

**Local Mandate Fiscal Impact Estimate  
Kentucky Legislative Research Commission  
2016 Regular Session**

**Part I: Measure Information**

**Bill Request #:** 399

**Bill #:** SB 11

**Bill Subject/Title:** Alcoholic Beverages.

**Sponsor:** Sen. J. Schickel

Unit of Government:  City  County  Urban-County  
 Charter County  Consolidated Local  Unified Local  
Government

Office(s) Impacted: County Judge/Executives; Fiscal Courts, County Clerks, City Clerks,  
local licensing offices, local law enforcement

Requirement:  Mandatory  Optional

Effect on Powers & Duties:  Modifies Existing  Adds New  Eliminates Existing

**Part II: Purpose and Mechanics**

Section 1 of SB 11 amends KRS 241.010 to: expand the definition of “Alcoholic beverage” to include powder or crystal; define “Bed and breakfast”; define “Commercial quadricycle”; define “Discount in the usual course of business”; change the definition of “Small farm winery” to mean a winery producing wines in an amount not to exceed 100,000 gallons (rather than the current 50,000 gallons) in a calendar year; and change the definition of “Souvenir package” to mean a special package of distilled spirits available from a licensed retailer that is: available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled, or available for retail sale at a licensed Kentucky distillery but produced or bottled at another distiller’s licensed distillery in Kentucky.

Section 2 creates a new section of KRS Chapter 242 to promote economic development and tourism. Section 2 permits a local option election in a city or county precinct where a distillery is located. The election would allow the sale of alcoholic beverages at distilleries located in the precinct.

Section 3 amends KRS 242.020 to require that those who intend to circulate a local option election petition shall file with the county clerk, before the petition is presented for signatures, the intent to circulate the petition. This group of petitioners shall post bond with the Circuit Court to cover all costs of the election if the election is to be held on any day other than a primary or regular election date. The cost of the election shall be established by the county judge/executive. Notwithstanding KRS 242.060, if the date of the local option election is stated in the petition as provided in Section 5 for a date other than a primary or regular election day, all election costs for the local option election shall be borne by the group of citizens who circulated the petition.

Under current law (KRS 242.030), a local option election shall not be held on a primary or general election day. Section 5 amends KRS 242.030 to permit the holding of a local option election on a primary or general election day. The date of the local option election may be stated in the petition for election. If the date is not stated in the petition, it shall be designated by the county judge/executive.

Section 6 amends KRS 242.1241 to require that a local option election for Sunday alcoholic beverage sales at a small farm winery, located in a wet or moist territory, shall be conducted in the same manner as Section 3.

Section 9 creates a new section of KRS Chapter 243 to permit the issuance of an “authorized public consumption” (“APC”) license in a wet territory to an applicant operating as, or in, a commercial quadricycle business. The applicant shall possess a permit issued by the local government that has jurisdiction to grant rights to the applicant to operate its business on public roadways and highways within a specific designated operational area as its premises. If the local government chooses to issue permits, that local government shall adopt an ordinance for operation of a commercial quadricycle business that shall include local licensing requirements and local inspection requirements.

Section 10 amends KRS 243.030 to establish state fees of \$2,580 per annum for a Class A Rectifier’s license, \$825 per annum for a Class B Rectifier’s license, \$110 per event for a Special temporary alcoholic beverage auction license, and \$250 per annum for an Authorized public consumption license.

Section 11 amends KRS 243.0305 to apply to any licensed Kentucky distiller that is located in wet territory or any precinct that has authorized the limited sale of alcoholic beverages at distilleries under Section 2. Section 11 further amends KRS 243.0305 to increase the permitted sale of souvenir packages from 3 liters per visitor per day to 9 liters per visitor per day. Section 11 also establishes rules for distillery use of a sampling license or an NQ3 license.

Section 14 amends KRS 243.036 to permit a charitable organization to obtain a special temporary alcoholic beverage auction license. Section 14 also permits a distiller, rectifier, winery, small farm winery, brewer, microbrewery, wholesaler, distributor, or retailer to donate any of its products to a charitable organization possessing a special temporary alcoholic beverage auction license.

Under current law (KRS 243.060), the fiscal court of each county or a consolidated local government in which traffic in alcoholic beverages is not prohibited may impose license fees for the privilege of trafficking in alcoholic beverages. These licenses may be issued by the county or consolidated local government administrator. Section 15 amends KRS 243.060 to establish a maximum per annum APC license fee of \$250.

Under current law (KRS 243.070), the legislative body of any city or a consolidated local government may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. The fees set forth in the section are the maximum allowed. Section 16 amends KRS 243.070: to lower the cost of a Rectifier's license from \$3,000.00 per annum to \$500 per annum for a Class A license and to establish a fee of \$300 per annum for a Class B license. Section 16 establishes a special temporary alcoholic beverage auction license in the amount of \$200 per event. Section 16 also establishes a per annum APC license fee of \$250.

Section 17 amends KRS 243.086 to permit the issuance of a NQ3 retail drink license to a bed and breakfast or a distiller.

Section 18 amends KRS 243.090 to require that most alcohol licenses issued by a city or county administrator shall expire on the same date as the corresponding state license.

Section 19 amends KRS 243.120 to create Class A and Class B Rectifier's licenses. In addition a distiller that is located in wet territory, or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under Section 2, may sell distilled spirits by the drink at retail to consumers in accordance with Section 11.

Section 21 amends KRS 243.155 to permit small farm wineries to manufacture brandy, as well as manufacture and sell fortified wine and other products. Please note that subsection (56) of Section 1 increases the permissible size of a small farm winery from one that produces wines in an amount not to exceed 50,000 gallons per year to one that produces wines in an amount not to exceed 100,000 gallons per year.

Under current law (KRS 243.157), a microbrewery license authorizes the licensee to perform certain functions, including selling malt beverages on premises and to distributors. Section 22 amends the statute to raise the maximum permitted production of a microbrewery from 25,000 barrels to 50,000 barrels. Section 22 also permits microbreweries to sell malt beverages produced on premises at fairs, festivals, and other similar types of events located in wet territory.

Section 24 creates a new section of KRS Chapter 244 to establish a prohibition. No person shall possess, sell, offer for sale, or use any powdered or crystalline alcoholic beverage product.

Section 25 amends KRS 244.050 to permit the sale of samples of distilled spirits, wine, and malted beverages.

Section 28 amends KRS 244.240 to permit discounts in the usual course of business if the same discounts are offered to all licensees holding the same license type buying similar quantities of alcoholic beverages. Section 29 repeals KRS 243.892 which prohibits discounts.

### **Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost**

**The fiscal impact of SB 11 on local governments varies depending on which provisions are under consideration.**

**According to the Cabinet for Economic Development, several SB 11 provisions promote a moderate increase in economic activity through tourism and other means.**

- Sections 2, 3, and 5 promote economic development and tourism in a dry or moist county or city in which a distillery is located by allowing a local option election for the sale of alcoholic beverages in the city or county precinct where the distillery is located. To reduce the costs of the local option election, Section 5 permits it to be held on the same day as a general or regular election. If a local option election is held on a day other than a general or regular election, then the citizens who circulated the local option petition shall pay all elections cost.
- Section 9 permits a commercial quadricycle business to obtain an APC license for the purpose of allowing that business to permit customers to drink alcoholic beverages while boarding and riding a quadricycle. This provision should promote the quadricycle business
- Section 11 permits any licensed Kentucky distiller that is located in wet territory or any precinct that has authorized the limited sale of alcoholic beverages under Section 2 to expand sales. The section increases the size of souvenir alcohol packages that a distiller may sell to a visitor from 3 liters per day to 9 liters per day. The section also permits a distiller authorized under Sections 2, 3, and 5 to hold an NQ 3 retail drink license. Lastly, any distiller with a sampling license may provide samples to visitors.
- Section 14 expands the right of charitable organizations to sell alcoholic beverages.
- Section 17 permits a bed and breakfast as well as a distiller to obtain a NQ3 retail drink license.
- Section 21 permits small farm wineries to manufacture brandy and manufacture and sell fortified wine, and other products. Please note that subsection (56) of Section 1 increases the permissible size of a small farm winery from one that produces wines in an

amount not to exceed 50,000 gallons per year to one that produces wines in an amount not to exceed 100,000 gallons per year.

- Section 22 expands the permitted size of microbreweries from ones that sell no more than 25,000 barrels of malt beverages per year to ones that sell no more than 50,000 barrels per year. The provision also permits microbreweries to sell their products at fairs, festivals, and similar events.
- Section 25 amends KRS 244.050 to permit the sale of samples of distilled spirits, wine, and malted beverages.
- Section 28 amends KRS 244.240 to permit discounts in the usual course of business if the same discounts are offered to all licensees holding the same license type buying similar quantities of alcoholic beverages. Section 29 repeals KRS 243.892 which prohibits discounts.

**By promoting business activity and increased employment, SB 11 will generate additional tax revenue for local governments through: Property Taxes, Income (Occupational) Taxes, Motor Vehicle and Operator Licensing Taxes, and Fees and Charges. While the amount of this additional tax revenue is indeterminable, it is expected to range from minimal to moderate.**

Current law (KRS 242.030) prohibits the holding of a local option election on the same date as a primary or general election. Sections 3 and 5 end this prohibition and permit the petitioners for the local option election to pick a date for the election that may coincide with a primary or general election or may be some other date. If the petitioners fail to choose a date, then the county judge/executive chooses one. Furthermore, Section 3 shifts the costs of a local option election from a local government to the petitioners seeking a local option election when the local option election is not held on the same date as a primary or general election.

**The shifting of costs of local option elections from local governments to the petitioners will result in savings to counties that will range from minimal to significant, depending on the size of the territory (ranging from one precinct to an entire county) and the number of territories within a county requesting local option elections each year.** The average cost to a county of conducting an election is \$2,000 per precinct. Counties vary as to number of precincts. For example, Fayette has 291 precincts. If one precinct holds a local option election on a date other than a primary or general election then the cost is \$2,000. On the other hand, if all 291 precincts participate in the local option election, then the cost is \$582,000. Under SB 11, these costs will now be shifted from a county to the petitioners seeking a local option election.

**However, a minimal local option election cost will remain with a county if the local option election is held on the same date as a primary or general election. Under these circumstances, a county still incurs additional programming costs.** According to Harp enterprises, a vendor that provides electronic voting machines to 97 Kentucky

counties, the costs range from \$14 per precinct for larger counties such as Fayette with 291 precincts to \$45 for counties such as Franklin with 44 precincts. (Please note that total primary and general election costs are offset to some extent by state reimbursement of \$198 per precinct for a primary or general election.)

Section 9 creates a new section of KRS Chapter 243 to permit the issuance of an “authorized public consumption” (“APC”) license in a wet territory to an applicant operating as, or in, a commercial quadricycle business. The applicant shall possess a permit issued by the local government that has jurisdiction to grant rights to the applicant to operate its business on public roadways and highways within a specific designated operational area as its premises. If the local government chooses to issue permits, that local government shall adopt an ordinance for operation of a commercial quadricycle business that shall include local licensing requirements and local inspection requirements. **Minimal cost** will be associated with drafting and advertising the ordinance under the provisions of KRS Chapter 424 and placing the ordinance the local Fiscal Court docket for consideration.

**Sections 15 and 16 amend KRS 243.060 and KRS 243.070, respectively, to permit counties and cities to impose license fees for the privilege of trafficking in alcoholic beverages. Since these fees are used for covering the cost of issuing the license, education, and enforcement, there is no fiscal impact.**

Section 24 establishes a prohibition. No person shall possess, sell, offer for sale, or use any powdered or crystalline alcoholic beverage product. This crime is punished under KRS 24.990 as a Class B misdemeanor for a first offense and a Class A misdemeanor for the second and each subsequent offense. A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to one year. Misdemeanants are housed in one of Kentucky’s 78 full service jails or five life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day. While the majority of misdemeanor defendants are granted bail, those who are not granted bail will also cost jails an average of \$31.34 per day. **Since it is anticipated that few individuals will violate Section 24, this section will impose a nil to minimal financial cost on local governments.**

**Data Source(s):** Department of Alcoholic Beverage Control; Cabinet for Economic Development; Kentucky County Clerk's Association; Harp Enterprises; Kentucky Annual Economic Report (2006)

**Preparer:** Scott Varland                      **Reviewer:** JWN                      **Date:** 1/11/16