

SENATE

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2023 REGULAR SESSION

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Amend printed copy of **SB 28**

On page 1, line 4, after "(1)", insert "A" and bracket and strike through "Any in-state or out-of-state"; and

On page 1, lines 7 through 11, bracket and strike through "An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation."; and

On page 1, line 18, after "wine", add "produced by it"; and

On page 2, line 10, after "winery", add "located in Kentucky"; and

On page 2, line 13, after "winery", add "located in Kentucky"; and

From page 2, line 24, through page 3, line 6, delete all text and insert the following in lieu thereof:

"(i) Sell and deliver, in accordance with KRS 243.120(1), up to twelve thousand (12,000) gallons of wine produced by it annually to any retail license holder as long as:

1. Any products sold and delivered under this paragraph that are not otherwise registered by a licensed wholesaler shall be registered with the department by the small farm winery;

2. The small farm winery is responsible for payment of wine wholesale sales

Amendment No. SFA 1

Rep. Sen. Mike Wilson

Committee Amendment

Signed: _____

Floor Amendment

LRD Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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taxes and reporting of self-distributed wines in accordance with KRS 243.884;

and

- 3. The small farm winery may extend credit on wine sold to retail licensees for a period not to exceed thirty (30) days from the date of invoice, with the date of invoice included in the total number of days.*

This paragraph shall not apply to small farm winery wholesalers licensed under KRS 243.154."; and

On page 4, beginning on line 6, insert the following:

"➔Section 2. KRS 243.884 is amended to read as follows:

- (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits, all distributors of beer, all direct shipper licensees shipping alcohol to a consumer at a Kentucky address, all distillers making sales pursuant to KRS 243.0305(3), (4)(a)1. and 2. and (c), (7), (9), (10), and (12), ~~and~~ all microbreweries selling malt beverages under KRS 243.157, *and all small farm wineries selling wine under Section 1 of this Act.*
- (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent (11%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth, except as provided in subsection (3) of this section. For the purposes of this section, the gross receipts of a microbrewery making "wholesale sales" shall be calculated by determining the dollar value amount that the microbrewer would have collected had it conveyed to a distributor the same volume sold to a consumer as allowed under KRS 243.157 (3)(b) and (c).
- (c) On and after July 1, 2015, the following rates shall apply:

1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at wholesale; and
 2. For wine and beer:
 - a. Ten and three-quarters of one percent (10.75%) for wholesale sales or sales at wholesale made on or after July 1, 2015, and before June 1, 2016;
 - b. Ten and one-half of one percent (10.5%) for wholesale sales or sales at wholesale made on or after June 1, 2016, and before June 1, 2017;
 - c. Ten and one-quarter of one percent (10.25%) for wholesale sales or sales at wholesale made on or after June 1, 2017, and before June 1, 2018; and
 - d. Ten percent (10%) for wholesale sales or sales at wholesale made on or after June 1, 2018.
- (d) On and after March 12, 2021, the following rates shall apply for direct shipper sales:
1. For distilled spirits shipments, eleven percent (11%) for wholesale sales or sales at wholesale; and
 2. For wine and beer shipments, ten percent (10%) for wholesale sales or sales at wholesale.
- (e) For direct shipper sales or sales made pursuant to KRS 243.0305, if a wholesale price is not readily available, the direct shipper licensee or distillery shall calculate the wholesale price to be seventy percent (70%) of the retail price of the alcoholic beverages.
- (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, microbreweries, distillers, and direct shipper licensees shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine, or malt beverages is transferred from the wholesaler or distributor to retailers, or by microbreweries, distillers, or direct shipper

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licensees to consumers in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.

(3) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

- (a) Sales made between wholesalers or between distributors;
- (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a small farm winery in a calendar year made by:
 - 1. The small farm winery; or
 - 2. A wholesaler of that wine produced by the small farm winery; and
- (c) Sales made between a direct shipper licensee and a consumer located outside of Kentucky."