

2. the name and address of each consumer,
3. the purchase price of the beverages shipped and the taxes charged to the consumer for the beverages shipped, and
4. the name and address of each common carrier.

The Department for Alcoholic Beverage Control (the department) would be required to provide a list of all active direct shipper licensees to licensed common carriers on a quarterly basis, to try to reduce the number of unlicensed shipments in Kentucky.

Section 2 of the bill would limit the amounts of alcoholic beverages a licensee may ship, as follows:

1. Distilled spirits – no more than 10 liters per consumer per month;
2. Wine – no more than 10 cases per consumer per month; and
3. Malt beverages – no more than 10 cases per customer per month.

The bill would require that all alcoholic beverage containers direct shipped to a consumer be conspicuously labeled: “CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.” The recipient would be required to present valid identification on delivery.

Section 3 would establish that “taxes” includes regulatory license fees imposed by local governments.

For tax purposes, each sale and delivery of alcoholic beverages pursuant to a direct shipper license would be a sale at the address of the consumer.

Section 4 would define “consumer” as a person who purchases alcoholic beverages and who:

- a. Does not hold a license or permit issued by the department;
- b. Purchases the alcoholic beverages for personal consumption and not resale;
- c. Is of lawful drinking age;
- d. Receives the alcoholic beverages at a location other than a licensed premises; and
- e. Receives the alcoholic beverages in territory where alcoholic beverages may be lawfully sold or received.

Section 4 would redefine “retail sale” to include sale of alcoholic beverages in person, electronically, online, by mail, or by telephone.

Section 9 of HB 415 GA would amend KRS 243.075 to require that the direct shipper licensee collect and remit the regulatory license fee on gross receipts from sales of alcohol imposed by a local government pursuant to that statute. A city or county that imposes such a fee would be required to file with the department a report of the applicable fee amount and remittance address for each affected license type in its jurisdiction on or before August 1, 2020.

Section 14 of the bill would amend KRS 243.020 to establish that an independent contractor of a licensee is authorized to act regarding the manufacture, storage, sale, purchase, transport, or other traffic in alcoholic beverages the same as the licensee is authorized.

Section 15 would allow distillers holding a direct shipper license to ship souvenir liquor packages to consumers.

Section 16 would authorize a licensed distiller, winery, or small farm winery to also hold a direct shipper license.

Sections 18-20 would authorize a brewer, a small farm winery, or a microbrewery holding a direct shipper license to ship its product to consumers.

HB 415 GA would have an indeterminate positive fiscal impact on those local governments that impose a regulatory license fee on gross receipts from alcohol sales in their jurisdiction. HB 415 GA would increase the number of businesses licensed to sell alcoholic beverages and would be expected to increase alcohol sales in those jurisdictions that have voted to allow alcohol sales. KRS 243.075 authorizes a “wet” city with a population less than 20,000 or a “wet” county that does not contain a city with a population of or greater than 20,000, to impose a regulatory license fee of up to 5% on the gross receipts of the sale of alcoholic beverages of each establishment within its jurisdiction licensed to sell alcoholic beverages. For example, Danville, Kentucky imposes a regulatory license fee of 5% on gross sales of alcoholic beverages sold by the drink; 4% on packaged distilled spirits and wine, and 3% on packaged malt beverages. This regulatory license fee results in revenue of approximately \$600,000 to the city annually, from approximately 50 establishments licensed to sell alcohol in Danville.

KRS 243.075 requires the percentage fee levied be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city or county. Any license or fee imposed by a city or county pursuant to KRS 243.060 or KRS 243.070 must be credited against a regulatory license fee collected pursuant to KRS 243.075. If both the city and county impose a regulatory license fee, the county fee shall be applicable only outside the cities that impose the fee.

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

Part II addresses the GA version of HB 415. The GA version is different from the House Committee Substitute in the following ways:

Among the changes and relevant to local governments, the GA version would:

- Increase the number of alcohol manufacturers eligible to apply for a direct shipper license to include small farm wineries, brewers, and microbreweries;
- Allow small farm wineries, brewers, and microbreweries that have a direct shipper license to ship their alcoholic beverages to consumers.

- Increase the amount of distilled spirits, wine, and malt beverages that could be shipped under a direct shipper license;
- Define “retail sales” to include sales by mail.
- Authorize an independent contractor of a licensee to conduct the same activities under a direct shipper license that the licensee may conduct.

The GA version should not change the nature of the fiscal impact of the original bill, but could increase its positive fiscal impact on local governments due to authorizing additional alcohol manufacturers to direct ship their product to consumers.

Data Source(s): LRC Staff. City of Danville Office of Codes Enforcement

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 3/20/20