses in order to circumvent the quota system and accommodate franchising expansion across the nation. These new non-quota retail drink licenses also allowed persons to bypass licensing restrictions in some territories. See KRS 242.185(1)-(5).

The non-quota drink license types were created over a period of many years to specifically permit retail drink sales by certain types of businesses as needed by growing businesses. Because new license types have been created piecemeal at different times for different specific purposes, many similar retail drink licenses exist.



One of the task force's directives is to simplify the law so that it can be clear, straightforward and more easily understood by licensees, the general public, state regulators and law enforcement.

The merger of non-quota retail drink license types would let businesses and persons who wish to do so learn about available license types for retail drink sales without wading into a hodge-podge of chapters, statutes and regulations that are confusing and often contradictory. Persons would be able to look at one or a few statutes dealing with retail drink sales licenses and quickly know available license types and qualifications.

One of the task force's directives is to simplify the law so that it can be clear, straightforward and more easily understood.

Recommendation: The Licensing Committee recommends a lengthy list of amendments to existing statutes while creating new statutes to address the many recommendations centering on non-quota licenses. Please see the full report for those recommended changes.

- **Issue: Retail package licenses**

As stated in Recommendation No. 11, retail package (off-premises) licenses permit alcoholic beverage sales to consumers for off-premise consumption. Kentucky has two types of retail package licenses: a retail liquor package license (KRS 243.240) and a retail malt beverage (beer) license (KRS 243.280).

As further explained in Recommendation No. 11, Kentucky's licensing scheme currently utilizes the off-premises/on-premises license categories for retail sales of distilled spirits and wine, but inconsistently does not maintain this distinction for retail malt beverage (beer) sales. As previously discussed, this inconsistency continues to generate confusion and problems with statutory interpretation and enforcement.



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The Licensing Committee desires to preserve the quota system by retaining quota retail liquor package licenses with all the same privileges and prohibitions.

Attached to the Licensing Committee's recommendations as Appendices A, B and C are documents prepared from department records showing the corresponding types of licenses, number of licenses, license fee costs, and any applicable totals or averages for the licenses referenced above.

The Licensing Committee desires to preserve the quota system by retaining quota retail liquor package licenses with all the same privileges and prohibitions. As discussed in Recommendation No. 11, the current license types use inconsistent licensing schemes of combo licensing and dual licensing. To further the task force's objective of license type reduction, a consistent licensing scheme is necessary for consolidation purposes. A consistent licensing scheme also furthers the task force's objective of simplification and understandability.

As discussed in detail in Recommendation No. 11, it is logical to convert dual licenses to combo licenses for consolidation purposes, consistency and simplification. Consolidation also serves the task force's objective of making the licensing scheme simpler by making clear distinctions between retail drink licenses and retail package licenses.

Recommendation: As with Recommendation No. 11, the Licensing Committee urges changes in several areas of existing statutes to achieve their goals under this recommendation. Please see the full report document for details on those numerous proposed changes.

- **Issue: Uniform fees for same license types**

KRS 243.030 provides for the types of state licenses and corresponding fees. Most state license types have the same fee for the license regardless of the size of the county. However, a few license types, retail liquor package licenses, retail liquor drink licenses, limited restaurant licenses and limited golf course licenses, provide for different fees depending on whether the county of issuance contains a certain class city.

Having four different fees for the same license types creates confusion across the state. The different fee schedules are also inconsistent with the general fee system by which all other license types have the same fee regardless of location. Since inconsistent license fees and licensing schemes create confusion, all state license types should have the same fee.



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Recommendations: Amend KRS 243.030(7) to provide that there be only one annual license fee for all retail liquor package licenses.

Amend KRS 243.030(8) to provide that there be only one annual license fee for all retail liquor drink licenses, motel drink licenses, restaurant drink licenses and supplemental bar licenses.

Amend KRS 243.030(42) to provide that there be only one annual license fee for all limited restaurant licenses and limited golf course licenses.

The annual fee for retail liquor package licenses, retail liquor drink licenses, motel drink licenses, restaurant drink licenses, supplemental bar licenses, limited restaurant licenses and limited golf course licenses would all be determined as specified in Recommendation No. 19.



Amend KRS 243.060(1)(a), KRS 243.060(1)(b), KRS 243.060(1)(c) and KRS 243.060(1)(j) for county license fees consistent with this recommendation.

Amend KRS 243.070(1)(e), KRS 243.070(2), KRS 243.070(3) and KRS 243.060(19) for city license fees consistent with this recommendation.

The Licensing Committee's recommendation on a revised fee schedule is: The Office of State Budget Director, the Legislative Research Commission's budget staff and the Public Protection Cabinet's GAPS Division of Budgets study this recommendation, utilize the department's FY11 and FY12 data, and develop a new licensing fee scheme that remains revenue neutral for the department and that distributes any fee changes equitably across all license types.

- **Issue: Temporary licenses**

Kentucky has the following types of temporary licenses: special temporary liquor license (KRS 243.260, 804 KAR 4:250); special temporary wine license (KRS 243.260, 804 KAR 4:250); special temporary beer license (KRS 243.290, 804 KAR 4:250); and special temporary distilled spirits and wine auction license (KRS 243.036).



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The department promulgated 804 KAR 4:250 in order to facilitate uniformity in the issuance of special temporary liquor licenses, special temporary wine licenses, and special temporary beer licenses.

804 KAR 4:250 provides in pertinent part that special temporary liquor licenses, special temporary wine licenses, and special temporary beer licenses may be issued to any regularly organized fair, exposition, racing association or nonprofit organization, political campaign function and to any for-profit individual, corporation or organization when used in conjunction with an organized charitable, civic or community sponsored event.

As discussed in these recommendations, the Licensing Committee has identified the bundling/merging of similar license types as a way of reducing the number of license types. Temporary license types can easily be merged because their requirements are the same.

Recommendation: As with previous recommendations regarding license types, the Licensing Committee has recommended a great number of amendments to current statutes as well as repeal of other existing statutes and regulations to accomplish its stated goals. Please refer to Recommendation No. 14 in the full report for greater detail on those recommended changes.

- **Issue: Special agent or solicitor license**

Kentucky has two similar types of licenses relating to agents of distilled spirits and wine producers and wholesalers: (1) special agent or solicitor license (KRS 243.340) and (2) nonresident special agent or solicitor license (804 KAR 4:020).

Both license types authorize the holder to offer for sale and to solicit orders for the sale of any alcoholic beverage sold by a distiller, rectifier, vintner or wholesaler.

As discussed in these recommendations, the Licensing Committee has identified the bundling/merging of similar licenses into one license type as a way of reducing the number of license types.

Since the special agent or solicitor license and nonresident special agent or solicitor license provide for identical rights and privileges, they can be easily consolidated.



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Recommendations: Amend KRS 243.340 to create a new section incorporating 804 KAR 4:020 and providing that a special agent or solicitor license may be issued to a nonresident of Kentucky. Such a nonresident would be authorized to represent a manufacturer, vintner or wholesaler licensed by another state, provided that the license issued to the nonresident by another state confers privileges similar to those conferred by Kentucky's special agent or solicitor license. In the event the state of residence of the applicant does not issue a similar license, the application filed with the Department of Alcoholic Beverage Control must have the approval of the alcoholic beverage control agency of the state of his residence.



Repeal 804 KAR 4:020.

Amend any statute which uses the phrase "nonresident special agent or solicitor license," and replace with phrase "special agent or solicitor license."

Amend KRS 243.030 to provide a new fee for a special agent or solicitor license. The annual fee for the special agent or solicitor license would be determined pursuant to Recommendation No. 19.

The Licensing Committee's recommendation on a revised fee schedule is: The Office of State Budget Director, the Legislative Research Commission's budget staff and the Public Protection Cabinet's GAPS Division of Budgets study this recommendation, utilize the department's FY11 and FY12 data (Appendices A, B and C following the task force recommendations), and develop a new licensing fee scheme that remains revenue neutral for the department and that distributes any fee changes equitably across all license types.

Amend KRS 243.030 to delete nonresident special agent or solicitor license.

Amend KRS 243.060 (county licenses) and KRS 243.070 (city licenses) consistent with this recommendation and result of Recommendation No. 19.



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ABC Statistic—*There are more than 80 license types that Kentucky currently issues and administers.*

- **Issue: Combine the special industrial alcohol license with the special nonindustrial alcohol license. Eliminate the non-beverage alcohol vendor license.**

Kentucky has two related types of special licenses: a special industrial alcohol license (KRS 243.320) and a special nonindustrial alcohol license (KRS 243.330). Both licenses authorize the holder to purchase alcohol for certain non-beverage purposes.

As discussed in these recommendations, the Licensing Committee has identified the bundling/merging of similar license types into one license type and eliminating licenses as a way of reducing the number of license types.

Since the special industrial alcohol license and the special nonindustrial alcohol license are similar, they can be easily consolidated.

Both licenses authorize the holder to purchase alcohol for certain non-beverage purposes.

Only wholesalers and distributors obtain the special non-beverage alcohol vendor license, which authorizes them to sell non-beverage alcohol to industrial and nonindustrial alcohol licensees. The special non-beverage alcohol license type could easily be eliminated by authorizing all holders of wholesaler or distributor licenses to sell to industrial and nonindustrial alcohol licensees.

Recommendation: The recommended changes to existing statutes and regulations for the purposes of addressing these license types are lengthy. To read the full recommended changes, please see Recommendation No. 16 in the full task force report.

- **Issue: Qualified historic site license**

A qualified historic site license is a combo license and authorizes the retail sale of distilled spirits, wine and malt beverages by the drink anywhere on the premises (KRS 243.042). To date, the department has issued only two qualified historic site licenses (KRS 243.030 combo). It has issued no qualified historic site beer licenses.

As discussed in these recommendations, the Licensing Committee has identified the bundling/merging of similar licenses into one license type as a way of reducing the number of license types.



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The department has issued no qualified historic site beer licenses.

Both KRS 243.042 and KRS 243.030(44) specifically provide that a qualified historic site license is a combo retail drink license authorizing distilled spirits, wine and beer drink sales for consumption on the premises. As such, the qualified historic site beer license in KRS 243.040 is unnecessary and should be eliminated.

Recommendations: Amend KRS 243.040 to delete the qualified historic site beer license from the list of license types.

Amend KRS 243.060 (county licenses) and KRS 243.070 (city licenses), if necessary, consistent with this recommendation and result of Recommendation No. 19.

- **Issue: Annual licensing out-of-state suppliers of distilled spirits and wine**

The department licenses out-of-state beer suppliers through either: (1) an out-of-state brewer license (804 KAR 4:350) or (2) a limited out-of-state brewer license (804 KAR 4:350). Although these license types use the term “brewer,” they are actually issued to any out-of-state supplier including brewers, distributors, importers for a brewer or importers of a non-U.S. brand of beer.

These license types are actually the same but provide smaller beer suppliers with a lower licensing fee. Inconsistently, the current licensing scheme does not require licensure by out-of-state suppliers of distilled spirits and wine.

Department information indicates that approximately 1,360 different suppliers have filed brand registrations with the department since 2004, and there have been more than 4,600 brand registration forms filed and processed by the department during that time period. It is unknown which suppliers were out-of-state suppliers or in-state suppliers.

There is no way to ensure that out-of-state suppliers of distilled spirits and wine comply with Kentucky law because they are outside Kentucky’s jurisdiction and they are not licensed by the department. Several such suppliers have violated Kentucky advertising laws in recent years, but the department cannot address these violations.



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Based upon review of brand registration records, the department's licensing staff estimates that approximately 1,600 out-of-state suppliers of distilled spirits and wine would be licensed annually under this proposal.



Recommendations: Among the recommendations by the Licensing Committee on this subject, one would create a new statute in KRS Chapter 243 which codifies the substantive provisions of 804 KAR 4:350 so as to create the out-of-state brewer license, the limited out-of-state brewer license, and applicable requirements and authorizations. The names of these licenses would be amended to "out-of-state beer supplier license" and "limited out-of-state beer supplier license."

Other recommendations address threshold sales volumes and amending KRS 244.440 to provide that every resident and nonresident distiller, rectifier, blender or vintner, and nonresident wholesaler or importer must become licensed in addition to registering its brands.

- **The Office of State Budget Director, the Legislative Research Commission's budget staff and the Public Protection Cabinet's GAPS Division of Budgets examination of financial impact of recommendations**

The task force was directed to ensure that any recommendations were to remain at least revenue neutral.

The task force was directed to ensure that any recommendations were to remain at least revenue neutral. The Licensing Committee's recommendations accomplish these directives.

The committee has made recommendations it believes can be achieved and also remain revenue neutral. These recommendations are based solely upon information provided by the department's computer databases and budget staff.

Attached to the License Committee recommendations as Appendices A, B and C are documents prepared from department records showing the corresponding types of licenses, number of licenses, license fee costs, and any applicable totals or averages for the licenses referenced above.

Recommendation: The Office of State Budget Director, the Legislative Research Commission's budget staff and the Public Protection Cabinet's GAPS Division of Budgets should study all legislatively accepted recommendations affecting licensing types, utilize the department's FY11 and FY12 data (Appendices



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A, B and C following the task force recommendations), and develop a new licensing fee scheme that remains revenue neutral for the department (average revenue for FY11 and FY12 was \$5,336,740.50) and that distributes any fee changes equitably across all license types.

Once the Office of State Budget Director establishes new license fees and they become effective, the department shall implement a system to track all administrative costs associated with the processing of licenses and with licensing activities. This system would also track all statistical licensing numbers by license type, the number of licenses issued and revenues for the first year's implementation of the new license types and fee structure. After one year the department shall report its findings to the General Assembly and the Licensing and Occupations Committee. Any fees not covering administrative costs, or related issues, would be subject to adjustment or correction.

Important Identified Issues Needing Additional Study

- **Issue: Identification of owners and stockholders in complex multiple level corporate/LLC entities**

The history of alcoholic beverages in the Commonwealth has been, and continues to be, very controversial and political. As a result, passage of bills dealing with alcoholic beverages is often difficult so that the alcoholic beverage laws are often not updated to keep pace with changing business plans. The current alcoholic beverage statutes do not adequately address how ownership and managerial interests of applicants should be identified by complex multi-level parent corporation/LLC and sub-corporations/LLCs.

KRS 243.100(2) and KRS 243.390(1) contemplate only single layer business entities since they require personal information related only to the applicant's officer, director, member, partner and managerial employees. However, many applicants are owned by other corporations/LLCs and the latter may be owned by still other corporations/LLCs. Corporate ownership levels often contain combinations of real persons and artificial entities.

The applicable alcoholic beverage statutes need to be amended to address how ownership and managerial interests of applicants should be identified in complex multi-level parent corporations/LLCs and sub-corporations/LLCs while protecting underlying purpose of identifying ownership interests of applicants.



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In addressing how ownership and managerial interests of applicants and licensees should be identified, examiners should be careful to strongly protect Kentucky's three-tier alcohol distribution system so that any proposal will not allow multi-national or large corporations or companies to evade three-tier ownership prohibitions by corporate business structuring with multiple parent sub-levels.

- **Issue: Identification of owners and stockholders in corporate/ LLC entities with foreign owners**

KRS 243.100(2) provides that a partnership, limited partnership, limited liability company or corporation may be licensed even if the directors, principal officers or managers, and owners are not United States citizens.

As discussed in prior recommendations, KRS 243.390 provides that an artificial entity applicant must identify the name, age, Social Security number, address and residence of each owner, officer, director, member, partner and managerial employee.

With the global consolidation of the alcoholic beverage industry, the department has received more applicants with foreign ownerships. Many complex business entities may have some layers of U.S. parent/sub-entities with final layers of ownership held by foreign companies and citizens.



Public Safety

The Public Safety Committee was tasked with evaluating issues and making recommendations in regard to public safety and order where alcoholic beverages are concerned. The committee studied needed changes to the current disorderly premises statute, KRS 244.120, and ways to protect minors' safety. With regard to minor safety, the committee examined three additional issues: (1) medical amnesty laws to encourage minors to report alcohol poisoning, (2) civil proceedings requiring minors cited for possession of alcohol to undergo alcohol intervention training as a penalty, and (3) licensure/permits requiring clerks and servers to undergo mandatory training for the purpose of deterring sales to minors. A summation of those recommendations follows:

- **Issue: Broadening the scope of KRS 244.120, the disorderly premises statute**

KRS 244.120 is the principal statute by which the department requires licensees to maintain public safety and order at their premises. At present, this statute is not sufficient to address many



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ABC Statistic—*In 2012, ABC enforcement of-ficers issued 15 citations for disorderly conduct at licensed premises.*

typical situations in which public order and safety are jeopardized at licensed premises.

Recommendations: A recent court opinion held that the specific wording of KRS 244.120 only prohibits conduct by patrons, not employees of a licensee. As such, KRS 244.120 should be amended so as to prohibit disorderly conduct by a licensee and its employees for the protection of public order and safety.

Amendments to KRS 244.120 should also specifically address other conduct which jeopardizes public order and safety, such as maintaining a public nuisance or permitting criminal activity on the premises.

A proposed draft bill version recommended by the Public Safety Committee is attached as Appendix E following the task force recommendations.

- **Issue: Create a new section of KRS Chapter 243 to provide limited medical amnesty**

Minors (persons under age 21) have been known to be reluctant, if not unwilling, to report other minors in need of emergency medical attention by reason of intoxication. They may fear their alcohol consumption will result in criminal prosecution or dismissal from college.



Minors' lives and health are more important than punishing minors for alcohol-related criminal offenses. Studies have shown that state medical amnesty laws provide minors with the clarity they need in order to make responsible, life-saving decisions during confusing and stressful situations. A life-threatening medical emergency is not the time for minors to spend precious minutes weighing whether to summon help for a friend who is suffering from alcohol poisoning. A medical amnesty law could help eliminate such delay.

Medical amnesty laws are not designed or intended to immunize from punishment minors who simply drink alcohol.

Recommendations: The committee believes that the best way to encourage minors to seek emergency medical treatment is found in those laws which provide amnesty to the caller, the minor in need of medical attention and the friends who remain with the latter



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“ABC Enforcement prioritizes combating youth access to alcohol, in addition to enforcing all alcoholic laws, and will continue to work across Kentucky to maintain compliance with alcoholic laws and regulations.”

*Josh Crain
Assistant Director
of Enforcement*

ABC Statistic—*In 2012, ABC enforcement officers issued 773 citations to minors who were in possession of alcohol.*

until authorities arrive. The committee recommends creating a new section of KRS Chapter 243 establishing a medical amnesty statute in Kentucky.

The new statute would provide immunity only to those who: (a) request emergency medical assistance for self or another person, (b) act in concert with another person who requests emergency medical assistance and (c) appear to be in need of emergency medical assistance and are the individuals for whom the requests are made.

The new statute would provide that in order to qualify for amnesty, the request must be made for an individual who reasonably appears to be in need of medical assistance due to alcohol consumption.

The new statute would provide that in order to qualify for amnesty, the person requesting medical help must, if able: (a) provide his or her own full name if requested by emergency medical assistance personnel or law enforcement officers, (b) provide any other relevant information known to such person if requested by medical assistance personnel or law enforcement officers, (c) remain with, or be, the individual who reasonably appears in need of medical assistance and (d) cooperate with emergency medical assistance personnel and law enforcement officers.

A proposed draft bill version recommended by the Public Safety Committee is attached as Appendix E following the task force recommendations.

Important Identified Issues Needing Additional Study

- **Issue: Alternative civil penalty proceedings against minors possessing or purchasing alcoholic beverages**

A top priority of the department is the prevention of alcohol sales to minors and their possession of alcohol. This is a top concern among retail licensees as well.

The department administratively cites retail licensees for selling alcohol to minors. In addition, the licensee's clerk or server responsible for the illegal sale is criminally cited to district court, as is the minor who attempts to purchase or possess alcohol. The licensee is subject to a substantial fine or license suspension or revocation by the Kentucky Alcoholic Beverage Control Board. The clerk or server, and the minor, both are subject to a criminal court fine.



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ABC Statistic—*In 2012, ABC enforcement officers issued 110 citations to minors who attempted to purchase alcohol.*



The retail industry often complains about the disparate treatment for offending minors. While a licensee faces substantial fines or license suspension or revocation, a minor who purchases alcoholic beverages faces a reduced fine (if any), community service or diversion (dismissal).

The committee studied the civil administrative penalty procedure for minors who purchase or possess alcoholic beverages. This type of penalty was deemed worthy of future discussion as a way for Kentucky to provide courts and law enforcement with an alternative to criminal proceedings. This should be done with the protection of minors' safety and health as a primary concern. Requiring minors to undergo alcohol intervention education or training through civil proceedings may further that goal more than do criminal fines or community service.

Any future proposal on this issue must identify the agency responsible for developing and administering the program. A funding source for the administrative costs of the program must be determined. Statutory changes authorizing jurisdictional authority/referral between the courts and the agency administering the civil system would have to be researched. A proposal would need to approve which alcohol intervention program(s) to use and prescribe the civil and criminal penalties for first-time, noncompliant and repeat offenders. The success of any such proposal would depend on cooperation and collaboration by the judiciary, the department, law enforcement, prevention groups and the retail alcoholic beverage industry.