

CHAPTER 39

(HB 415)

AN ACT relating to alcohol regulatory fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 243.075 is amended to read as follows:

- (1) (a) Notwithstanding the provisions of KRS **243.060 and** 243.070, in any city of the third or fourth class **in which the discontinuance of prohibition is effective by virtue of a local option**~~[that is wet or moist through an]~~ election held under KRS **Chapter 242**~~[242.125]~~, the governing body of the city and the governing body of the county containing a city of the third or fourth class is authorized to impose a regulatory license fee upon the gross receipts **of the sale of alcoholic beverages** of each establishment therein licensed to sell alcoholic beverages.
 - (b) The regulatory license fee may be levied at the beginning of each budget period at a percentage rate as shall be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county.
 - (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:
 - 1.~~[(a)]~~ A credit against a regulatory license fee in a city shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070; and
 - 2.~~[(b)]~~ In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (2) (a) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS **243.060 and** 243.070, a city or county that **is moist through a local option election held under KRS 242.1244, or that issues licenses**~~[qualifies]~~ under KRS 243.072 may by ordinance impose a regulatory license fee upon the gross receipts **of the sale of alcoholic beverages** of each establishment located therein and licensed to sell distilled spirits, wine, or malt beverages by the drink for consumption on the premises.
 - (b) The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses.
 - (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to **KRS 243.060 or** KRS 243.070.
 - (d) **In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.**
- (3) (a) **For any election held after the effective date of this Act, any new fee authorized under subsection (1) or (2) of this section shall be enacted by the city or county no later than two (2) years from the date of the local option election held under KRS Chapter 242.**
 - (b) **For any new ordinance enacted pursuant to KRS 243.072 after the effective date of this Act, the fee authorized by subsection (2) of this section shall be enacted within two (2) years of the date of the enactment of an ordinance pursuant to KRS 243.072.**
- (4) **After the effective date of this Act, any fee authorized under subsections (1) and (2) of this section shall be established at a rate that will generate revenue that does not exceed the total of the reasonable expenses actually incurred by the city or county in the immediately previous fiscal year for the additional cost, as demonstrated by reasonable evidence, of:**
 - (a) **Policing;**

(b) *Regulation; and*

(c) *Administration;*

as a result of the sale of alcoholic beverages within the city or county.

- (5) (a) *The Kentucky Department of Alcoholic Beverage Control shall promulgate administrative regulations which set forth the process by which a city or county, in the first year following the discontinuance of prohibition, may estimate any additional policing, regulation, and administrative expenses by a city or county directly and solely related to the discontinuance of prohibition. This subsection shall apply to any discontinuance of prohibition occurring after the promulgation of regulations required by this subsection.*
- (b) *After the first year, the regulatory license fee for each subsequent year shall conform to the requirements of subsection (4) of this section.*
- (6) *The revenue received from the imposition of the regulatory license fee authorized under subsections (1) and (2) of this section shall be:*
- (a) *Deposited into a segregated fund of the city or county;*
- (b) *Spent only in accordance with the requirements of subsections (1) and (2) of this section; and*
- (c) *Audited under an annual audit performed pursuant to KRS 43.070, 64.810, and 91A.040.*
- (7) *Any city or county found by a court to have violated the provisions of this section shall:*
- (a) *Provide a refund as determined by the court to any licensee that has been harmed in an amount equal to its prorated portion of the excess revenues collected by the city or county that are directly attributable to a violation occurring after the effective date of this Act;*
- (b) *Be responsible for the payment of the reasonable attorney fees directly incurred by a party to a litigation in an amount ordered by the court upon its finding of an intentional and willful violation of this section by a city or county occurring after the effective date of this Act; and*
- (c) *Upon the finding by a court of a second intentional and willful violation of the provisions of this section, lose the ability to impose the regulatory fee provided by this section for a period of five (5) years and, upon the finding by a court of a third intentional and willful violation, forfeit the right to impose the regulatory license fee authorized by this section.*
- (8) *Any party bringing suit against a city or county for an alleged violation of this section occurring after the effective date of this Act shall be responsible for the payment of the reasonable attorney fees of the city or county in an amount determined by the court upon a finding by the court that the city or county did not violate this section.*

Signed by Governor April 7, 2014.