Advisory Opinion Request Form
November 2019

ALCOHOLIC BEVERAGE CONTROL

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
500 Mero Street 2NE33
Frankfort, KY 40601
502-564-4850 phone
502-564-1442 fax
http://abc.ky.gov

Date received

AOR NO.: _____

FOR ABC USE ONLY

ADVISORY OPINION REQUEST FORM

Attach additional pages as necessary and any documentation, research, or other evidence that you request the Department to consider.

Name of Requestor (individual or business entity): City of Danville

Bridgette Lester, Director of Codes Enforcement/ABC Administrator

Address: 445 W. Main St.

City: Danville State: KY County: Boyle

Zip Code: 40423 Phone Number: 859-936-6840

Email: blester@danvilleky.gov

The above individual or business entity requests an: ☑ Advisory opinion ☐ Reconsideration request

If this is a reconsideration request or comment, the application Advisory opinion number: _____

Question or issue to be addressed: Does Entertainment Destination Center License allow patrons to leave a licensed premise and consume alcholic beverages in unlicensed premises (see att).

Applicable statutes, regulations, ordinances, or other authority: 804 KAR 4:370, KRS 243.020(3)

Proposed response, comment, or basis for reconsideration request: See attachment

To your knowledge, is the question for which you request an advisory opinion or reconsideration pending before, under investigation by, or recently decided by a court or government entity? ☐ Yes ☑ No

If yes, please identify the court or government agency, any case or proceeding number, and filing dates of the proceeding or investigation _____.

Signature of Requestor or Requestor's Agent Bridgette Lester Digitally signed by Bridgette Lester Date: 2022.06.17 10:43:29 -04'00' Date 6/17/22

Signer's Name and title if requestor is a business entity Bridgette Lester Date 6/17/22

Advisory Opinion Request
Attachment

The City of Danville holds an Entertainment Destination Center License. The boundary of the Entertainment Destination Center (EDC) encompasses a large portion of Downtown Danville. We currently have 8 alcohol licensed premises along with numerous unlicensed businesses within this boundary. Patrons who leave licensed premises during events walk throughout our Downtown EDC and would like to visit unlicensed businesses with their alcohol in their EDC cup. Our understanding of 804 KAR 4:370 Section 4 and KRS 243.020 (3) is that they can only consume those drinks at other licensed premises. We have been questioned by some of our patrons as they say they have been allowed to go into unlicensed businesses in other communities with EDC Licenses. We would like an advisory opinion to clarify this question.

804 KAR 4:370. Entertainment destination center license.

RELATES TO: KRS 148.853(2)(b), 241.060(1), 243.030(21), (35), 243.040, 243.050
STATUTORY AUTHORITY: KRS 241.060(1), 243.030(21), (35), 243.040
NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate administrative regulations regarding matters over which the board has jurisdiction. KRS 243.030(21) and (35) authorizes the department to issue an entertainment destination center license. This administrative regulation defines the term entertainment destination center and establishes the privileges and responsibilities of an entertainment destination center license.

Section 1. Definition. "Entertainment destination center" or "EDC" means premises:
(1) That meet the incentive qualifications for an entertainment destination center project as set forth in KRS 148.853(2)(b)1.;
(2) Located in a wet county or city that has enacted an ordinance that:
(a) Determines an entertainment destination center licensed premises would aid economic growth and tourism in the county or city; and
(b) Defines the geographic boundaries of the EDC; or
(3) That contain a minimum of 100,000 square feet of building space, located within one (1) mile of:
(a) An existing tourism attraction; or
(b) A convention center.

Section 2. Sales by EDC Licensee. An EDC licensee may sell alcoholic beverages by the drink at one (1) or more nonpermanent locations within any common area of the EDC.

Section 3. Sales by Other Licensed Businesses.
(1) Each business located within an EDC that sells alcoholic beverages shall hold the necessary alcoholic beverage license or licenses for its premises.
(2) A licensee within or adjacent to the EDC may sell alcoholic beverages from one (1) or more nonpermanent locations within any common area of the EDC if:
(a) The licensee holds a supplemental bar license for each nonpermanent location; and
(b) The licensee holds written permission for these sales by the EDC licensee.

Section 4. Drink Consumption in Common Areas and Other Licensed Premises.
(1) A licensee located in or adjacent to the EDC may allow patrons to leave its premises with alcoholic beverage drinks and consume those drinks at other licensed premises or any EDC common area if the EDC licensee:
(a) Possesses the common area by deed, lease, or permit;
(b) Provides adequate security for the common area;
(c) Ensures that any portion of a public thoroughfare included in a common area is controlled in a manner that ensures public safety and pedestrian protection from vehicular traffic; and
(d) Has granted written permission for this conduct.
(2) The EDC licensee shall prohibit patrons from taking alcoholic beverages outside the physical boundaries of the EDC.
(3) If the board suspends or revokes the EDC license, all retail drink sales and consumption in any EDC common area shall be prohibited.

Section 5. Minors in the Common Area. In addition to authorized businesses listed in KRS 244.085(5) and (6), minors shall be permitted in EDC common areas if allowed by the EDC licensee.

Section 6. Additional Storage Location. As permitted by the EDC licensee in a written agreement, a licensee located in the EDC may store alcoholic beverages at an identified

storage location in the EDC separate from its licensed premises.
(29 Ky.R. 1712, Am. 2289; eff. 3-19-2003; 31 Ky.R. 623; eff. 11-26-2004; TAm eff. 8-9-2007; 35 Ky.R. 1590; 1758; eff. 3-6-2009; 38 Ky.R. 2049; eff. 8-31-2012; TAm eff. 7-15-2014; 41 Ky.R. 2630; 42 Ky.R. 375; 685; eff. 10-2-2015; 43 Ky.R. 1452, 1733; eff. 5-5-2017; TAm eff. 8-1-2018.)

243.020 License required -- Federal license presumptions -- Alcoholic beverages not purchased from licensee disallowed on licensed premises -- Licenses permitted in moist territory.

(1) A person shall not do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless the person holds or is an independent contractor, agent, servant, or employee of a person who holds the kind of license that authorizes the act, or is a third party utilized by a direct shipper licensee as set forth in KRS 243.027.

(2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a rebuttable presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.

(3) Except as permitted by KRS 243.033, 243.036, 243.155, 243.157, and 243.260, a person, conducting a place of business patronized by the public, who is not a licensee authorized to sell alcoholic beverages, shall not permit any person to sell, barter, loan, give away, or drink alcoholic beverages on the premises of the place of business.

(4) A licensee shall not permit any consumer to possess, give away, or drink alcoholic beverages on the licensed premises that are not purchased from the licensee.

(5) In a moist territory, the only types of licenses that may be issued are those that directly correspond with the types of sales approved by the voters through moist elections within the territory, unless otherwise specifically authorized by statute.

Effective: March 12, 2021

History: Amended 2021 Ky. Acts ch. 13, sec. 4, effective March 12, 2021. -- Amended 2020 Ky. Acts ch. 80, sec. 14, effective July 15, 2020. -- Amended 2019 Ky. Acts ch. 201, sec. 3, effective April 9, 2019. -- Amended 2017 Ky. Acts ch. 62, sec. 29, effective June 29, 2017. -- Amended 2013 Ky. Acts ch. 121, sec. 44, effective June 25, 2013. -- Amended 1998 Ky. Acts ch. 121, sec. 8, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 44, sec. 4, effective July 15, 1996. -- Amended 1978 Ky. Acts ch. 194, sec. 9, effective June 17, 1978. --. Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2554b-150, 2554b-153, 2554b-165, 2554b-194.