

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2023 REGULAR SESSION**

MEASURE

2023 BR NUMBER 1754

HOUSE BILL NUMBER 5 HCS 1

TITLE AN ACT relating to property tax on distilled spirits.

SPONSOR Representative Jason Petrie

FISCAL SUMMARY

STATE FISCAL IMPACT: YES NO UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY: ACTUARIAL ANALYSIS
 LOCAL MANDATE CORRECTIONS IMPACT HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: _____

FUND(S) IMPACTED: GENERAL ROAD FEDERAL RESTRICTED _____

FISCAL ESTIMATES	2022-2023	2023-2024	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES			(Indeterminable)
EXPENDITURES			Indeterminable
NET EFFECT			(Indeterminable)

() indicates a decrease/negative

PURPOSE OF MEASURE: The purpose of this measure is to provide a graduated property tax exemption on distilled spirits inventory and sunset the income tax credit for property taxes paid on distilled spirits inventory. The measure also provides authorization for local governments, specific fire protection districts, and an emergency services board to levy fees. It further specifies that the assessed value on distilled spirits related to the tax exemption created will not be included in the calculation of local effort required for the Support Education Excellence in Kentucky Program (SEEK).

FISCAL EXPLANATION: This measure is not expected to have fiscal impact in the current biennium.

Section 1 provides a city, county, consolidated local government, urban-county government, fire protection district or fire protection subdistrict the authority to impose a storage license fee on an owner, proprietor, or custodian of a bonded warehouse containing distilled spirits if it is financed by industrial bonds prior to January 1, 2024, and any portion of the costs of which remains outstanding during the calendar year. The authorization of a storage license fee is not expected to impact state revenues.

Sections 2 and 3 provide a fire protection district, fire protection subdistrict, or emergency services board the authority to charge a service fee to the owner, proprietor, or custodian of a bonded warehouse containing distilled spirits if it is not financed by industrial bonds during the calendar year and qualifies for the property tax exemption created in Section 4 of this bill. The authorization of a service fee is not expected to impact state revenues.

Section 4 creates a graduated tax exemption from state and local property taxes on distilled spirits inventory. The tax exemption begins at 3% on the January 1, 2026 assessment date and reaches 100% on the January 1, 2039 assessment date. Property taxes on distilled spirits are due on September 15th following each assessment date. The property tax exemption is not expected to have a fiscal impact in the current or next biennium.

Section 5 sunsets the distilled spirits inventory tax credit as of January 1, 2034, for taxpayers owning or possessing less than 25,000 barrels of distilled spirits, and as of January 1, 2024, for all other taxpayers qualifying for the credit. It also permits the accumulated tax credits that have not been claimed by the end of the 2023 tax year to be claimed by the taxpayer in any taxable year starting with the 2024 tax year. The first filing date for the 2024 income tax returns will begin on April 15, 2025, and will continue thereafter based on whether the taxpayer has a fiscal year accounting period and whether the income tax return is filed under an extension of time to file that return. Therefore, no impact is expected in the current biennium.

Looking forward into the next biennium and the future, the following information is presented as an estimate, however, a specific fiscal impact cannot be determined for the following reasons:

- The Consensus Forecasting Group has not determined the economic conditions that may impact the Commonwealth during the next biennium;
- Confidential tax data related to specific local jurisdictions is not available to the Legislative Research Commission staff; and
- There is missing data to make a complete estimate at this time.

The following chart displays the estimated amounts of local tax loss and state tax loss related to the property tax exemption of distilled spirits in a bonded warehouse.

Estimated Reduction in State and Local Property Tax Receipts Related to Distilled Spirits

Chart One

Tax Year	Tax Exemption	Local Tax Loss	State Tax Loss	Total Tax Loss
2026	3%	\$1,385,151	\$97,354	\$1,482,504
2027	6%	2,770,301	194,708	2,965,009
2028	9%	4,155,452	292,062	4,447,513
2029	13%	6,002,319	421,867	6,424,186
2030	17%	7,849,186	551,672	8,400,858
2031	21%	9,696,054	681,447	10,337,531
2032	26%	12,004,638	843,733	10,377,531
2033	32%	14,774,939	1,038,441	12,848,371
2034	38%	17,545,240	1,233,149	18,778,389

2035	44%	20,315,541	1,427,856	21,743,398
2036	50%	23,085,843	1,622,564	24,708,407
2037	65%	30,011,595	2,109,333	32,120,929
2038	80%	36,937,348	2,596,103	39,533,451
2039	100%	46,171,685	3,245,128	49,416,813
Estimated Loss from 2026 to 2039		\$232,705,293	\$16,355,446	\$249,060,739

Source: Kentucky Department of Revenue and LRC staff estimated calculations.

The following chart displays the estimated amounts of estimated income tax credit that may be available beginning in 2024:

Chart Two

Tax Year	Expected Local Taxes	Actual State Taxes	Credits Taken	Difference
2015	\$14,242,945	\$971,772	N.A.*	\$15,241,717
2016	16,750,998	1,099,035	1,502,456	16,347,577
2017	18,394,880	1,168,465	2,198,035	17,365,310
2018	21,261,267	1,383,935	4,919,545	17,725,657
2019	23,796,056	1,538,154	727,608	24,606,602
2020	26,731,190	1,753,569	824,899	27,659,860
2021	31,369,816	2,023,703	274,501	33,119,018
2022	37,389,756	2,384,002	N.A.*	39,773,758
Total	\$189,936,908	\$12,322,635	\$10,447,044	\$191,812,499

Source: Kentucky Department of Revenue.

* No returns claiming a credit were filed for the 2015 tax year. DOR data on the amount of distilled spirits claimed for the 2022 tax year is not available at this time.]

Support Education Excellence in Kentucky (SEEK) – The measure could require additional General Fund contributions to the SEEK program in indeterminable amounts after the ad valorem property tax exemption schedule on distilled spirits inventory goes into effect. Pursuant to KRS 160.470(9)(a), school districts are required to levy a minimum tax of \$.30 per \$100 of assessed property to participate in the SEEK program. Section 6 specifies that the portion of assessed value on distilled spirits, as it relates to the tax exemption elsewhere described in the measure, shall not be included in the calculation of the local effort required for the SEEK program.

While there is no fiscal impact in the current fiscal biennium due to the tax exemption schedule starting afterwards, various school districts that tax distilled spirits (approximately 29 of the 171 total districts) would contribute less local effort to the SEEK program due to the provisions in Section 6 than if the distilled spirits remained in the local effort calculation.

This fiscal note does not address any fiscal impact to local school districts.

DATA SOURCE(S): Kentucky Department of Revenue and LRC Staff Economists
PREPARER: Cynthia Brown **NOTE NUMBER:** 139 **REVIEW:** JB **DATE:** 3/14/2023