

KRS CHAPTER 222
KENTUCKY ALCOHOL AND OTHER DRUG ABUSE
PREVENTION, INTERVENTION, AND TREATMENT LAW
(Selected Sections)

KRS 222.201 Definition

As used in KRS 222.202 to 222.204, 222.990(3) to (5), "**public place**" shall have the same meaning as it does in KRS 525.010, provided that for violations of KRS 222.202(2) the definition shall not include any public place where a license under KRS Chapter 243 to sell distilled spirits, wine or beer by the drink has been obtained.

KRS 222.202 Offenses of alcohol intoxication or drinking alcoholic beverages in a public place

1 Penalty: KRS 222.990(3) **2 Penalty:** KRS 222.990(4)

- (1) A person is guilty of alcohol intoxication when he appears in a public place manifestly under the influence of alcohol to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.
- (2) A person is guilty of drinking alcoholic beverages in a public place when he drinks an alcoholic beverage in a public place, or in or upon any passenger coach, or other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, or waiting room.

KRS 222.203 Arrest – Citation – Jail – Bail – Pretrial release

- (1) A peace officer may make an arrest for a violation of KRS 222.202.
- (2) Any peace officer who arrests a person for violation of KRS 222.202 shall take him to jail. A peace officer may issue a citation and may take the person to a facility authorized by county or city ordinance agreeing to care for the person. If the person is jailed, at the jail it shall be determined if the person has committed a previous offense under KRS 222.202.
- (3) A citation shall be issued to such person showing thereon the date of such person's appearance in court and whether the offense is prepayable or not.
- (4) Unless it has been determined that the defendant has had two (2) prior convictions for violation of KRS 222.202 within the previous twelve (12) months, the citation shall be marked as prepayable.

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KRS 222.990 Penalties

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- (3) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place shall, for a first or second offense be fined not less than twenty-five dollars (\$25).
- (4) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place, shall for a third or subsequent offense within a twelve (12) month period be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), or be imprisoned in the county jail for not less than five (5) nor more than ninety (90) days, or both. Subsequent offenses not within the twelve (12) month proscription of this section shall be dealt with under subsection (3) of this section.
- (5) In addition to any other penalty prescribed by law for violation of subsections (1) and (2) of KRS 222.202, the court may sentence the person to an alcohol or substance abuse treatment or education program subject to the following terms and conditions for a third or subsequent offender:
 - (a) The sentence shall be for a period of up to six (6) months and the program shall provide an assessment to the court of the defendant's alcohol or other substance abuse problems.
 - (b) Each defendant shall pay the cost of the treatment or education program up to his ability to pay but no more than the actual cost of the treatment.
 - (c) A defendant may upon written recommendation to the court by the administrator of the program, be released by the court prior to the expiration of the six (6) month period.

- (d) Failure to complete the treatment program or to pay the amount specified by the treatment program shall constitute contempt of court and the court may, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of treatment or education program.

**KRS CHAPTER 235
BOATS AND BOATING
(Selected Sections)**

**KRS 235.240 Prohibition of operation of boat negligently or while intoxicated or drugged –
Consent to test for alcohol or drugs – Elements of operation under influence of
alcohol or other substance**

Penalty: KRS 235.990(2)

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- (2) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any other substance which impairs one's driving ability.
- (3) Any person who operates a vessel upon the waters of the Commonwealth shall be deemed to have given consent to a test or tests as accepted by the state's evidentiary mandate for the purpose of determining the operator's alcohol concentration or the presence of other drugs. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the operator may have been violating this section.
- (4) For the purposes of enforcing this section, the elements of the offense are those established in KRS 189A.010 (1) to (4), except that the penalties for this offense are set forth in KRS 235.990.

KRS 235.990 Penalties

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- (2) Any person who violates KRS 235.240 shall not be subject to the penalties of KRS Chapter 189A but shall be guilty of a separate offense and subject to a fine of one hundred dollars (\$100) to two hundred fifty dollars (\$250) for the first offense, a fine of two hundred fifty dollars (\$250) to five hundred dollars (\$500) for the second offense, and a fine of five hundred dollars (\$500) to one thousand dollars (\$1,000) or imprisonment in the county jail for not less than thirty (30) days, or both, for the third or subsequent offense. Refusal to submit to a breath alcohol analysis or similar test in violation of KRS 235.240(3) shall be deemed an offense.
- (3) A person may, in addition or in lieu of the penalties specified in subsection (1) or (5) of this section and in addition to the penalties of subsection (2) of this section, be required to take a safe-boating course approved by the department or offered by the United States Coast Guard, Coast Guard Auxiliary, or United States Power Squadron and to present the court a certificate documenting successful completion of the course.

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KRS 235.9995 Prepayment of fines subject to certain conditions

- (1) All offenses classified as violations under this chapter shall be prepayable except for:
 - (a) Violations of KRS 235.240 and 235.285;
 - (b) An offense where evidence of the commission of the offense or another offense was seized and the citation is so marked and a court date set;
 - (c) The offense is cited with another offense that is not prepayable and the citation is so marked and a court date set; or
 - (d) An arrest is made under KRS 431.015.
- (2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

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**KRS CHAPTER 237
FIREARMS AND DESTRUCTIVE DEVICES
(Selected Sections)**

KRS 237.030 Definitions for KRS 237.040 and 237.050

- (1) "**Destructive device**" means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device and includes the unassembled components from which such a device can be made.
- (2) "**Booby trap device**" includes any device, or substance designed to surreptitiously or covertly take life, endanger life or destroy or damage property and shall not include firearms.

KRS 237.040 Criminal possession of destructive device or booby trap device

PenaltyKRS 237.990

A person is guilty of criminal possession of a destructive device or a booby trap device when he possesses, manufactures, or transports such substance or device with:

- (1) Intent to use that device to commit an offense against the laws of this state, a political subdivision thereof, or of the United States; or
- (2) Knowledge that some other person intends to use that device to commit an offense against the laws of this state, a political subdivision thereof, or of the United States.
- (3) Mere possession without substantial evidence of the requisite intent is insufficient to bring action under KRS 237.030 to 237.050.

KRS 237.050 Exemptions

KRS 237.030 to 237.050 shall not apply to:

- (1) Destructive devices or booby trap devices which are possessed by the government of the United States, this state, or a political subdivision thereof;
- (2) Any device which is lawfully possessed under the **Gun Control Act of 1968**, the **Organized Crime Control Act of 1971**, or any other law of the United States or this state, unless a crime is committed therewith;

EDITOR'S NOTES:

- **Gun Control Act of 1968**: codified as 18 U.S.C. (United States Code) §§ 921 to 928; and 26 U.S.C. §§ 5801, 5802, 5811, 5812, 5821, 5822, 5841 to 5849, 5851 to 5854, 5861, 5871, 5872, 6806, 7273.
 - **Organized Crime Control Act of 1971**: codified as 18 U.S.C. § 1961.
- (3) Nonlethal devices placed on the premises of the owner or the lawful occupant thereof for his own self-protection or the protection of the said property;
 - (4) The setting of traps suitable and legal for the taking of game by persons licensed or permitted to do so by the game laws of the Commonwealth;
 - (5) Inert devices which cannot readily be restored to operating condition; or
 - (6) The acquisition, possession, use, or control of firearms.

KRS 237.060 Definitions for KRS 237.060 to 237.090 and certain other sections

The following definitions apply in KRS 237.060 to 237.090 and KRS 197.170, 218A.992, 244.125, 244.990, and 514.110, unless the context otherwise requires:

- (1) "**Handgun**" means any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by the use of a single hand.
- (2) "**Firearm**" means any weapon which will expel a projectile by the action of an explosive.
- (3) "**Licensed gun dealer**" means a person who has a federal firearms license and any business license required by a state or local government entity.
- (4) "**Loaded**" with respect to a firearm means:
 - (a) There is ammunition in the chamber of the firearm; or
 - (b) There is ammunition in the cylinder of the firearm; or
 - (c) There is ammunition in the magazine of a firearm, if the magazine is attached to the firearm.

- (5) "**Juvenile**" means a person who has not attained his eighteenth birthday.
- (6) "**Ammunition**" means loaded ammunition designed for use in any firearm.
- (7) "**Armor-piercing ammunition**" means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one (1) or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. "Armor piercing ammunition" does not include shotgun shot required by federal or state environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary of the Treasury of the United States finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary of the Treasury of the United States finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.
- (8) "**Flanged ammunition**" means ammunition with a soft lead core and having sharp flanges which are designed to expand on impact.

KRS 237.070 Prohibition against sale or transfer of firearm to convicted felon

- (1) No person shall knowingly sell or transfer a firearm to any person prohibited from possessing it by KRS 527.040 [**Possession of firearm by convicted felon**].
- (2) Any person who violates the provisions of subsection (1) of this section is guilty of a Class A misdemeanor.
- (3) Any firearm transferred in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to KRS 237.090.

KRS 237.080 Prohibition against manufacture, sale, delivery, transfer, or importation of armor piercing ammunition – Exceptions

- (1) It shall be unlawful for any person to knowingly manufacture, sell, deliver, transfer, or import armor-piercing ammunition.
- (2) Subsection (1) of this section shall not apply to members of the Armed Forces of the United States or law enforcement officers within the scope of their duties, nor shall it prohibit licensed gun dealers from possessing armor-piercing ammunition for the purpose of receiving and transferring it to members of the Armed Forces of the United States, or law enforcement officers for use within the scope of their duties.
- (3) A violation of subsection (1) of this section shall be a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (4) Any armor-piercing ammunition transferred, sold, or offered for sale, in violation of this section is contraband and shall be seized and summarily forfeited to the state and shall be disposed of pursuant to KRS 237.090.

KRS 237.090 Disposition of forfeited firearm or ammunition

Any firearm or ammunition forfeited pursuant to KRS 237.060 to 237.090 shall, upon order of a court of competent jurisdiction, be disposed of or retained as provided in KRS 500.090.

KRS 237.095 Persons barred by federal law from purchase of firearms – Duty to notify courts and law enforcement agencies of purchase or attempt to purchase – Protocol for providing notice – Duty to notify petitioner – Immunity from liability

- (1) Upon receiving notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, any agency with the responsibility of entering domestic violence records into the Law Information Network of Kentucky shall notify:
 - (a) The court in the jurisdiction where the domestic violence order was issued under KRS 403.750; and
 - (b) The law enforcement agencies, as designated by the Kentucky State Police, that have jurisdiction in the county where the domestic violence order was issued and in the county of the victim's residence if different from the county where the domestic violence order was issued.

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- (3) When a designated law enforcement agency for the county where the domestic violence order was issued or where the victim resides receives notice under subsection (1)(b) of this section, that agency shall make reasonable efforts to ensure that the petitioner who obtained the domestic violence order is notified that the respondent has purchased or attempted to purchase a firearm.
- (4) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities.
- (5) This section shall apply only to domestic violence orders issued, or reissued, on or after July 14, 2000.

KRS 237.106 Right of employees and other persons to possess firearms in vehicle – Employer liable for denying right - Exceptions

- (1) No person, including but not limited to an employer, who is the owner, lessee, or occupant of real property shall prohibit any person who is legally entitled to possess a firearm from possessing a firearm, part of a firearm, ammunition, or ammunition component in a vehicle on the property.
- (2) A person, including but not limited to an employer, who owns, leases, or otherwise occupies real property may prevent a person who is prohibited by state or federal law from possessing a firearm or ammunition from possessing a firearm or ammunition on the property.
- (3) A firearm may be removed from the vehicle or handled in the case of self-defense, defense of another, defense of property, or as authorized by the owner, lessee, or occupant of the property.
- (4) An employer that fires, disciplines, demotes, or otherwise punishes an employee who is lawfully exercising a right guaranteed by this section, and who is engaging in conduct in compliance with this statute shall be liable in civil damages. An employee may seek and the court shall grant an injunction against an employer who is violating the provisions of this section when it is found that the employee is in compliance with the provisions of this section.
- (5) The provisions of this section shall not apply to any real property:
 - (a) Owned, leased, or occupied by the United States government upon which the possession or carrying of firearms is prohibited or controlled;
 - (b) Of a detention facility as defined in KRS 520.010; or
 - (c) Where a section of the Kentucky Revised Statutes specifically prohibits possession or carrying of firearms on the property.

KRS 237.110 License to carry concealed deadly weapon -- Criteria -- Training – Paper or electronic application – Issuance and denial of licenses – Automated listing of license holders - Suspension or revocation -- Renewal -- Prohibitions -- Reciprocity -- Reports – Requirements for training classes.

- (1) The Department of State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
- (2) An original or renewal license issued pursuant to this section shall:
 - (a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth.
 - (b) Unless revoked or suspended as provided by law, be valid for a period of five (5) years from the date of issuance;
 - (c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and
 - (d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.

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- (10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available to law enforcement agencies. Information on

applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information to any requester not entitled to it by law.

(11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. ,

(12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may , , obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost, stolen, or destroyed.

(13)(a) The commissioner of the Department of Kentucky State Police, or his designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.

(b) The commissioner of the Department of Kentucky State Police, or his designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.

(c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his designee in writing, shall:

1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or
2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.

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(h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.

(i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.

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(k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

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(15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.

(16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

- (a) Any police station or sheriff's office;
- (b) Any detention facility, prison, or jail;

- (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
 - (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;
 - (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
 - (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
 - (g) An area of an airport to which access is controlled by the inspection of persons and property; or
 - (h) Any place where the carrying of firearms is prohibited by federal law.
- (17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice and Public Safety Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

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- (20)(a) A person who is not a resident of Kentucky and who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

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KRS 237.115 Construction of KRS 237.110 – Prohibition by local government units of carrying concealed deadly weapons in governmental buildings – Restriction on criminal penalties

- (1) Nothing contained in KRS 237.110 shall be construed to limit, restrict, or prohibit in any manner the right of a college, university, or any postsecondary education facility, including technical schools and community colleges, to control the possession of deadly weapons on any property owned or controlled by them or the right of a unit of state, city, county, urban- county, or charter county government to prohibit the carrying of concealed deadly weapons by licensees in that portion of a building actually owned, leased, or occupied by that unit of government.
- (2) The legislative body of a state, city, county, or urban-county government may, by statute, administrative regulation, or ordinance, prohibit or limit the carrying of concealed deadly weapons by licensees in that portion of a building owned, leased, or controlled by that unit of government. That portion of a building in which the carrying of concealed deadly weapons is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute or ordinance shall exempt any building used for public housing by private persons, highway rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of deadly weapons. The statute, administrative regulation, or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute or ordinance may be denied entrance to the building, ordered to leave the building, and if employees of the unit of government, be subject to employee disciplinary measures for violation of the provisions of the statute or ordinance. The provisions of this section shall not be deemed to be a violation of KRS 65.870 if the requirements of this section are followed. The provisions of this section shall not apply to any other unit of government.
- (3) Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried.

KRS 237.137 Concealed carry authority for off-duty and certified retired peace officers.

Off-duty peace officers authorized to do so by the government employing the officer and retired peace officers certified under KRS 237.138 to 237.142 may carry concealed firearms on or about their persons at all times and at any location within the Commonwealth where an on-duty peace officer is permitted to carry firearms.

KRS 237.990 Penalties

- (1) Any person who violates any of the provisions of KRS 237.030 to 237.050 shall be guilty of a Class D felony.
- (2) Any person who violates any of the provisions of KRS 237.030 to 237.050, and in so doing uses any destructive device or booby trap device to avoid detection by law enforcement or other government personnel or to avoid theft or detection by any other person, of any controlled substance as set forth in KRS Chapter 218A and held in violation of KRS 218A.140, shall be guilty of a Class C felony.

KRS CHAPTER 244
ALCOHOLIC BEVERAGES;
PROHIBITIONS, RESTRICTIONS, AND REGULATIONS
(Selected Sections)

ALCOHOLIC BEVERAGES GENERALLY

KRS 244.080 Retail sales to certain persons prohibited – Affirmative defense in prosecution for selling to a minor

Penalty: KRS 244.990(1)

A retail licensee, or the licensee's agent, servant, or employee shall not sell, give away, or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away, possessed by, or delivered to:

- (1) A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.
- (2) A person actually or apparently under the influence of alcoholic beverages.
- (3) Anyone known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.
- (4) Anyone known to the seller or server to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or anyone known to the seller or server to have been convicted of a felony.

KRS 244.085 Minors not to possess or purchase liquor nor to misrepresent age – Use of fraudulent identification – Prohibition against minors remaining on premises where alcoholic beverages sold

Penalty: KRS 244.990(4)

5 Penalty: KRS 244.990(5)

- (1) As used in KRS 244.083 and this section: "**Premises**" has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.
- (2) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
- (3) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.
- (4) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.
- (5) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.
- (6) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:
 - (a) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, small farm winery,

- distillery or brewery or winery tour, convenience store, grocery store, drug store, or similar establishment;
- (b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises; or
 - (c) Written approval has been granted by the department to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to, weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state administrator shall approve or deny the request in writing; or
 - (d) The usual and customary business of the establishment is an entertainment facility where prebooked concerts are held. For the purpose of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts. During the times minors are on the premises under this paragraph, the licensee shall:
 - 1. Maintain the responsibility of all ticket sales;
 - 2. Sell the concert tickets directly to the patron or have a contractual agreement with a vendor or promoter to sell the concert tickets for the licensee;
 - 3. Maintain records of all gross concert ticket sales. The concert tickets shall have the name of a band or performer as well as the date of the concert;
 - 4. Permit minors to be in the area where the concert is taking place only during the time of the concert; and
 - 5. Prohibit minors on the premises until thirty (30) minutes prior to the concert and prohibit minors from remaining on the premises more than thirty (30) minutes after the concert performance has ended.
 - (7) Except as provided in subsection (6) of this section, a licensee or the licensee's agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.
 - (8) Except as provided in subsection (6) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.
 - (9) A violation of subsections (2), (3), (4), (5) or (8) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) years and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

KRS 244.125 Prohibition against possession of loaded firearm in room where alcoholic beverages are being sold by the drink

Penalty: KRS 244.990(6)

- (1) Except as provided in subsection (3) of this section, no person shall be in possession of a loaded, as defined in KRS 237.060, firearm while actually within the room where alcoholic beverages are being sold by the drink of a building on premises licensed to sell distilled spirits and wine at retail by the drink for consumption on the licensed premises pursuant to KRS Chapter 243.
- (2) This section shall not apply to the owner manager, or employee of licensed premises, law enforcement officers, or special local peace officers commissioned pursuant to KRS 61.360.
- (3) This section shall not apply to a bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and which receives less than fifty percent (50%) of its gross annual food and beverage income from the dining facilities by the sale of alcohol.
- (4) Nothing in this section shall be construed as permitting the carrying of a concealed deadly weapon in violation of KRS 527.020.
- (5) Any firearm possessed in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to KRS 237.090.

KRS 244.990 Penalties

- (1) Any person who, by himself or herself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association, or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.
- (2) Any person who violates KRS 244.170 shall, upon the first conviction, be guilty of a Class A misdemeanor. Upon a second conviction he or she shall be guilty of a Class D felony. Upon the third and each subsequent conviction, he or she shall be guilty of a Class C felony.
- (3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be guilty of a violation.
- (4) Except as provided in subsection (7) or this section, any person, firm, or corporation violating any provision of KRS 244.083 and 244.085 shall be guilty of a violation and each violation shall constitute a separate offense.
- (5) Except as provided in subsection (7) or this section, any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be guilty of a violation, and for each subsequent offense shall be guilty of a Class A misdemeanor.
- (6) Any person who violates KRS 244.125 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (7) For any person under the age of eighteen (18) years, a violation of KRS 244.085(2), (3), (4), (5) or (8) shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

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