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ALCOHOLIC BEVERAGE CONTROL

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ABC ADVISORY OPINION 2022-001

April 1, 2022

Question:	"Can a commercial quadricycle operate within an EDC?"
Requested by:	City of Paducah Daron Jordan, City Manager Lindsay Parish, City Clerk
Syllabus:	Commercial quadricycles can operate within an EDC in much the same way retail drink licensees can operate within an EDC.
Statutes construed:	KRS 243.020, 243.089; 804 KAR 4:370
Legal authority:	KRS 241.060

Opinion of the Department of Alcoholic Beverage Control

The City of Paducah ("Requester") wrote to ask the Department whether a commercial quadricycle business, also known as an authorized public consumption ("APC") licensee, can operate within an entertainment destination center ("EDC"). Requester asks if the following parameters would be sufficient to permit such an arrangement:

- "The City of Paducah must pass an ordinance allowing for quadricycle businesses and public consumption licenses.
- The quadricycle business must obtain a valid [Authorized] Public Consumption license.
- The business owner who has a valid EDC Participation Agreement with the City may sell alcohol to patrons in the designated EDC cups.
- Patrons may then take those cups onto the quadricycle.

- The quadricycle business may charge for tours – Passengers may reserve seats[sic] for tour and purchase tickets in advance.
- The quadricycle may travel within the EDC boundary.
- The quadricycle may stop at other EDC participating businesses where passengers may disembark, purchase additional alcoholic beverages in EDC cups and again board the quadricycle.
- The quadricycle does not have to have an on-board tap from which alcohol would be served."

As discussed in the following memorandum, the Department authorizes the establishment of a quadricycle business within the Paducah EDC under the above parameters with a notable clarification—the quadricycle business *cannot* sell alcoholic beverages.

KRS 243.020(4) generally prohibits alcoholic beverage licensees from permitting "any consumer to possess, give away, or drink alcoholic beverages on the licensed premises that are not purchased from the licensee." Moreover, retail drink licensees are only permitted to sell at retail for consumption on their licensed premises. *See* e.g. KRS 243.082, 243.084, 243.250.[1] However, EDC licenses create an exception to that general prohibition by authorizing the creation of a retail alcoholic beverage premises which contains other licensed retail drink premises and permits patrons of a licensed premises within its boundaries "to leave its premises with alcoholic beverage drinks and consume those drinks at other licensed premises or any EDC common area." 804 KAR 4:370, Section 4(1). Furthermore, those licensees can set up nonpermanent, supplemental bars within the EDC with supplemental bar licenses as if the EDC is its own premises. *Id.* at Section 3(2).

APC licensees are authorized under statute to "permit patrons to bring unopened packages of alcoholic beverages onto the licensed premises and open and drink them in nondescriptive plastic cups after boarding, and while riding, the quadricycle," but they are not authorized to "permit patrons to bring opened packages or drinks of alcoholic beverages from

[1] KRS 243.081 permits certain retail drink licensees to sell alcoholic beverages at retail so long as the alcoholic beverages are in their original or otherwise sealed containers.

retail premises on the quadricycle." KRS 243.089(3)(a) & (c). The latter proscription supports the general prohibition against patrons leaving retail drink licensees with open containers and the limitation placed on retail drink licensees to only sell for consumption on their premises. However, for retail drink licensees and their patrons within the EDC's boundaries, this limitation is lifted so that patrons may purchase alcoholic beverages on a retail licensee's premises and take their beverages onto the EDC's common areas or even onto another retail licensee's premises.

The Department sees no reason why an APC licensee within an EDC should be beholden to limitations meant to preserve retail drink license restrictions which retail drink licensees do not have to follow within an EDC. Therefore, an APC licensee can operate within an EDC as normal, with the addition that the APC licensee may allow EDC patrons to bring aboard alcoholic beverages in EDC cups purchased from retail drink licensees in the EDC. The parameters that the Requester has provided regarding passing an ordinance and the quadricycle business obtaining a valid APC license are required under KRS 243.089 for any quadricycle business to operate. All the remaining parameters are also permissible, with the clarification that the quadricycle business is not permitted to sell any alcoholic beverages. KRS 243.089(3)(e).

Allyson Taylor
Commissioner
Department of Alcoholic Beverage Control