

1 AN ACT relating to alcohol local regulatory licensing fees.

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

1 receipts of the sale of alcoholic beverages of each establishment located in the  
2 city or county and licensed to sell alcoholic beverages by the drink for  
3 consumption on the premises.

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

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

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

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

18 (b) Notwithstanding paragraph (a) of this subsection, any city or county that  
19 held a local option election between July 15, 2014, and July 15, 2017, may  
20 enact a regulatory licensing fee in accordance with subsection (1) of this  
21 section within two (2) years of the effective date of this Act.

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

27 (a) Policing;

1 (b) Regulation; and

2 (c) Administration;

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

4 (5) (a) The Alcoholic Beverage Control Board shall promulgate administrative  
5 regulations which set forth the process by which a city or county, in the first  
6 year following the discontinuance of prohibition, may estimate any additional  
7 policing, regulation, and administrative expenses by a city or county directly  
8 and solely related to the discontinuance of prohibition. This subsection shall  
9 apply to any discontinuance of prohibition occurring after the promulgation of  
10 administrative regulations required by this subsection.

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

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

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

16 (b) Spent only in accordance with the requirements of subsections (1) and (2) of  
17 this section; ~~and~~

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

20 **If the annual audit determines that the city or county has spent the revenues**  
21 **received from the imposition of the regulatory license fee in a manner**  
22 **inconsistent with this section, the city or county shall provide a refund of the**  
23 **amount improperly spent to all payors of the regulatory license fee in an amount**  
24 **equal to their prorated portion of the revenues collected by the city or county that**  
25 **are directly attributable to the improper spending.**

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

- 1 (a) *For a first offense,* provide a refund as determined by the court to any  
2 licensee that has been harmed in an amount equal to its prorated portion of the  
3 excess revenues collected by the city or county that are directly attributable to  
4 a violation occurring after July 15, 2014, *and be responsible for the payment*  
5 *of the reasonable attorney fees directly incurred by a party to the litigation,*  
6 *in an amount ordered by the court upon its finding of an intentional and*  
7 *willful violation of this section by a city or county occurring after July 15,*  
8 *2014;*
- 9 (b) *For a second offense within a period of five (5) years, provide a refund and*  
10 *be responsible for the payment of attorney fees pursuant to paragraph (a) of*  
11 *this subsection, and lose the ability to impose the regulatory license fee*  
12 *provided by this section for a period of five (5) years; and*
- 13 (c) *For a third offense, provide a refund and be responsible for the payment of*  
14 *attorney fees pursuant to paragraph (a) of this subsection, and permanently*  
15 *lose the ability to impose the regulatory license fee provided by this section.*  
16 ~~[Be responsible for the payment of the reasonable attorney fees directly~~  
17 ~~incurred by a party to a litigation in an amount ordered by the court upon its~~  
18 ~~finding of an intentional and willful violation of this section by a city or~~  
19 ~~county occurring after July 15, 2014; and~~
- 20 (e) ~~Upon the finding by a court of a second intentional and willful violation of the~~  
21 ~~provisions of this section, lose the ability to impose the regulatory fee~~  
22 ~~provided by this section for a period of five (5) years and, upon the finding by~~  
23 ~~a court of a third intentional and willful violation, forfeit the right to impose~~  
24 ~~the regulatory license fee authorized by this section.]~~
- 25 (8) Any party bringing suit against a city or county for an alleged violation of this  
26 section occurring after July 15, 2014, shall be responsible for the payment of the  
27 reasonable attorney fees of the city or county in an amount determined by the court

1           upon a finding by the court that the city or county did not violate this section.

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

9           ~~(b) ]~~Any city or county ~~[that is authorized to impose the regulatory license fee~~  
10           ~~under subsection (1) of this section, or under paragraph (a) of this subsection,~~  
11           ~~]that imposed the regulatory license fee at a rate higher than five percent (5%)~~  
12           ~~prior to June 27, 2019, may continue to impose the regulatory license fee at a~~  
13           ~~rate that exceeds five percent (5%). The rate shall continue to be calculated~~  
14           ~~annually pursuant to the requirements of this section and shall not exceed the~~  
15           ~~rate that was imposed by the city or county on January 1, 2019.~~