



## Types of Local Option Elections to Permit Retail Alcohol Sales



### Types of Local Option Elections

- Wet Election. KRS 242.030-.050 , KRS 242.125. All Counties and Cities.
- Limited Restaurant Moist Elections. KRS 242.1244. All Counties and Cities.
- Golf Course Moist Election. KRS 242.123. Precinct.
- Small Farm Moist Winery. KRS 242.124. Precinct.
- Sunday Sales at Small Farm Winery. 242.1241. Precinct.



## Types of Local Option Elections

- Qualified Historic Site Moist Election. KRS 242.1242. Precinct.
- Horse Racetrack Moist Election. KRS 242.1238. Precinct.
- State Park Moist Election. KRS 242.022. Precinct.
- Cities with 20,000+ Residents Moist Election. KRS 242.1292. Precinct. ("Ashland bill").
- Distillery Moist Election. KRS 242.1243. Precinct. (until July 15, 2019).



## Petition for Local Option Elections KRS 242.020

- The petition must be signed by a number of registered voters in the "territory" equal to twenty-five percent (25%) of the votes cast in last preceding general election. KRS 242.020 (1).
- "Territory" means a county, city, district, or precinct. KRS 241.010.
- Voters signing a petition must include their name, residence address, date of birth, and the date that they signed petition. KRS 242.020(2).
- The petition can only be circulated for six (6) months prior to its filing. KRS 242.020.
- "Petition" may consist of several different units, as long as they are all filed together at the same time. Rodgers v. Campbell, 101 S.W.2d 937 (Ky. 1937)(46 different units).



## **Petition for Local Option Election**

- The statutes authorizing the different types of local option elections state how the petitions should be worded for each different type of election.
- Example: KRS 242.020(4) lists petition wording for full wet election.
- KRS 242.020(6) provides that substantial compliance with the wording designated under this chapter for a particular type of petition is sufficient to validate the actual wording of the petition.



## **Petition for Local Option Election Filing and Calling of Election**

- Petition for local option election is filed with the county clerk. KRS 242.020(1).
- The county clerk notifies the county judge executive if petition qualifies. KRS 242.020(5).
- The county judge executive makes an order on the order book of the court directing an election to be held in the territory. KRS 242.020(5).



## Date of Local Option Election

(New Info about primary and general election date)



## Frequency of Local Option Elections

- A local option election cannot be held in same territory more than once every three (3) years. KRS 242.030(5).
- A city and county are not the same territory. KRS 241.010(56); KRS 242.125.
- If a county has an election, a qualified city within the county could have its own separate election prior to expiration of three (3) years.



## Local Option Election Rules

- The general election laws, including penalties for violations, apply to local option elections, except where KRS Chapter 242 is inconsistent . KRS 242.060(1).
- If election is on a day other than a primary or general election day, costs of elections are borne by group presenting petition. KRS 242.060.
- Precinct election officers appointed for a primary and a regular election under KRS 117.045 serve as precinct election officers in local option elections.



## Effective Date of Wet/Moist Election Results

- KRS 242.200 provides that the results of the election become effective 60 days after the election is certified.
- If the measure passes, the county or city becomes wet/moist after 60 days.
- County or city needs to start the ordinance process immediately after the local option election so local licenses and fees are in place before it becomes wet/moist.



## Annexation/Merger

- If a city annexes county territory or part of one precinct into a different precinct, the annexed territory assumes the same local option status as the local option status of the annexing city precinct. KRS 242.190(2); OAG 81-399, OAG 82-153.
- However, if part of a county precinct is merged or annexed into a different county precinct, it retains its status irrespective of the status of the annexing precinct. OAG 85-7 (citing Rich-Hills Catering Co. v. Slattery, 448 S.W.2d 379 (Ky. 1969); OAG 77-10.



## Elections to Become Fully Wet

- ALL counties and cities can have local option elections to become fully wet. See, KRS 242.020- .050; KRS 242.125.



## Full Wet Petition and Ballot Questions

### Petition Question

The petition should read, **"We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (name of County or City)?'".?**"  
See, KRS 242.020 and KRS 242.125 (2).

### Ballot Question

The ballot should read, **"Are you in favor of the sale of alcoholic beverages in (Name of County or City)?"** See, KRS 242.050 and KRS 242.125 (2).



## Precinct Elections After a City or County Election

- If a county votes to become fully wet, precincts within the county are permitted to have their own separate elections to become dry again. Campbell v. Brewer, 884 S.W.2d 638 (Ky. 1994).
- If a city votes to become fully wet, precincts within the city are permitted to have their own separate elections to become dry again. KRS 242.125.
- If a precinct votes to become dry separately from the county/city, it can later vote to return to wet status. KRS 242.125.



## **Precinct Elections After a City or County Election**

- If the county or city votes dry, a precinct CANNOT have a separate election to become wet separately from the county or city. *Howard v. Salyer*, 695 S.W.2d 420 (Ky. 1985).



## **Types of Alcoholic Beverage Licenses Available After a Successful Wet Election**

- All types of STATE alcoholic beverage licenses listed in KRS 243.030 and KRS 243.040 are available.
- All types of COUNTY alcoholic beverage licenses listed in KRS 243.060 are available.
- All types of CITY alcoholic beverage licenses listed in KRS 243.070 are available.





## Main Retail License Types after Fully Wet Election

- Quota Retail Package license(QP/LP)
- Non-Quota Retail Malt Beverage Package license (NQ)
- Quota Retail Drink license (QD/LD)
- Non-Quota Retail Deink licenses (NQ1, NQ2, NQ3, NQ4)
- Temporary Drink licenses (T)



## “Moist” Elections

“Moist” means a territory in which a majority of the electorate voted to permit limited alcohol sales by only a specific business type under a special limited local option elections. KRS 241.010(41)

Limited Restaurant Elections. KRS 242.1244. County/City.

Golf Course Election. KRS 242.123. Precinct.

Small Farm Winery. KRS 242.124. Precinct.

Qualified Historic Site Election. KRS 242.1242. Precinct.

Horse Racetrack Election. KRS 242.1238. Precinct.

State Park Election. KRS 242.022. Precinct.

Distillery Election. KRS 1243. Precinct

A moist county or moist qualified city, can have a later local option election to become fully wet. KRS 242.125. If the wet election passes, then the city or county is BOTH wet and moist.



## Moist Elections- Limited Restaurants (LR)

- All counties and cities can have a Limited Restaurant (LR) local option election. Dalton v. Fortner, 125 S.W.3d 316 (Ky. App. 2003).
- There are two (2) different types of (LR) local option elections:
  - LR (100) Election. KRS 242.1244(2)
  - LR (50) Election. KRS 242.1244(1)

### Differences:

- Seating requirement: 100 versus 50 seating for restaurant.
- LR 50 does not permit restaurant to have a bar area



## Moist Elections- Limited Restaurant (LR)

### Differences between LR 100 and LR 50 elections:

- 100 versus 50 seating requirement for restaurant.
- LR 50 only permits alcohol to be served with meal (no meal, no alcohol).
- LR 50 does not permit restaurant to have a bar area.



## Petition and Ballot Questions for LR 50 Elections

### Petition Question

The petition should read: "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?'".

### Ballot Question

The ballot should read: "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?"



## Petition and Ballot Questions for LR 100 Elections

### Petition Question

The petition should read: "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?'".

### Ballot Question

The ballot should read: "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?"



## Limited Restaurant (LR) License

- A limited restaurant (LR) license can be issued to a qualifying restaurant in an LR territory. Must maintain 70% food sales.
- A LR license permits distilled spirits, wine, and beer sales by the drink for consumption ON the premises of a qualifying restaurant.
- LR license does not permit package alcohol sales for consumption off the premises.
- A catering license is only other type of license permitted in a LR county or city. See, KRS 243.033.



## Moist Precinct Elections

- A county or city precinct cannot have its own election to become wet but precincts can have several types of moist elections.
- KRS 242.124 provides for a precinct election to permit alcohol sales at small farm wineries in the precinct.
- KRS 242.123 provides for a precinct election to permit alcohol sales at golf courses in the precinct.
- KRS 242.1238 provides for a precinct election to permit alcohol sales at a horse racetrack in the precinct.
- KRS 242.1242 provides for a precinct elections to permit alcohol sales at qualified historic sites in the precinct.
- KRS 242.1243 provides for a precinct election to permit alcohol sales at a distillery in the precinct.
- No other license types than those approved by moist election are available.



## Moist Elections- Small Farm Winery

"Small farm winery" means a winery producing wines, in an amount not to exceed one hundred thousand (100,000) gallons in a year. See, KRS 241.010(58) .

### Petition Question

The petition should read: "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverage sales at a small farm winery or wineries located in (name of precinct)?'" KRS 242.124.

### Ballot Question

The ballot should read: "Are you in favor of the sale of of alcoholic beverage sales at a small farm winery or wineries located in (name of precinct)?" KRS 242.124.



## Result of Moist Small Farm Winery Election

If election passes, a small farm winery license may be issued in precinct. KRS 243.155.

Small farm winery license authorizes the winery to sell by the drink or by the package, wine produced by the winery or produced by another small farm winery.

The small farm winery license holder may also hold an NQ2 retail drink license and an NQ4 retail malt beverage drink license if the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed, and breakfast, conference center, or any similar business enterprise designed to promote viticulture, enology, and tourism.



## Moist Elections- Qualified Historic Sites

"Qualified historic site" means:

- (a) A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places.
- (b) Site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served.
- (c) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales.
- (d) A not-for-profit or nonprofit facility listed on the National Register of Historic Places. KRS 241.010(47).



## Petition and Ballot Questions for Qualified Historic Site Election

### Petition Question

The petition should read: "We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in (name of precinct)?'". KRS 242.1242.

### Ballot Question

The ballot should read: "Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in the (name of precinct)? "

### Election Result:

If election passes, only qualified historic site license may be issued in precinct.



## Result of Moist Qualified Historic Site Election

If election passes, a qualified historic site license may be issued in precinct. KRS 243.243.042.

A Qualified Historic Site license authorizes the sale of liquor, wine and beer by the drink for consumption on the premises.

A Qualified Historic Site license does not authorize the sale of liquor, wine and beer by the package for consumption OFF the licensed premises.



## Moist Elections- Golf Course

"Golf Course" must be a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course. KRS 242.123(1).

If election passes, only a golf course license may be issued in precinct.

A golf course license authorizes the sale of liquor, wine, and beer by the drink for consumption ON the golf course. It does not authorize package sales for consumption OFF the premises.



## **Petition and Ballot Question for Golf Course Elections**

### **Petition Question**

The petition should read: "We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at a golf course or courses in the (name of precinct)?'". KRS 242.123.

### **Ballot Question**

The ballot should read: "Are you in favor of the sale of alcoholic beverages by the drink at a golf course or courses in the (name of precinct)"



## **Moist Elections- Horse Racetrack**

A precinct election may be held in any precinct containing a horse racetrack licensed under KRS 230.300. County must contain a third or fourth class city.

If election passes, an NQ1 license may issued to the horse racetrack.

An NQ1 license authorizes the sale of liquor, wine, and beer by the drink for consumption ON the horse track premises. License does not authorize the sales by the package for consumption OFF the premises.





## Petition and Ballot Question for Horse Racetrack Elections

### Petition Question

The petition should read: “We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)?’” KRS 242.1238.

### Ballot Question

The ballot should read: “Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)?”.



## Moist Elections- State Parks

“State Park“ means:

A state park that has a:

- (a) Nine (9) or eighteen (18) hole golf course; or
- (b) Full-service lodge and dining room. KRS 241.010(59).



## **Petition and Ballot Questions for Moist State Park Election**

### **Petition Question**

The petition should read: ""We the undersigned registered voters hereby petition for an election under KRS 242.022 on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at the state park located in (name of precinct)?'". KRS 242.022.

### **Ballot Question**

The ballot should read: "Are you in favor of the sale of alcoholic beverages by the drink at the state park located in the (name of precinct)? "



## **Result of Moist State Park Election**

If election passes, an NQ1 retail drink license may be issued to a qualifying state park in the precinct. KRS 243.082.

An NQ1 retail drink license authorizes the sale of liquor, wine and beer by the drink for consumption on the premises.

An NQ1 retail drink license does not authorize the sale of liquor, wine and beer by the package for consumption OFF the state park.



## **Moist Elections- Distillery**

A “Distillery” means:

Any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. KRS 241.010(26).



## **Petition and Ballot Questions for Moist Distillery Election**

### **Petition Question**

The petition should read: “We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages at distilleries located in (name of precinct)?'”. KRS 242.1243.

### **Ballot Question**

The ballot should read: “Are you in favor of the sale of alcoholic beverages at distilleries located in the (name of precinct)? “



## Result of Moist Distillery Election

If election passes, a licensed distillery in the precinct could have souvenir package sales. KRS 243.0305.

The distillery could also obtain a NQ2 retail drink license to authorize the sale of distilled spirits, wine and beer by the drink for consumption on the distillery premises. KRS 243.0305.



## Additional Information

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