

243.027 KRS 243.027 to 243.029 supersedes any conflicting provision of KRS Chapters 241 to 244 -- Licensing of direct shippers of alcoholic beverages -- Duties of direct shipper licensees -- Administrative regulations -- Use of third parties to ship -- Shipping of samples.

- (1) KRS 243.027 to 243.029 shall supersede any conflicting statute in KRS Chapters 241 to 244.
- (2) A direct shipper license shall authorize the holder to ship alcoholic beverages to consumers. The department shall issue a direct shipper license to a successful applicant that:
 - (a) Pays an annual license fee of one hundred dollars (\$100);
 - (b) Is a manufacturer located in this state or any other state or an alcoholic beverage supplier licensed under KRS 243.212 or 243.215; and
 - (c) Holds a current license, permit, or other authorization to manufacture or supply alcoholic beverages in the state where the applicant is located. If an applicant is located outside of Kentucky, proof of its current license, permit, or other authorization as issued by its home state shall be sufficient proof of its eligibility to hold a direct shipper license in Kentucky.
- (3)
 - (a) A manufacturer applicant shall only be authorized to ship alcoholic beverages that are sold under a brand name owned or exclusively licensed to the manufacturer, provided the alcoholic beverages were:
 1. Produced by the manufacturer;
 2. Produced for the manufacturer under a written contract with another manufacturer; or
 3. Bottled for or by the manufacturer.
 - (b) An applicant licensed under KRS 243.212 or 243.215 shall only be authorized to ship alcoholic beverages for which it is the primary source of supply.
- (4) The department shall establish the form for a direct shipper license application through the promulgation of an administrative regulation. These requirements shall include only the following:
 - (a) The address of the manufacturer or supplier; and
 - (b) If the applicant is located outside this state, a copy of the applicant's current license, permit, or other authorization to manufacture, store, or supply alcoholic beverages in the state where the applicant is located.
- (5) For purposes of this section, the holder of a direct shipper license may utilize the services of a third party to fulfill shipments, subject to the following:
 - (a) The third party shall not be required to hold any alcoholic beverage license, but no licensed entity shall serve as a third party to fulfill shipments other than the holder of a storage license or transporter's license;
 - (b) The third party may operate from the premises of the direct shipper licensee or from another business location; and
 - (c) The direct shipper licensee shall be liable for any violation of KRS 242.250, 242.260, 242.270, or 244.080 that may occur by the third party.

- (6) A direct shipper licensee shall:
 - (a) Agree that the Secretary of State shall serve as its registered agent for service of process. The licensee shall agree that legal service on the agent constitutes legal service on the direct shipper licensee;
 - (b) Maintain the records required under KRS 243.027 to 243.029 and provide the department and the Department of Revenue access to or copies of these records;
 - (c) Allow the department or the Department of Revenue to perform an audit of the direct shipper licensee's records or an inspection of the direct shipper licensee's licensed premises upon request. If an audit or inspection reveals a violation, the department or the Department of Revenue may recover reasonable expenses from the licensee for the cost of the audit or inspection;
 - (d) Register with the Department of Revenue, and file all reports and pay all taxes required under KRS 243.027 to 243.029; and
 - (e) Submit to the jurisdiction of the Commonwealth of Kentucky for any violation of KRS 242.250, 242.260, 242.270, or 244.080 or for nonpayment of any taxes owed.
- (7) (a) Each direct shipper licensee shall submit to the department and the Department of Revenue a quarterly report for that direct shipper license showing:
 - 1. The total amount of alcoholic beverages shipped into the state per consumer;
 - 2. The name and address of each consumer;
 - 3. The purchase price of the alcoholic beverages shipped and the amount of taxes charged to the consumer for the alcoholic beverages shipped; and
 - 4. The name and address of each common carrier.
- (b) The Department of Revenue shall create a form through the promulgation of an administrative regulation for reporting under paragraph (a) of this subsection.
- (c) The department shall provide a list of all active direct shipper licensees to licensed common carriers on a quarterly basis to reduce the number of unlicensed shipments in the Commonwealth.
- (8) A direct shipper licensee shall submit a current copy of its alcoholic beverage license from its home state along with the one hundred dollar (\$100) license fee every year upon renewal of its direct shipper license.
- (9) Notwithstanding any provision of this section to the contrary, a manufacturer located and licensed in Kentucky may ship by a common carrier holding a Kentucky transporter's license samples of alcoholic beverages produced by the manufacturer in quantities not to exceed one (1) liter of any particular product in one (1) calendar year of distilled spirits or wine, or ninety-six (96) ounces of any particular product in one (1) calendar year of malt beverages, to the following:
 - (a) Marketing or media representatives twenty-one (21) years of age or older;

- (b) Distilled spirits, wine, or malt beverage competitions or contests;
- (c) Wholesalers or distributors located outside of Kentucky;
- (d) Federal, state, or other regulatory testing labs; and
- (e) Third-party product formulation and development partners.

Such samples shall be marked by affixing across the product label, a not readily removed disclaimer with the words "Sample-Not for Sale" and the name of the manufacturer.

Effective: March 12, 2021

History: Amended 2021 Ky. Acts ch. 13, sec. 1, effective March 12, 2021. --
Created 2020 Ky. Acts ch. 80, sec. 1, effective July 15, 2020.