

1 AN ACT relating to 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 the
5 most recent federal decennial census, ~~{or}~~ a county that does not contain a city
6 with a population equal to or greater than twenty thousand (20,000) based
7 upon the most recent federal decennial census, **or a county that contains a**
8 **city authorized to impose a fee under subsection (9) of this section,** that is
9 wet through a local option election held under KRS Chapter 242 is authorized
10 to impose a regulatory license fee not to exceed five percent (5%) upon the
11 gross receipts of the sale of alcoholic beverages of each establishment located
12 in the 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, 2018, 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 (7) Any city or county found by a court to have violated the provisions of this section
21 shall:
- 22 (a) Provide a refund as determined by the court to any licensee that has been
23 harmed in an amount equal to its prorated portion of the excess revenues
24 collected by the city or county that are directly attributable to a violation
25 occurring after July 15, 2014;
26 (b) Be responsible for the payment of the reasonable attorney fees directly
27 incurred by a party to a litigation in an amount ordered by the court upon its

1 finding of an intentional and willful violation of this section by a city or
2 county occurring after July 15, 2014; and

3 (c) Upon the finding by a court of a second intentional and willful violation of the
4 provisions of this section, lose the ability to impose the regulatory fee
5 provided by this section for a period of five (5) years and, upon the finding by
6 a court of a third intentional and willful violation, forfeit the right to impose
7 the regulatory license fee authorized by this section.

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

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

19 (b) Any city or county that is authorized to impose the regulatory license fee
20 under subsection (1) of this section, or under paragraph (a) of this subsection,
21 that imposed the regulatory license fee at a rate higher than five percent (5%)
22 prior to June 27, 2019, may continue to impose the regulatory license fee at a
23 rate that exceeds five percent (5%). The rate shall continue to be calculated
24 annually pursuant to the requirements of this section and shall not exceed the
25 rate that was imposed by the city or county on January 1, 2019.

26 (10) A direct shipper licensee shall collect and remit the regulatory license fee imposed
27 by this section as though it were an establishment located in a city or county

1 licensed to sell alcoholic beverages. This fee shall be considered a tax as defined in
2 KRS 243.029.

3 (11) Any city or county imposing a regulatory license fee under this section shall file
4 with the department a report showing the applicable fee amount and remittance
5 address for each affected license type in its jurisdiction on or before August 1, 2020.
6 Any adoption of this fee after July 15, 2020, or modification of the applicable fee
7 amount or remittance address for each affected licensee shall be reported to the
8 department within thirty (30) days of adoption by the city or county imposing the
9 fee. Within twenty (20) days after receipt of the information, the department shall
10 compile and publish the information so that it is readily available to the public.