

**243.075 Certain wet or moist local governments may impose regulatory license fees on gross receipts of the sale of alcoholic beverages of establishments selling alcoholic beverages -- Regulatory license fees levied on gross receipts of the sale of alcoholic beverages of establishments selling beverages by the drink following determination of economic hardship -- Annual levies -- Credits -- Applicability of county regulatory license fee when cities also levy license fee -- Enactment of fee following election or enactment of ordinance after July 15, 2014 -- Rate of fee established after July 15, 2014 -- Administrative regulations -- Use of revenue received from regulatory license fee -- Penalties for violation -- Party suing city or county for violation responsible for attorney fees if city or county found not to be in violation.**

- (1)
  - (a) Notwithstanding the provisions of KRS 243.060 and 243.070, in any city of the third or fourth class in which the discontinuance of prohibition is effective by virtue of a local option election held under KRS Chapter 242, the governing body of the city and the governing body of the county containing a city of the third or fourth class is authorized to impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment therein licensed to sell alcoholic beverages.
  - (b) The regulatory license fee may be levied at the beginning of each budget period at a percentage rate as shall be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county.
  - (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:
    1. A credit against a regulatory license fee in a city shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070; and
    2. In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (2)
  - (a) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.060 and 243.070, a city or county that is moist through a local option election held under KRS 242.1244, or that issues licenses under KRS 243.072 may by ordinance impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment located therein and licensed to sell distilled spirits, wine, or malt beverages by the drink for consumption on the premises.
  - (b) The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses.
  - (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in

an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070.

- (d) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (3) (a) For any election held after July 15, 2014, any new fee authorized under subsection (1) or (2) of this section shall be enacted by the city or county no later than two (2) years from the date of the local option election held under KRS Chapter 242.
- (b) For any new ordinance enacted pursuant to KRS 243.072 after July 15, 2014, the fee authorized by subsection (2) of this section shall be enacted within two (2) years of the date of the enactment of an ordinance pursuant to KRS 243.072.
- (4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section shall be established at a rate that will generate revenue that does not exceed the total of the reasonable expenses actually incurred by the city or county in the immediately previous fiscal year for the additional cost, as demonstrated by reasonable evidence, of:
- (a) Policing;
  - (b) Regulation; and
  - (c) Administration;
- as a result of the sale of alcoholic beverages within the city or county.
- (5) (a) The Kentucky Department of Alcoholic Beverage Control shall promulgate administrative regulations which set forth the process by which a city or county, in the first year following the discontinuance of prohibition, may estimate any additional policing, regulation, and administrative expenses by a city or county directly and solely related to the discontinuance of prohibition. This subsection shall apply to any discontinuance of prohibition occurring after the promulgation of administrative regulations required by this subsection.
- (b) After the first year, the regulatory license fee for each subsequent year shall conform to the requirements of subsection (4) of this section.
- (6) The revenue received from the imposition of the regulatory license fee authorized under subsections (1) and (2) of this section shall be:
- (a) Deposited into a segregated fund of the city or county;
  - (b) Spent only in accordance with the requirements of subsections (1) and (2) of this section; and
  - (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810, and 91A.040.
- (7) Any city or county found by a court to have violated the provisions of this section shall:
- (a) Provide a refund as determined by the court to any licensee that has been harmed in an amount equal to its prorated portion of the excess revenues collected by the city or county that are directly attributable to a violation occurring after July 15, 2014;

- (b) Be responsible for the payment of the reasonable attorney fees directly incurred by a party to a litigation in an amount ordered by the court upon its finding of an intentional and willful violation of this section by a city or county occurring after July 15, 2014; and
  - (c) Upon the finding by a court of a second intentional and willful violation of the provisions of this section, lose the ability to impose the regulatory fee provided by this section for a period of five (5) years and, upon the finding by a court of a third intentional and willful violation, forfeit the right to impose the regulatory license fee authorized by this section.
- (8) Any party bringing suit against a city or county for an alleged violation of this section occurring after July 15, 2014, shall be responsible for the payment of the reasonable attorney fees of the city or county in an amount determined by the court upon a finding by the court that the city or county did not violate this section.

**Effective:** July 15, 2014

**History:** Amended 2014 Ky. Acts ch. 22, sec. 9, effective July 15, 2014; and ch. 39, sec. 1, effective July 15, 2014. -- Amended 2013 Ky. Acts ch. 121, sec. 56, effective June 25, 2013. -- Amended 2000 Ky. Acts ch. 435, sec. 18, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 121, sec. 38, effective July 15, 1998. -- Created 1982 Ky. Acts ch. 434, sec. 16, effective July 15, 1982.

**Legislative Research Commission Note (7/15/2014).** This statute was amended by 2014 Ky. Acts chs. 22 and 39. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 39, which was last enacted by the General Assembly, prevails under KRS 446.250.