

# CORRECTIONS IMPACT STATEMENT

**SESSION: 24RS BILL #: HB 439 GA**

**BR #: 919**

**BILL SPONSOR(S): Rep. M. Koch**

**AMENDMENT SPONSOR(S): Rep. M. Koch**

**TITLE: AN ACT relating to alcoholic beverages.**

**SUMMARY OF LEGISLATION:** Amend KRS 241.010 to make a technical correction; amend KRS 241.060 and 243.540 to allow the Alcoholic Beverage Control board to dispose of alcoholic beverages through public auction; promulgate administrative regulations to establish auction procedures; donate all auction proceeds to the alcohol wellness and responsibility education fund; amend KRS 243.030 to create a \$300 annual vintage distilled spirits license fee; amend KRS 243.110 to authorize the holder of a primary license to also hold a vintage distilled spirits license; amend KRS 243.232 to restructure vintage distilled spirits licenses and sales; allow a licensee who may sell distilled spirits by the drink or package to receive a vintage distilled spirits license as a supplementary license; require vintage distilled spirits licensees to file a monthly report with the department giving details about sellers and purchase types, dates, and quantities; require all purchases to be in-person at the licensed premises; direct the licensee to conspicuously label the purchase as vintage distilled spirits; limit a licensee to 24 vintage distilled spirits packages purchased from each seller every 12 months; limit the seller to 24 packages total every 12 months; amend KRS 243.360 to give an applicant the option to advertise intent to apply for a license on the department's website or in another manner to be determined by the department and to exempt a vintage distilled spirits license applicant from the public notice advertising requirement; amend KRS 243.990 to establish penalties for vintage distilled spirits sellers who exceed the maximum package limit; amend KRS 211.285 to rename the "malt beverage education fund" as the "alcohol wellness and responsibility education fund"; add proceeds from Alcoholic Beverage Control Board distilled spirit auctions to the fund; issue moneys from the fund to the Alcohol Wellness and Responsibility Education Corporation; require the corporation's board of directors to include as voting members all duly elected statewide constitutional officers, the secretary of the Public Protection Cabinet, the ABC commissioner, and representatives of the malt beverage and distilled spirits industries; add the President of the Senate and the Speaker of the House as nonvoting members; authorize the corporation to accept grant applications from Kentucky high schools, colleges and universities, and other entities that promote alcohol responsibility; increase Project Graduation grants to \$1,000 annually.

## **AMENDMENT:**

**HCS 2:** Retain original provisions, except decrease the minimum number of passengers from 100 to 40 in the definition of "riverboat"; direct the board to only auction alcoholic beverages where a final order has been issued after all appeals are exhausted; amend KRS 241.066 to allow one quota retail package license for every 2,000 residents in any wet county or urban-county government with more than 100,000 residents; amend KRS 241.069 to permit a city, county, or urban-county government to petition for an increase in the number of quota retail package licenses; create new sections of KRS Chapter 242 and 243 to authorize a precinct local option election to allow the sale of alcoholic beverages at marinas; set petition and ballot language; establish marina definition and qualifications for a local option election and licensure; make marinas eligible for retail package and drink licenses; exempt marina licenses from quota totals for the territory; amend KRS 242.021 to prohibit a city, county, or urban-county government from seeking a quota retail package license increase until at least one year after the certification of the local option election; create a new section of KRS Chapter 243 to establish requirements for persons delivering alcoholic beverages on behalf of a retail package licensee; amend KRS 243.200 to remove vehicle requirement provisions from a transporter's license; allow an alcohol license applicant to publish its intention to apply for a license either online or in print; make a seller who exceeds the annual package limit for vintage distilled spirits guilty of a Class D felony for the second or a subsequent offense; create a new section of KRS Chapter 244 to establish procedures for department seizure of alcoholic beverages; require the department to provide notice of violations within 14 days from the date of the seizure; return the alcoholic beverages to the licensee if the department fails to provide notice; allow the licensee to request a KRS Chapter 13B hearing before the board to determine if the seizure was justified; enable the licensee to appeal the board's final order to the Circuit Court of the county where the seizure occurred; appoint a representative of the Kentucky Malt Beverage Council to the board of directors for the Alcohol Wellness and Responsibility Education Corporation; remove LRC appointment of industry members of the board; amend KRS 242.125 to conform; EMERGENCY.

**GA:** Remove criminal penalties for violations by a vintage distilled spirits seller; fine a vintage distilled spirits seller \$500 for the first offense, \$2,500 for the second offense, and \$5,000 for the third and each subsequent offense.

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This  bill  amendment  committee substitute is expected to:

**Have the following Corrections impact**

- Creates new crime(s)
- Increases penalty for existing crime(s)
- Increases incarceration
- Reduces inmate/offender services
- Increases staff time or positions
- Changes elements of the offense for existing crime(s)
- Otherwise impacts incarceration (Explain):

**Have no Corrections impact.**

- Repeals existing crime(s)
- Decreases penalty for existing crime(s)
- Decreases incarceration.
- Increases inmate/offender services.
- Reduces staff time or positions.

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**STATE IMPACT:** Class A, B, & C felonies are based on an average daily prison rate of \$116.93. Community Custody Class C and most Class D felons are housed in one of seventy-four (74) full-service or regional jails for up to five (5) years. Department of Corrections cost to incarcerate a felony inmate in jail is \$44.97 per day, which includes \$35.34 per diem, medical costs, and central office administrative costs (substance abuse treatment not included).\*

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

As introduced the legislation would likely have a minimal impact on operational costs by establishing a new Class D felony. The necessary appropriations associated with the costs estimated in this corrections impact statement require a continuation of current service funding for adult correctional institutions.

Class D felons are housed in a county jail and DOC pays counties a per diem for housing those inmates. A Class D Felony sentence is 1 to 5 years. One (1) Class D Felon costs KY \$16,414.05 to \$82,070.25.

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until the disposition of the case. The estimated impact will be based on the \$44.97 cost to incarcerate for the Department of Corrections, including \$35.34 per diem and medical that DOC pays jails to house felony offenders. This cost to incarcerate may not be the actual housing cost for the jail.\*

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

A introduced legislation would likely have a minimal impact on operational costs at the local level by establishing a new Class D felony and new misdemeanors.

Class D felons are housed in a county jail and DOC pays counties a per diem for housing those inmates. A Class D Felony sentence is 1 to 5 years. One (1) Class D Felon costs KY \$16,414.05 to \$82,070.25

Misdemeanor offenders are subject to the jurisdiction and cost of the county. A Class B misdemeanor is up to 90 days in jail. One (1) Class B misdemeanant costs up to \$4,047.30. A Class A misdemeanor is 90 days to 1 year in jail. One (1) Class A misdemeanant costs \$4,047.30 to \$16,414.05

**PROJECTED IMPACT FROM AMENDMENTS:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

**HCS 2** – The Committee Substitute would have an additional impact by establishing that the first offense would be a Class A misdemeanor and that the second and subsequent offenses would a Class D felony.

Class D felons are housed in a county jail and DOC pays counties a per diem for housing those inmates. A Class D Felony sentence is 1 to 5 years. One (1) Class D Felon costs KY \$16,414.05 to \$82,070.25

Misdemeanor offenders are subject to the jurisdiction and cost of the county. A Class A misdemeanor is 90 days to 1 year in jail. One (1) Class A misdemeanant costs \$4,047.30 to \$16,414.05.

**GA** – The GA version with HFA2 removes criminal penalties. This version of the bill would have no impact on the Department of Corrections as the new felony and new misdemeanor are replaced with fines.

*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

**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, lengthen the term of incarceration, or impose new obligations on state or local governments.



**APPROVED BY:** \_\_\_\_\_  
Chief of Staff, Kentucky Department of Corrections

**3/8/2024**  
Date