

244.604 Definitions for KRS 244.602 to 244.606.

As used in KRS 244.602 to 244.606, unless the context requires otherwise:

- (1) "Distributor" means any person who distributes or sells at wholesale malt beverages for the purpose of being sold at retail.
- (2) "Existing distributor" means a distributor who distributes a particular brand or brands of malt beverage at the time a successor brewer or importer acquires rights to manufacture or import the particular brand or brands of malt beverage.
- (3) "Good cause" means failure by a distributor to comply with the provisions of an agreement as delineated therein, which provisions are not unconscionable. Good cause shall not include:
 - (a) The failure or refusal of the distributor to engage in any trade practice or activity which would violate federal or state law;
 - (b) The failure or refusal of the distributor to take any action which would be contrary to these provisions;
 - (c) The sale or purchase of a brewer or importer, except as provided under KRS 244.606(2); and
 - (d) The implementation by a brewer or importer of a national or regional policy of consolidation unless the policy:
 1. Is reasonable, nondiscriminatory, and essential;
 2. Results in a contemporaneous reduction in the number of a brewer's or importer's distributors not only for a brand in this state, but also for that brand in contiguous states or in a majority of the state in which the brewer or importer sells that brand; and
 3. Was previously disclosed in writing and in reasonable detail by the brewer or importer implementing the policy to all affected distributors at least one hundred eighty (180) days prior to the implementation of the policy.

The term "affected distributor" means distributors who may reasonably be expected to experience a loss or diminishment of a right to distribute a brand, in whole or in part as a consequence of a proposed consolidation policy.

- (4) "Good faith" means honesty in fact and the observance of reasonable commercial standard of fair dealing in the trade, as defined under KRS Chapter 355.
- (5) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, exceeding five-tenths of one percent (0.5%) alcohol by volume.
- (6) "Successor" means a brewer or importer that acquires the right to manufacture or import a particular brand or brands of malt beverage.
- (7) "Successor's designee" means one (1) or more distributors designated by a successor to replace the existing distributor, for all or part of the existing distributor's territory, in the distribution of a particular brand or brands of malt beverage.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 142, sec. 3, effective June 20, 2005. -- Created 2004 Ky. Acts ch. 120, sec. 2, effective July 13, 2004.