



distillery is located. The election would allow the sale of alcoholic beverages at distilleries located in the precinct.

Section 3 amends KRS 242.020 to require that those who intend to circulate a local option election petition shall file with the county clerk, before the petition is presented for signatures, the intent to circulate the petition. This group of petitioners shall post bond with the Circuit Court to cover all costs of the election if the election is to be held on any day other than a primary or regular election date. The cost of the election shall be established by the county judge/executive. Notwithstanding KRS 242.060, if the date of the local option election is stated in the petition as provided in Section 5 for a date other than a primary or regular election day, all election costs for the local option election shall be borne by the group of citizens who circulated the petition.

Under current law (KRS 242.030), a local option election shall not be held on a primary or general election day. Section 5 amends KRS 242.030 to permit the holding of a local option election on a primary or general election day. The date of the local option election may be stated in the petition for election. If the date is not stated in the petition, it shall be designated by the county judge/executive.

Section 6 amends KRS 242.1241 to require that a local option election for Sunday alcoholic beverage sales at a small farm winery, located in a wet or moist territory, shall be conducted in the same manner as Section 3.

Section 9 creates a new section of KRS Chapter 243 to permit the issuance of an “authorized public consumption” (“APC”) license in a wet territory to an applicant operating as, or in, a commercial quadricycle business. The applicant shall possess a permit issued by the local government that has jurisdiction to grant rights to the applicant to operate its business on public roadways and highways within a specific designated operational area as its premises. If the local government chooses to issue permits, that local government shall adopt an ordinance for operation of a commercial quadricycle business that shall include local licensing requirements and local inspection requirements.

Section 10 amends KRS 243.030 to establish state fees of \$2,580 per annum for a Class A rectifier’s license and \$825 per annum for a Class B rectifier’s license; \$830 per annum for a Class A NQ 3 license and \$310 per annum for a Class B NQ 3 license; \$110 per event for a Special temporary alcoholic beverage auction license, and \$250 per annum for an Authorized public consumption license.

Section 11 amends KRS 243.0305 to apply to any licensed Kentucky distiller that is located in wet territory or any precinct that has authorized the limited sale of alcoholic beverages at distilleries under Section 2. Section 11 further amends KRS 243.0305 to increase the permitted sale of souvenir packages from three liters per visitor per day to nine liters per visitor per day. Section 11 also establishes rules for distillery use of a sampling license or an NQ3 license. Lastly, Section 11 also excludes its sampling license privilege from Section 25.

Section 14 amends KRS 243.036 to permit a charitable organization to obtain a special temporary alcoholic beverage auction license. Section 14 also permits a distiller, rectifier, winery, small farm winery, brewer, microbrewery, wholesaler, distributor, or retailer to donate any of its products to a charitable organization possessing a special temporary alcoholic beverage auction license.

Under current law (KRS 243.060), the fiscal court of each county or a consolidated local government in which traffic in alcoholic beverages is not prohibited may impose license fees for the privilege of trafficking in alcoholic beverages. These licenses may be issued by the county or consolidated local government administrator. Section 15 amends KRS 243.060 to permit the fiscal court of each county or a consolidated local government to establish fees for Class A and Class B NQ 3 licenses. In a county containing a consolidated local government, a Class A licensee shall pay \$1,800 per annum. All other Class A licensees shall pay \$1,000 per annum. All Class B licensees shall pay \$300 per annum. Section 15 also amends KRS 243.060 to establish a maximum per annum APC license fee of \$250.

Under current law (KRS 243.070), the legislative body of any city or a consolidated local government may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. The fees set forth in the section are the maximum allowed.

Section 16 amends KRS 243.070 to permit the legislative body of any city or consolidated local government to establish fees of \$3,000 per annum for a Class A rectifier's license and \$960 per annum for a Class B rectifier's license. Also, Section 16 amends KRS 243.070 to permit the legislative body of any city or any consolidated local government to establish fees for Class A and Class B NQ 3 licenses. In a county containing a consolidated local government, a Class A licensee shall pay \$1,800 per annum. All other Class A licensees shall pay \$1,000 per annum. All Class B licensees shall pay \$300 per annum. Section 16 also establishes a special temporary alcoholic beverage auction license in the amount of \$200 per event and a per annum APC license fee of \$250.

Section 17 amends KRS 243.086 to designate a Class A NQ 3 license for a distiller and a Class B NQ3 license for a private club, dining car, or bed and breakfast.

Section 18 amends KRS 243.090 to require that most alcohol licenses issued by a city or county administrator shall expire on the same date as the corresponding state license.

Section 19 amends KRS 243.120 to create Class A and Class B Rectifier's licenses. In addition a distiller that is located in wet territory, or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under Section 2, may sell distilled spirits by the drink at retail to consumers in accordance with Section 11.

Section 21 amends KRS 243.155 to permit small farm wineries to manufacture brandy, as well as manufacture and sell fortified wine and other products. Please note that subsection (56) of Section 1 increases the permissible size of a small farm winery from

one that produces wines in an amount not to exceed 50,000 gallons per year to one that produces wines in an amount not to exceed 100,000 gallons per year.

Under current law (KRS 243.157), a microbrewery license authorizes the licensee to perform certain functions, including selling malt beverages on premises and to distributors. Section 22 amends the statute to raise the maximum permitted production of a microbrewery from 25,000 barrels to 50,000 barrels. Section 22 also permits microbreweries to sell malt beverages produced on premises at fairs, festivals, and other similar types of events located in wet territory.

Section 24 creates a new section of KRS Chapter 244 to establish a prohibition. No person shall possess, sell, offer for sale, or use any powdered or crystalline alcoholic beverage product.

Section 25 amends KRS 244.050 to permit the sale of samples of distilled spirits, wine, and malted beverages. Section 25 also limits its sampling license privilege to the requirements of Section 11.

Section 27 amends KRS 244.130 to permit a Kentucky distillery to provide free novelty items and free production by-products only to visitors who are 21 years of age or older.

Section 28 amends KRS 244.240 to permit discounts in the usual course of business if the same discounts are offered to all licensees holding the same license type buying similar quantities of alcoholic beverages. Section 29 repeals KRS 243.892 which prohibits discounts.

**The House Committee Substitute (HCS) is discussed below.**

**With one exception, Section 1 of the HCS is the same as Section 1 of the GA version. Section 1 (40) of the HCS expands the definition of “Moist” to include a territory in which a majority of the electorate voted to permit limited alcohol sales by one or a combination of special limited local option elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242, 242.1244, 242.1292, or Section 26 of the Act.**

**The reference to Section 26 is the new provision.**

**The HCS deletes Sections 3 through 8 of the GA version.**

**Section 2 of the HCS is identical to Section 9 of the GA version.**

**Section 3 of the HCS is an addition to the GA version. Any city or county that conducted an election under KRS 242.1244(2) prior to January 1, 2016, for by the drink sales of alcoholic beverages in restaurants and dining facilities seating 100 persons or more may elect to act under the section. If the legislative body of a city or county determines that an economic hardship exists and that expanded sales of alcoholic beverages by the drink could aid in economic development, then that**

**legislative body may adopt an ordinance that authorizes by the drink sales in restaurants and dining facilities seating 50 persons or more.**

**Section 4 of the HCS is identical to Section 10 of the GA version.**

**With one notable exception, Section 5 of the HCS is mostly identical to Section 11 of the GA version. Section 11 of the GA increases the amount of alcohol that may be sold to a visitor in a day from three liters to nine liters. The HCS increases the amount that may be sold from three liters to four and a half liters.**

**Section 6 of the HCS is mostly identical to Section 12 of the GA version. Section 6 deletes the language from the GA version that stated a caterer licensee may cater alcoholic beverages at a private party or special event at a nonfederally bonded portion of the licensed premises of a distillery.**

**Section 7 of the HCS is identical to Section 13 of the GA version.**

**Section 8 of the HCS is identical to Section 14 of the GA version.**

**With one exception, Section 9 of the HCS is identical to Section 15 of the GA version. Section 9 of the HCS deletes the GA increase in the fee for a NQ 3 license.**

**With one exception, Section 10 of the HCS is identical to Section 16 of the GA version. Section 10 of the HCS deletes the GA increase in the fee for a NQ 3 license.**

**With one exception, Section 11 of the HCS is identical to Section 17 of the GA version. Section 11 deletes references to Class A NQ 3 retail drink licenses and Class B retail drink licenses.**

**Section 12 of the HCS is identical to Section 18 of the GA version.**

**Section 13 of the HCS is identical to Section 19 of the GA version.**

**Section 14 of the HCS is an addition to the GA version. The section amends KRS 243.150 to permit a brewer to sell a malt beverage to a customer in a tap room or for off premises consumption.**

**Section 15 of the HCS is largely identical to Section 21 of the GA version. The HCS removes the language allowing small farm wineries to sell and transport unmarketable wine, pomace, or must produced on the premises of the small farm winery to licensed distillers. It also removes the references to brandy and fortified wine.**

**Section 16 of the HCS is nearly identical to Section 22 of the GA version. The HCS removes the language in the GA version allowing employees and agents of a**

**microbrewery to sample products produced by that microbrewery for purposes of education, quality control, and product development.**

**Sections 17 and 18 of the HCS are additions to the GA version. The sections amend KRS 244.290 and 244.480, respectively, to make a local ordinance limiting Election Day alcohol sales effective only if the ordinance was adopted after June 25, 2013.**

**Section 19 of the HCS is identical to Section 23 of the GA version.**

**Section 20 of the HCS adds to the GA version. The section amends KRS 243.884 to require a small farm winery producing over 50,000 gallons per year shall pay the wholesale tax.**

**Section 21 of the HCS is identical to Section 25 of the GA version.**

**Section 22 of the HCS is identical to Section 26 of the GA version.**

**Section 23 of the HCS is identical to Section 27 of the GA version.**

**Section 24 of the HCS is identical to Section 28 of the GA version.**

**Section 25 of the HCS is an addition to the GA version. Section 25 amends KRS 244.590 to permit a brewer or a distributor to furnish refrigerated coolers to malt beverage retailers.**

**With one exception, Section 26 is identical to Section 2 of the GA version. Section 2 of the GA version, to promote economic development and tourism, permits a local option election in a city or a county precinct where a distillery is located. The election would allow the sale of alcoholic beverages at distilleries located in the precinct. The one exception is that Section 26 of the HCS, unlike Section 2 of the GA, sunsets three years after the effective date of the Act.**

**Section 27 of the HCS is an addition to the GA version. Section 27 amends KRS 242.125 to permit a city of any size to determine its wet or dry status independent of its county's status.**

**Section 28 of the HCS is identical to Section 24 of the GA version.**

**Section 29 of the HCS is identical to Section 29 of the GA version.**

### **Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost**

**The fiscal impact of SB 11 HCS on local governments varies depending on which provisions are under consideration.**

**Several SB 11 HCS provisions promote a moderate increase in economic activity through tourism and other means.**

- Section 2 permits a commercial quadricycle business to obtain an APC license for the purpose of allowing that business to permit customers to drink alcoholic beverages while boarding and riding a quadricycle. This provision should promote the quadricycle business.
- Under certain circumstances, Section 3 permits a local government legislative body to adopt an ordinance that authorizes by the drink alcohol sales in restaurants and dining facilities that seat 50 persons or more rather than 100 persons or more.
- Section 5 permits any licensed Kentucky distiller that is located in wet territory or to expand sales at its retail outlet on premises. The section increases the size of souvenir alcohol packages that a distiller may sell to a visitor from 3 liters per day to 4.5 liters per day. The section also permits a distiller in a wet territory to hold an NQ 3 retail drink license. Lastly, any distiller with a sampling license may provide samples to visitors.
- Section 8 expands the right of charitable organizations to sell alcoholic beverages.
- Section 11 permits a bed and breakfast as well as a distiller to obtain a NQ3 retail drink license.
- Section 14 permits a brewer to sell a malt beverage to a customer in a tap room or for off premises consumption.
- Section 16 expands the permitted size of microbreweries from ones that sell no more than 25,000 barrels of malt beverages per year to ones that sell no more than 50,000 barrels per year. The provision also permits microbreweries to sell their products at fairs, festivals, and similar events.
- Sections 17 and 18 makes a local ordinance limiting Election Day alcohol sales effective only if the ordinance was adopted after June 25, 2103.
- Section 21 amends KRS 244.050 to permit the sale of samples of distilled spirits, wine, and malted beverages.
- Section 24 amends KRS 244.240 to permit discounts in the usual course of business if the same discounts are offered to all licensees holding the same license type buying similar quantities of alcoholic beverages.
- Section 26, to promote economic development and tourism, permits a local option election in a city or a county precinct where a distillery is located. The election would allow the sale of alcoholic beverages at distilleries located in the precinct. Section 26 sunsets three years after the effective date of the Act.
- Section 29 repeals KRS 243.892 which prohibits discounts.

**By promoting business activity and increased employment, SB 11 HCS will generate additional tax revenue for local governments through: Property Taxes, Income (Occupational) Taxes, Motor Vehicle and Operator Licensing Taxes, and Fees and Charges. While the amount of this additional tax revenue is indeterminable, it is expected to range from minimal to moderate.**

Sections 2 and 3 of the HCS provide for local governments to adopt ordinances under certain circumstances. **Minimal cost** will be associated with drafting and advertising an

ordinance under the provisions of KRS Chapter 424 and placing the ordinance on the local Fiscal Court docket for consideration.

**Sections 9 and 10 amend KRS 243.060 and KRS 243.070, respectively, to permit counties and cities to impose license fees for the privilege of trafficking in alcoholic beverages. Since these fees are used for covering the cost of issuing the license, education, and enforcement, there is no fiscal impact.**

Section 28 establishes a prohibition. No person shall possess, sell, offer for sale, or use any powdered or crystalline alcoholic beverage product. This crime is punished under KRS 244.990 as a Class B misdemeanor for a first offense and a Class A misdemeanor for the second and each subsequent offense. A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to one year. Misdemeanants are housed in one of Kentucky's 78 full service jails or five life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.92 per day. While the majority of misdemeanor defendants are granted bail, those who are not granted bail will also cost jails an average of \$31. per day. **Since it is anticipated that few individuals will violate Section 28, this section will impose a nil to minimal financial cost on local governments.**

**Data Source(s):** Department of Alcoholic Beverage Control; Cabinet for Economic Development; Kentucky County Clerk's Association; Harp Enterprises; Kentucky Annual Economic Report (2006); LRC staff

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