

the United States and a resident of Kentucky for at least one year prior to applying for a license.

Removes hours of operation language from the petition asking for a local option election and from the proposal as presented to the voters regarding Sunday hours of operation for a licensed small farm winery. Deleted from KRS 242.1241 is *“between the hours of 1 p.m. and (the prevailing local time for that locality)”*. Amends 243.155(3) and KRS 244.290(5)(a) to allow small farm wineries to adhere to Sunday hours as permitted in the local ordinance.

SB 99 HCS 1 also adds a new Section of KRS Chapter 242 to provide for local option elections on the sale of alcoholic beverages by a microbrewery. SB 99 HCS 1 allows for the serving of complimentary samples of malt beverages not to exceed 16 ounces and for the sale and consumption of malt beverages by the drink without restriction provided that the microbrewery is located in a wet territory or precinct.

Increases the amount of wine produced at a small farm winery from 100,000 to 500,000 gallons per year.

Expands who may be issued a sampling license to include:

- the holder of a nonquota retail malt beverage package license which allows for the sale of malt beverages by the package for consumption off the premises; and
- the holder of an NQ4 retail malt beverage drink license which allows for the sale of malt beverages at retail by the drink for consumption on the premises.

Provides that a sampling license will allow for 12 ounces of malt beverage samples per day. Further provides for a brewer, microbrewery, or out-of-state malt beverage supplier to conduct a sampling of malt beverages as the licensed premises of a retailer licensee holding a sampling license. Language is deleted denying a quota retail package licensee to provide a customer samples of malt beverages free of charge and which would deny a distributor from providing sample malt beverages free of charge.

Allows manufacturers and importers to advertise and promote the off-premise consumption of malt beverages by use of rebate coupons. Malt beverage rebate coupons are not redeemable at the point of purchase, but may only be redeemed by mail by which the consumer receives cash or merchandise from the manufacturer, importer, or clearinghouse.

Deletes language prohibiting rebates and price discount coupons from being awarded as prizes in brewer-sponsored national sweepstakes.

Deletes language requiring that private clubs being issued a NQ3 retail drink license to have been in existence for more than one year.

Expands who can hold a quota retail package license to include NQ3 drink license holders.

Expands the list of businesses that may permit persons under the age of 21 on the premises where alcohol is served by the drink or consumed on the premises to include live music or other entertainment or public facilities. Deletes language requiring written approval from the Departments of Alcohol Beverage Control that would allow minors on the premises of family weddings, reunions, and community events until 10:00 p.m. where the sale of alcohol by the drink is available. Further deletes language subjecting persons under the age of 21 entering entertainment facilities where pre-booked concerts are being held and the licensee of the venue to certain requirements and restrictions.

Expands the definition of 'private club' to include nonprofit and for-profit entities maintaining or operating a club room, club rooms, or premises from which the general public is excluded.

SB 99 HCS 1 will promote economic development and tourism. By promoting business activity and increased employment, the proposal will generate additional tax revenue for local governments. While the amount of this additional tax revenue is indeterminable, **it is expected to range from minimal to moderate** and will depend largely on how the local community supports the distillery as a viable economic stimulus. The Kentucky Distillers Association states that in situations where the distillery is allowed to sell product at their gift shop and market the product as being available, the area sees an uptick in restaurant and lodging business resulting in increased tax revenue.

Costs related to an ordinance would include the time and expense of drafting the ordinance, advertising the proposal in a local newspaper, placing the ordinance on the business docket for necessary action, and dependent on the results of the fiscal court vote, putting the proposal on the ballot for the people to vote on. There would also be cost related to printing a revised list of ordinances if the ordinance passes.

According to Kentucky League of Cities, most cities, especially the smaller ones, retain their city attorney on contract and pay on an hourly basis. Time spent drafting ordinances is influenced by its complexity and the amount of research that is necessary. In FY 2018, the median hourly rate was approximately \$106. Rates for legal notices vary greatly depending on the length of the publication, the number of times it needs to be published and the newspaper in which the publication is placed. Therefore, these costs are unknown.

Municipalities must revise their ordinances, at least every five years by state law, to eliminate "redundant, obsolete, inconsistent, and invalid provisions." The cost of this mandate would be less if the repeal or revision were done in conjunction with this periodic updating of ordinances.

According to Harp Enterprises, a vendor that provides electronic voting machines to 96 Kentucky counties, there are additional programming costs associated with adding a new category to the ballot on an already scheduled statewide election as well as a special election. For example, the cost to add a new category to the ballot for Lexington-Fayette Urban County Government, with 291 precincts, has recently been estimated at between

\$3,500 and \$4,500, and for Franklin County, with 44 precincts, the cost has been estimated at between \$1,700 and \$2,500.

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

SB HCS makes the following changes to SB 99 GA:

- amends the residency requirements for out-of-state malt beverage supplier's licenses and transporter's licenses;
- makes changes regarding Sunday operating hours for small farm wineries;
- increases annual small farm winery production;
- expands the list of who may be issued sampling licenses and makes adjustments in the requirements for providing samplings;
- allows for the promotion of malt beverages with rebate coupons
- deletes language requiring that private clubs to whom a NQ3 retail drink license is issued to have been in existence for more than one year.
- allows NQ3 drink license holders to hold a quota retail package license
- adjust the under-21 requirements in regards to specific venues or activities;
- Expands the definition of 'private club'.

SB 99 GA retains the provisions of SB 99 SCS 1 with SFA 1. The fiscal impact of SB 99 GA remains the same as SB 99 SCS 1.

SFA 1 provides that a distiller may offer for sale in its gift shop jointly branded souvenir packages that were purchased from a licensed malt beverage distributor.

SB 99 SCS 1 retains the original provisions of the SB 99 as introduced and makes the following additions:

- Adds a new Section of KRS Chapter 242 to provide for local option elections on the sale of alcoholic beverages by a microbrewery in the territory (inclusive of all forms of local government) where a microbrewery is located or proposed. SCS 1 provides language for the petition seeking a local option election.
- Allows for the serving of complimentary samples of malt beverages not to exceed 16 ounces and for the sale and consumption of malt beverages by the drink without restriction provided that the microbrewery is located in a wet territory or precinct.

The fiscal impact of SB 99 SCS 1 remains the same as SB 99 as introduced.

Data Source(s): LRC Staff; Kentucky Distillers Association

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 3/19/20