

CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: HB 580 Introduced

BR #: 856

DOC ID#: BR085600.100 - 856 - XXXX

BILL SPONSOR(S): Rep. D. St. Onge, S. Santoro **AMENDMENT SPONSOR(S):**

SUBJECT: AN ACT relating to alcoholic beverages.

SUMMARY OF LEGISLATION: Create a new section of KRS Chapter 243 to establish an alcoholic beverages direct shipping license; create application requirements necessary to obtain a direct shipping license; establish shipping requirements for licensees and common carriers; prohibit licensees from shipping to addresses located in dry territories; amend KRS 241.010 to define "consumer," "direct shipment," and "direct shipper"; amend KRS 242.280 to prohibit the receipt of alcoholic beverages in dry territories from a direct shipper; amend KRS 243.030 to establish a direct shipping license fee; amend KRS 243.0305 to allow a distiller to receive purchases over the phone or online; allow a distiller to ship packages to a consumer using a common carrier; amend KRS 243.200 to establish conditions under which a person with a transporter's license can ship to a consumer; amend KRS 243.355 to allow a distilled spirits and wine storage license to be issued as a primary license or as a supplementary license to the holder of a direct shipping license; amend KRS 244.165 to allow a distiller from another state to ship spirits to a Kentucky resident; amend KRS 242.260 to exclude licensed common carriers from being liable for delivering alcoholic beverages in dry territories; amend KRS 242.270 to exclude licensed common carriers from being liable for delivering alcoholic beverages in dry territories; amend KRS 244.240 to prohibit a direct shipping licensing from being interested in any retailer business; amend KRS 243.130 to allow a distiller to sell souvenir packages at retail over the phone and Internet; amend KRS 243.034 and 243.0341 to conform; repeal KRS 243.886.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
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| <input type="checkbox"/> Creates new crime(s) | <input type="checkbox"/> Repeals existing crime(s) |
| <input type="checkbox"/> Increases penalty for existing crime(s) | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration | <input type="checkbox"/> Decreases incarceration |
| <input type="checkbox"/> Reduces inmate/offender services | <input type="checkbox"/> Increases inmate/offender services |
| <input type="checkbox"/> Increases staff time or positions | <input type="checkbox"/> Reduces staff time or positions |
| <input type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input checked="" type="checkbox"/> Otherwise impacts incarceration (Explain) <u>Establishes exception for direct shipping license established in this legislation</u> | |

STATE IMPACT: Class A, B & C felonies are based on an average daily prison rate of \$70.12. Most Class D felons are housed in one of 76 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$31.45 per day (includes jail per diem, medical & central office costs), not including substance abuse treatment. Projections are based on the daily rate x 365 x number of years.

Projected Impact: NONE MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The legislation creates a direct shipping license for alcoholic beverages within the Commonwealth or outside the state. The legislation sets limits on the amount that may be sold and shipped. The sales and shipments are for personal use, not for resale. The legislation also hold provisions against shipping to counties that are dry. There are also provisions to document the recipient is at least twenty-one (21) years of age.

KRS 242.260 and KRS 242.270 prohibit delivery or sales in dry counties and unauthorized moist areas. Violations are outlined in KRS 242.990 as a Class B misdemeanor for a first offense, a Class A misdemeanor for a second offense, and a Class D felony for a third or subsequent offense. These criminal penalties would not apply to a licensed carrier, with the delivery address in a wet county as a defense for the direct shipping licensee.

Under current statute (KRS 244.165), except for a direct shipping license, it is unlawful for an individual in alcohol sales in another state or country to ship alcoholic beverages to a Kentucky resident who does not hold a wholesaler or distributor license. A first offense will result in a cease and desist notification. A second and subsequent violation is a Class D felony.

According to AOC data, there were zero (0) charges under KRS 242.260 or KRS 244.165 in FY2015-2017. Additionally, the Department does not have any offenders incarcerated or on supervision for offenses under KRS 244.165 or KRS 242.260.

As the felony level penalty applicable for this legislation occurs at a second or third offense, it is expected that the number of felony convictions associated with these criminal offenses would be minimal.

A Class D Felony sentence is 1 to 5 years.

1 Class D Felon costs KY \$11,481 to \$57,404

10 Class D Felons cost KY \$114,808 to \$574,040

100 Class D Felons cost KY \$1.1M to \$5.7M

