

**243.540 Scope of section -- Disposition of stock upon revocation, surrender, court disposition, or nonrenewal of license -- Disposition upon bankruptcy -- Disposal of alcoholic beverages by secured creditor or landlord -- Administrative regulations.**

- (1) The provisions of this section shall apply to any licensee who is unable to continue in business at the licensed premises because of:
  - (a) An act of God;
  - (b) A casualty;
  - (c) An acquisition by a federal, state, city, or other governmental agency under the power of eminent domain granted to the government or agency;
  - (d) A voluntary or involuntary acquisition by any corporation or other business entity recognized by law through the power of eminent domain;
  - (e) A loss of lease because the landlord fails to renew an existing lease;
  - (f) Court action;
  - (g) Default under a security agreement;
  - (h) Default under a lease; or
  - (i) Other verifiable business reason.
- (2) If a license issued by the department has been revoked, the former licensee may, under the supervision of the state administrator, dispose of and transfer the former licensee's stock to another licensee if the disposition is completed within ninety (90) days and the licensee is a distiller, rectifier, winery, or brewer. The disposition shall be completed within thirty (30) days if the licensee is a wholesaler or distributor or within twenty (20) days if the licensee is a retailer.
- (3) A retail licensee in good standing with the department who voluntarily ceases to operate the licensed business for any reason other than revocation by the board or a court order shall dispose of all alcoholic beverage inventory within thirty (30) days of the event. The following requirements shall apply to the disposition of the licensee's inventory:
  - (a) If the premises is still open to the public and the licensee has not yet surrendered the license, the licensee shall sell alcoholic beverages only to the public and shall not sell below costs;
  - (b) If a licensee has terminated the licensed business, the licensee shall submit a written request for approval from the state administrator within ten (10) days in advance of the sale to dispose of the licensee's remaining inventory. The request shall identify the retailer who is purchasing the inventory, the proposed date of the sale, and the quantity, types, and brands of alcohol to be sold; and
  - (c) If a licensee has more than one (1) licensed retail premises and closes one (1) or more retail premises and seeks to transfer the inventory to another licensed retail premises the licensee owns, the licensee shall submit a request in writing to the state administrator at least ten (10) days before the inventory is transferred. The request shall identify the premises to which the alcohol is being transferred, the proposed date of the transfer, and the quantity, types, and brands of alcohol to be sold.
- (4) If a licensee files for bankruptcy or is directed by a court to dispose of inventory

to satisfy a lien or judgment, the inventory may be sold only to a licensee holding any license that authorizes the possession and sale of those alcoholic beverages. The bankrupt licensee or the licensee subject to the court order shall notify the department of the sale and shall attach a copy of the court order or the judgment directing the sale and a list of the quantity, types, and brands of alcohol to be sold, but if the licensee fails to do so, the notification may be made by the bankruptcy trustee, the lienholder, or the judgment creditor. Any licensee who purchases the inventory shall notify the department within five (5) days after the transfer of the specific inventory sold.

- (5) A secured creditor or landlord that is in possession, custody, or control of any alcoholic beverages owned by a licensee may dispose of those alcoholic beverages in the following manner:
  - (a) The secured creditor or landlord shall submit a written request for approval from the state administrator, within twenty (20) days in advance of the sale or destruction of the licensee's remaining inventory. The request shall identify the:
    1. Licensee who is purchasing the inventory or the business to destroy the inventory;
    2. Proposed date of the sale or destruction; and
    3. Quantity, types, and brands of alcohol to be sold or destroyed;
  - (b) The proposed transferee or transferees may be any person or persons holding any license that authorizes the possession and sale of those alcoholic beverages, or a business authorized to dispose of alcoholic beverages;
  - (c) A copy of the written request shall be mailed by the department to the licensee's registered agent or last known address on file with the department by certified mail. Within ten (10) days after the department's mailing of this request, the licensee shall file with the department and applicant any objection the licensee has to the request, or be permanently barred from objecting; and
  - (d) If a sale is approved, the licensee who purchases the inventory shall notify the department within five (5) days after the transfer of that specific inventory.
- (6) The board may promulgate administrative regulations for additional means for the transfer or disposal of alcoholic beverage inventory.

**Effective:** June 29, 2017

**History:** Amended 2017 Ky. Acts ch. 62, sec. 78, effective June 29, 2017. -- Amended 2013 Ky. Acts ch. 121, sec. 77, effective June 25, 2013. -- Amended 2010 Ky. Acts ch. 24, sec. 581, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 435, sec. 14, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 522, sec. 14, effective July 15, 1998. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2554b-144.