

CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # SB 153 GA BR # 850 DOC ID #: SB015310.100 - 850 - XXXX

BILL SPONSOR(S): Sen. P. Hornback, D. Givens, R. Girdler AMENDMENT SPONSOR(S): Sen. P. Hornback

SUBJECT: AN ACT relating to grain.

SUMMARY OF LEGISLATION: Amend KRS 246.120 to expand the membership of the Board of Agriculture to eighteen members; set board member terms; amend KRS 246.130 to conform; repeal and reenact KRS 251.010 to define terms as used in this chapter; create new sections of KRS Chapter 251 to establish the purpose of the provisions of the chapter; authorize the board, in conjunction with the department, to adopt and oversee policies, procedures, and programs pertaining to this chapter; require a licensee to issue scale tickets; set forth requirements related to issuing scale tickets; set forth licensing requirements for grain dealers and grain warehouse operators; authorize the board, in conjunction with the department, to promulgate administrative regulations setting forth a schedule of fees for licensed grain dealers and licensed grain warehouse operators; allow receipts collected from licensing fees to be used for expenses incurred by the Department of Agriculture; set forth requirements for surety bonds; set forth requirements to retain copies of business records; authorize the board, in conjunction with the department, to promulgate administrative regulations relating to record-keeping requirements for licensees; establish requirements to enter into forward pricing contracts; authorize the board, in conjunction with the department, to promulgate administrative regulations setting forth the information that shall be included in a forward pricing contract; require the department to conduct inspections of licensed grain warehouses and licensed grain dealers; define fund-covered grains; to set forth requirements for approval of fund-covered grains by the board; set forth requirements allowing a person to opt out of paying an assessment on fund-covered grains; establish criteria for a lien on grain; create a new section of KRS Chapter 251 to establish the powers and duties of the board in the event of a failure of a licensed grain dealer or licensed grain warehouse operator; create a new section of KRS Chapter 251 to allow an injured person to bring a civil action against the person or corporation who committed the violation; amend KRS 251.020 to establish the powers and duties of the board; authorize the board, in conjunction with the department, to promulgate administrative regulations necessary for the administration and enforcement of the chapter; allow the board to enter into cooperative agreements; take disciplinary action against any licensee or former licensee; amend KRS 251.440 to make technical corrections and to conform; set forth requirements for the department when approving a grain dealer license or a grain warehouse operator license; amend KRS 251.500 to make technical corrections; amend KRS 251.640 to clarify standards in which assessments shall be collected; amend KRS 251.650 to authorize the board to pay claims, management fees, investment fees, legal fees and administration fees; make technical corrections; amend KRS 251.660 to conform; amend 251.730 to conform; amend KRS 251.990 to establish penalties for offenses; amend KRS 64.012 to remove license fee for a grain warehouseman; repeal KRS 251.015; 251.410; 251.420; 251.430; 251.451; 251.480; 251.485; 251.490; 251.510; 251.520; 251.600; 251.610; 251.620; 251.630; 251.642; 251.670; 251.675; 251.680; 251.690; 251.700; 251.710; 251.720; 359.010; 359.020; 359.030; 359.040; 359.050; 359.060; 359.070; 359.090; 359.100; 359.110; 359.120; 359.130; 359.140; 359.150; 359.160; 359.170; 359.990; EFFECTIVE August 1, 2019 .

AMENDMENT: Retain original provisions; make technical and grammatical corrections; clarify claim values; amend KRS 251.640 to clarify terms in which the board shall reinstate the assessment; amend KRS 251.650 to establish reporting requirements of the board.

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 checked="" 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) Clarifies current penalties under law. | |

STATE IMPACT: Class A, B & C felonies are based on an average daily prison rate of \$71.10. 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 \$32.78 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 MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

SB 153 sets forth regulations related to agriculture and grain warehouses.

Section 25 (KRS 251.990) holds a penalty for violations under KRS Chapter 251. Added under the 1st Offense violation is a fine in the amount up to \$500. Subsequent offenses are a Class A misdemeanor, with the proposed legislation adding wording of up to a \$1,000 fine or up to six (6) months imprisonment. Each day of operation in violation of statute constitutes a separate offense.

Wording is clarified related to a Class D felony for operating as a grain warehouse operator or a grain dealer without a license. The accompanying fine amount is up to \$10,000 for each violation, not to exceed \$500,000.

Wording is also clarified surrounding any person who intentionally refuses or fails to pay moneys collected for assessments of grain under the Kentucky grain insurance fund under KRS 251.640. This is a Class A misdemeanor subject to up to a \$500 fine or up to six (6) months incarceration.

Failure to comply with licensing requirements under Section 11 of the proposed legislation relating to 80% of the value of the unpaid obligations for grain purchased under forward pricing is, under current statute, subject to up to \$10,000 for each violation, not to exceed \$500,000, and/or one (1) to five (5) years in prison.

Knowingly making a false statement, representation, certification, or knowingly failing to make a statement, representation, or certification in a record, report, or document is clarified as a Class D felony with up to a \$1,000 fine for each violation, not to exceed a total of \$500,000.

Transferring or disbursing grain, property, or assets in violation of KRS Chapter 251 is clarified as a Class D felony with up to a \$10,000 fine for each violation, not to exceed a total of \$500,000.

The penalty for willfully and knowingly resisting, preventing, impeding, or interfering with a representative of the board or department in performance of duties under KRS Chapter 251 is increased from not more than one (1) year to a Class C felony with imprisonment for not more than ten (10) years and/or an increased fine from \$5,000 to \$10,000.

There are wording revisions surrounding a business entity who violates any provision of KRS Chapter 251 or fails to comply with a lawful order issued by the board or the department to be subject to the same penalties imposed upon a person.

There is also a change to the statute reference for a \$150 fine for failing to renew a license within the timeframe provided under Section 7 of the legislation.

The legislation is to take effect August 1, 2019.

Records from AOC indicate there have not been any convictions under KRS Chapter 251 in twelve (12) years.

Given the limited number of offenders with convictions under KRS Chapter 251, the impact to state incarceration from this legislation would be minimal to non-existent.

A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,297,530.56 to \$2,595,061.12
1 Class C Felon costs KY \$129,753.06 to \$259,506.11	100 Class C Felons cost KY \$12,975,305.58 to \$25,950,611.17

A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$119,648.71 to \$598,243.56
1 Class D Felon costs KY \$11,965.87 to \$59,824.36	100 Class D Felons cost KY \$1,196,487.11 to \$5,982,435.57

LOCAL IMPACT: Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. While the expense varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

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

The legislation includes Class A misdemeanor offenses. Misdemeanors are subject to the jurisdiction and cost of the county.

Additionally, the Class D felony offenders included in this legislation would serve their sentence in a county jail at a cost to the state of \$31.34 per day to the local jail. Class C offenders may be eligible to serve their sentences at the county jail if qualifying for community custody, based on length of sentence remaining and custody classification.

Given the limited number of offenders convicted of the offenses included in this legislation, there is not expected to be a substantive increase to local incarceration under this bill.

A Class A misdemeanor is 90 days to 1 year in jail.
1 Class A misdemeanor: \$2,820.60 to \$11,439.10

10 Class A misdemeanants: \$28,206.00 to \$114,391.00
100 Class A misdemeanants: \$282,060.00 to \$1,143,910.00


Corrections Impact from Amendments:

There is no impact to Corrections from the Senate Floor Amendment.

The following offices contributed to this Corrections Impact Statement:

Dept. of Corrections Dept. of Kentucky State Police Administrative Office of the Courts Parole Board Other

NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population or that impose new obligations on state or local governments. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.

APPROVED BY:  2/25/2019
Deputy Commissioner, Kentucky Department of Corrections Date