

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2026 REGULAR SESSION**

MEASURE

2026 BR NUMBER 323

HOUSE BILL NUMBER 9 HCS 1

TITLE AN ACT relating to regulated substances and declaring an emergency.

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 STATE
EMPLOYEE HEALTH PLAN IMPACT

APPROPRIATION UNIT(S) IMPACTED: Alcoholic Beverage Control, Auditor of Public Accounts,
Department for Public Health

FUND(S) IMPACTED: GENERAL ROAD FEDERAL RESTRICTED Various

FISCAL ESTIMATES	2025-2026	2026-2027	2027-2028	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES			See Explanation	See Explanation
EXPENDITURES			(Indeterminable)	(Indeterminable)
NET EFFECT			See Explanation	See Explanation

() indicates a decrease/negative

PURPOSE OF MEASURE: The purpose of this measure is to change the current excise, wholesale and case sales alcoholic tax and implement retail and wholesale regulatory license fees on all alcoholic beverage and cannabis-infused beverage sales.

FISCAL EXPLANATION: The overall effect of the measure on the General Fund is indeterminable. Potential revenue impacts for portions of the bill can be found in Table 2.

State Retail Regulatory License Fee on Alcoholic Beverage Retailers

The measure, beginning in FY 28, imposes a 4 percent state retail regulatory license fee on the gross receipts derived from the sale of alcoholic beverages or cannabis-infused beverages to consumers. It is estimated to increase General Fund revenues by \$50.8 million in FY 28. Using Consumer Expenditure Survey (CES) data from the US Census Bureau, it is estimated that the average US household spends approximately \$687 annually on alcohol. This estimate includes expenditures on alcohol both at home and away from home (e.g., restaurants and bars). The CES spending data were adjusted using the Consumer Price Index for alcoholic beverages to

project spending in FY 28, when the new retail license fee becomes effective. Further, American Community Survey (ACS) data on the number of Kentucky households were used to estimate total retail spending in Kentucky on alcohol in FY 28.

Applying the proposed 4 percent license fee to estimated total retail alcohol spending in Kentucky generates approximately \$51.2 million in revenue. The measure directs that one-quarter of one percent (0.25 percent) of total fees collected (approximately \$128,000) be retained by retailers as reimbursement for collection and remittance costs. Further, the measure directs that one-half of one percent (0.5 percent) of the state retail regulatory license fee be directed to the alcohol wellness and responsibility education fund, estimated at \$256,000. After accounting for these two factors, the state retail regulatory license fee on alcoholic beverage retailers is estimated to increase the General Fund by approximately \$50.8 million in FY 28. Cannabis-infused beverages are excluded from the estimate due to the passage of H.R. 5371 as discussed elsewhere in this note.

State Wholesale Regulatory License Fee on Alcohol

The measure, beginning in FY 28, imposes a wholesale regulatory license fee of four-tenths of a cent (\$0.004) per milliliter of alcohol sold, used, or distributed for human consumption in Kentucky. It is estimated to increase General Fund revenues by approximately \$119.4 million in FY 28.

This estimate is based on Consensus Forecasting Group (CFG) estimated collections in FY 28. Under current law, excise, wholesale, and case taxes (distilled spirits only) are applied to malt beverages, wine, and distilled spirits distributed and sold in the state. Because the excise taxes are volume-based, projected excise tax collections can be used to estimate total gallons sold for each category. Using the CFG estimates for these taxes in FY 28, total gallons of each type of alcohol were imputed and then converted to milliliters of liquid sold.

Because the proposed license fee is based on the volume of pure alcohol rather than the total liquid volume, milliliters of liquid are converted to milliliters of pure ethyl alcohol. This conversion required assumptions regarding average alcohol by volume (ABV):

- Malt beverages: 5 percent
- Wine: 12 percent
- Distilled spirits: 33.26 percent.

To estimate average ABV for distilled spirits sold in Kentucky, national case sales data from the Distilled Spirits Council (DSC) were analyzed. All cases are normalized to 9-liter cases. Case sales by spirit category from 2003 through 2024 were used to forecast FY 28 sales. Category-level sales were combined with assumed average ABVs to calculate a weighted average ABV for distilled spirits. This was then used to estimate total milliliters of pure ethyl alcohol attributable to Kentucky in FY 28. To the extent that Kentucky's mix of distilled spirits sales differs from the national case sales data used to estimate average proof, both the estimated average proof and the resulting estimate of total milliliters of alcohol sold in Kentucky will differ accordingly.

**Table 1
Distilled Spirits Case Sales and Assumed Proof**

Distilled Spirits Category	Forecasted FY 28 Case Sales	Assumed Average Proof
American Whiskey	30,763	90
Brandy and Cognac	10,491	80
Cordials and Liqueurs	16,907	50
Canadian Whisky	20,085	80
Gin	7,881	90
Irish Whiskey	4,667	86
Rum	19,658	90
Scotch	7,509	86
Tequila and Mezcal	34,527	86
Vodka	73,308	86
Ready-to-Drink Cocktails	99,672	28

Source: Distilled Spirits Council and author’s calculations.

State Wholesale Regulatory Fee on Microbreweries

The measure, beginning in FY 28, imposes a state regulatory fee of fourteen one-hundredths of a cent (\$0.0014) per milliliter of alcohol on the first 15,000 barrels directly transferred by microbreweries, and four-tenths of a cent (\$0.004) per milliliter for directly transferred barrels in excess of 15,000 barrels.

The Brewers Association reports that Kentucky microbreweries produced 121,448 barrels in 2024. This equates to approximately 3.76 million gallons, or approximately 14.25 billion milliliters of beer. In order to convert milliliters of beer to milliliters of pure ethyl alcohol, an average ABV must be assumed. Assuming an average ABV of 6 percent for beer produced by Kentucky microbreweries, it is estimated that approximately 855.1 million milliliters of pure ethyl alcohol were produced.

Because data are unavailable on the portion that is directly transferred versus sold on-site, it is assumed that all is transferred. Since production data for each Kentucky microbrewery was unavailable, a range of estimates is provided.

- If all production is taxed at the lower rate of \$0.0014 per milliliter, it is estimated that General Fund revenue would increase by approximately \$1.2 million in FY 28.
- If all of the barrels are taxed at the higher rate of \$0.004 per milliliter, it is estimated that General Fund Revenue would increase by approximately \$3.4 million in FY 28.

Since the number of barrels transferred by each individual microbrewery is not known, the impact on General Fund revenue is positive and indeterminable.

State Retail Regulatory License Fee on Hemp-Derived Cannabinoid Products

The measure, beginning in FY 28, imposes a state retail regulatory license fee of one and six tenths of a cent (\$0.016) per milligram of tetrahydrocannabinol (THC) on hemp-derived cannabinoid products. The measure includes cannabis-infused beverages in its definition of hemp-derived cannabinoid products. Given current federal law governing hemp-derived cannabinoids, the impact on the General Fund of a proposed \$0.016 per milligram or milliliter fee is indeterminable.

H.R. 5371, or the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act, changes the federal definition of hemp from only measuring delta-9 tetrahydrocannabinol to measuring total THC concentration, including tetrahydrocannabinolic acid (THCA) and other hemp-derived cannabinoids that convert to THC. The law also imposes a strict 0.4 milligram total THC limit per final product container and bans synthetic or manufactured cannabinoids produced outside the plant. This includes delta-8 THC products since they are typically created through chemical conversion from CBD rather than extraction directly from the plant. Because many currently marketed hemp-derived cannabinoid products exceed these thresholds, future market size and the potential fee base are uncertain. This change in federal treatment of hemp becomes effective in November of 2026. To the extent that federal law changes the state retail regulatory license fee on hemp-derived cannabinoid products will change.

State Wholesale Regulatory License Fee on Cannabis-Infused Beverages

The measure, beginning in FY 28, imposes a wholesale regulatory license fee of one and six-tenths of a cent (\$0.016) per milliliter or milligram of tetrahydrocannabinol contained in a cannabis-infused beverage. Due to the passage of H.R. 5371, and the limits it places on THC content, the impact of this fee on General Fund revenue is positive and indeterminable.

State Retail Regulatory License Fee on Kratom

The measure, beginning in FY 28, imposes a state retail regulatory license fee of \$0.04 per milligram of mitragynine in kratom. Given a proposed tax rate of \$0.04 per milligram, the fiscal impact of the kratom regulatory fee on the General Fund is indeterminable.

As an example, pricing and potency data from a major online kratom distributor were used as a benchmark. A one-ounce package of kratom capsules is priced at approximately \$13.95 and is reported to contain 1.8 percent mitragynine by weight (approximately 18 milligrams per gram). This concentration is consistent with published research on similar products.

At \$0.04 per milligram, the estimated regulatory fee would equal approximately \$0.72 per gram of kratom since it is estimated that there are approximately 18 milligrams of mitragynine per gram of kratom based on published research. The per-gram cost of kratom, based on the aforementioned retailer, is approximately \$0.50 per gram (\$13.95 divided by approximately 28 grams). The proposed regulatory fee represents approximately 145 percent of the underlying product cost per gram. The combined product price and regulatory fee would likely affect consumer demand in ways that cannot be reliably forecast. Due to this uncertainty in consumer response, the resulting impact of the kratom regulatory fee on the General Fund is indeterminable.

Sunsetting of Current Alcohol Taxes

Beginning July 1, 2027, current excise, wholesale, and case sales alcohol taxes will sunset. The CFG estimates these taxes would have generated approximately \$185.1 million in General Fund revenue in FY 28. Therefore, sunseting these provisions will reduce General Fund revenue by approximately \$185.1 million in FY 28.

**Table 2
HB 9 Estimated General Fund Impacts**

Provision	FY 28 (in millions)
State Retail Regulatory License Fee on Alcohol less Reimbursement	\$50.8
State Wholesale Regulatory License Fee on Alcohol less reimbursement and Alcohol Wellness Fund	\$117.3
State Wholesale Microbrewery Regulatory License Fee	Indeterminable
State Retail Regulatory License Fee on Hemp-Derived Cannabinoids	Indeterminable
State Wholesale Regulatory License Fee on Cannabis-Infused Beverages	Indeterminable
State Retail Regulatory License Fee on Kratom	Indeterminable
Sunsetting of Current Alcohol Taxes	(\$185.1)

The Department of Public Health is required to establish laboratory and testing standards and procedures, which will be conducted by third-party laboratories. The cost to contract third-party laboratories to test these additional products are indeterminable.

This measure requires the Auditor of Public Accounts to conduct audits of each local government imposing the regulatory license fees, however, revenues generated from the regulatory license fee are to cover the cost of all audits.

DATA SOURCE(S): LRC Staff, Consensus Forecasting Group, Distilled Spirits Council, US Census Bureau Consumer Expenditure Survey, US Census Bureau American Community Survey, Brewer’s Association, Bureau of Labor Statistics Consumer Price Index
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