

1 AN ACT relating to licensing fees for the sale of alcoholic beverages.

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

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

- 4 (1) (a) A ~~qualified~~ city ***with a population of less than twenty thousand (20,000)***
5 ***based upon the most recent federal decennial census,*** or a county ***that does***
6 ***not contain***~~containing~~ a ~~qualified~~ city ***with a population equal to or***
7 ***greater than twenty thousand (20,000) based upon the most recent federal***
8 ***decennial census,*** that is wet through a local option election held under KRS
9 Chapter 242 is authorized to impose a regulatory license fee ***not to exceed five***
10 ***percent (5%)*** upon the gross receipts of the sale of alcoholic beverages of each
11 establishment located in the city or county licensed to sell alcoholic beverages.
- 12 (b) The regulatory license fee may be levied at the beginning of each budget
13 period at a percentage rate that is reasonably estimated to fully reimburse the
14 local government for the estimated costs of any additional policing,
15 regulatory, or administrative expenses related to the sale of alcoholic
16 beverages in the city and county.
- 17 (c) The regulatory license fee shall be in addition to any other taxes, fees, or
18 licenses permitted by law, except:
- 19 1. A credit against a regulatory license fee shall be allowed in an amount
20 equal to any licenses or fees imposed by the city or county pursuant to
21 KRS 243.060 or 243.070; and
- 22 2. In a county in which the city and county both levy a regulatory license
23 fee, the county license fee shall only be applicable outside the
24 jurisdictional boundaries of those cities which levy a license fee.
- 25 (2) (a) A city or county that is moist through a local option election held under KRS
26 242.1244 may by ordinance impose a regulatory license fee upon the gross
27 receipts of the sale of alcoholic beverages of each establishment located in the

1 city or county and licensed to sell alcoholic beverages by the drink for
2 consumption on the premises.

3 (b) The regulatory license fee may be levied annually at a rate that is reasonably
4 estimated to fully reimburse the city or county for the estimated costs for any
5 additional policing, regulatory, or administrative related expenses.

6 (c) The regulatory license fee shall be in addition to any other taxes, fees, or
7 licenses permitted by law, but a credit against the fee shall be allowed in an
8 amount equal to any licenses or fees imposed by the city or county pursuant to
9 KRS 243.060 or 243.070.

10 (d) In a county in which the city and county both levy a regulatory license fee, the
11 county license fee shall only be applicable outside the jurisdictional
12 boundaries of those cities which levy a license fee.

13 (3) For any election held after July 15, 2014, any new fee authorized under subsection
14 (1) or (2) of this section shall be enacted by the city or county no later than two (2)
15 years from the date of the local option election held under KRS Chapter 242.

16 (4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section
17 shall be established at a rate that will generate revenue that does not exceed the total
18 of the reasonable expenses actually incurred by the city or county in the
19 immediately previous fiscal year for the additional cost, as demonstrated by
20 reasonable evidence, of:

21 (a) Policing;

22 (b) Regulation; and

23 (c) Administration;

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

25 (5) (a) The Alcoholic Beverage Control Board shall promulgate administrative
26 regulations which set forth the process by which a city or county, in the first
27 year following the discontinuance of prohibition, may estimate any additional

1 policing, regulation, and administrative expenses by a city or county directly
2 and solely related to the discontinuance of prohibition. This subsection shall
3 apply to any discontinuance of prohibition occurring after the promulgation of
4 administrative regulations required by this subsection.

5 (b) After the first year, the regulatory license fee for each subsequent year shall
6 conform to the requirements of subsection (4) of this section.

7 (6) The revenue received from the imposition of the regulatory license fee authorized
8 under subsections (1) and (2) of this section shall be:

9 (a) Deposited into a segregated fund of the city or county;

10 (b) Spent only in accordance with the requirements of subsections (1) and (2) of
11 this section; and

12 (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810,
13 and 91A.040.

14 (7) Any city or county found by a court to have violated the provisions of this section
15 shall:

16 (a) Provide a refund as determined by the court to any licensee that has been
17 harmed in an amount equal to its prorated portion of the excess revenues
18 collected by the city or county that are directly attributable to a violation
19 occurring after July 15, 2014;

20 (b) Be responsible for the payment of the reasonable attorney fees directly
21 incurred by a party to a litigation in an amount ordered by the court upon its
22 finding of an intentional and willful violation of this section by a city or
23 county occurring after July 15, 2014; and

24 (c) Upon the finding by a court of a second intentional and willful violation of the
25 provisions of this section, lose the ability to impose the regulatory fee
26 provided by this section for a period of five (5) years and, upon the finding by
27 a court of a third intentional and willful violation, forfeit the right to impose

1 the regulatory license fee authorized by this section.

2 (8) Any party bringing suit against a city or county for an alleged violation of this
3 section occurring after July 15, 2014, shall be responsible for the payment of the
4 reasonable attorney fees of the city or county in an amount determined by the court
5 upon a finding by the court that the city or county did not violate this section.

6 (9) (a) Any city that does not meet the population requirements of subsection (1) of
7 this section, and any county that has a city exceeding the population
8 requirements of subsection (1) of this section, that imposed a regulatory
9 license fee pursuant to this section as of January 1, 2019, shall be deemed
10 to meet the requirements for doing so set out in this section and may
11 continue to impose the regulatory license fee previously established
12 pursuant to this section.

13 (b) Any city or county that is authorized to impose the regulatory license fee
14 under subsection (1) of this section, or under paragraph (a) of this
15 subsection, that imposed the regulatory license fee at a rate higher than five
16 percent (5%) prior to the effective date of this Act, may continue to impose
17 the regulatory license fee at a rate that exceeds five percent (5%). The rate
18 shall continue to be calculated annually pursuant to the requirements of
19 this section and shall not exceed the rate that was imposed by the city or
20 county on January 1, 2019, or the amount estimated in subsection (1)(b) of
21 this section

~~(a) As used in this section, "qualified city" means a city on the~~
22 ~~registry maintained by the Department for Local Government under paragraph~~
23 ~~(b) of this subsection.~~

24 ~~(b) On or before January 1, 2015, the Department for Local Government shall~~
25 ~~create and maintain a registry of cities that, as of August 1, 2014, were~~
26 ~~classified as cities of the third or fourth class. The Department for Local~~
27 ~~Government shall make the information included on the registry available to~~

1 ~~the public by publishing it on its Web site].~~