# Local Government Mandate Statement Kentucky Legislative Research Commission 2018 Regular Session

**Part I: Measure Information** 

Bill Request #: 492	<u>R1</u>						
Bill #: HB 337							
Document ID #: 36	53						
_	AN ACT relating to taxation of prescription opioids and making an apporpriation therefor.						
Sponsor: Representative James L. Kay							
Unit of Government:	XCityXCountyXUrban-CountyXCharter CountyXConsolidated LocalXGovernment						
Office(s) Impacted:	Local Jails						
Requirement: X	Mandatory Optional						
	Modifies Existing X Adds New Eliminates Existing						
Part II: Bill Pro	visions and the Estimated Fiscal Impact Relating to Local						

# Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

This Local Government Mandate Statement primarily deals only with those aspects of the proposal directly effecting local governments.

BR 492 creates new sections in Chapter 142 to provide for the licensing of opioid distributors, an opioid tax, and for the depositing of all the resulting tax revenue in a permanent pension fund.

# **Section 1:**

BR 492 provides a number of definitions specific to Chapter 142 including the following:

- "Dose" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit.
- "Mail order pharmacy" means any person that dispenses prescription drugs by mail or carrier.

- "Opioid" means opium, and opiate, or any salt, compound, derivative, or preparation thereof.
- "Wholesale opioid distributor" means any person who distributes opioids and is
  involved in the actual, constructive, or attempted transfer of opioids, other than
  the ultimate consumer. Includes wholesalers, repackagers, and manufacturers,
  but does NOT include common carriers or persons hired solely to transport
  prescription drugs.

# **Section 2:**

Effective January 1, 2019, a tax shall be imposed upon all wholesale opioid distributors and mail order pharmacies at the rate of one dollar per dose distributed or dispensed to persons in Kentucky. The tax revenues shall be deposited in the permanent pension fund (established in **Section 5**). This tax shall not be passed on by a wholesale opioid distributor or a mail-order pharmacy to a subsequent purchaser.

#### **Section 3:**

Beginning January 1, 2019, a license will be required to distribute or dispense opioids to persons in Kentucky. An application and a \$500 license fee shall be filed annually before January 1. Any person who distributes or dispense opioids without a license shall be guilty of a Class A misdemeanor and shall be assessed a fine of no less than \$500. Each dose of opioid distributed shall constitute a violation. A revocation and an appeals process are provided for in the proposal.

# **Section 4:**

Provides for the logistics of the filing and reviewing of the return, billing for underpayments, refunding overpayments, officer liability, and limited liability companies. Any person who fails to file or falsifies a required return or fails to pay the tax due shall be guilty of a Class A misdemeanor.

### Penalties related to section 3 and 4:

A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

#### Part III: Differences to Local Government Mandate Statement from Prior Versions

The Part II section above pertains to the bill as introduced and there are not any prior introduced versions of the bill to complete the Part III section.

Data Source	e(s): <u>Kentucky</u>	Department of Correc	tions			
Proporore	Wendell Rutler	Reviewer	KHC	Date	2/6/18	