

Legislative  
**UPDATE**

# 2015 *Kentucky League of Cities* LEGISLATIVE UPDATE

Bills Enacted by the 2015 Kentucky General Assembly of Interest to Kentucky Cities



Kentucky League of Cities

[klc.org](http://klc.org)

**NOTE:** The effective date of all legislation enacted by the 2015 Regular Session of the General Assembly is June 24, 2015, except for measures containing emergency or delayed effective date provisions. (OAG 15-008)

If a bill reported in this update becomes effective on a date other than June 24, 2015, it is noted in the summary of the bill.

The complete text of all bills is available for review on the Legislative Research Commission website at [www.lrc.ky.gov](http://www.lrc.ky.gov).



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### **HB 168 INCOMPATIBLE MALT BEVERAGE LICENSES**

Sponsor: Representative Greg Stumbo (D-Prestonsburg)

HB 168 amends KRS 243.110 to prohibit any entity that holds a malt beverage brewer's, distributor's, or retail package license to apply for or hold any other malt beverage license. The bill also prohibits a brewery holding an out-of-state malt beverage supplier's license to apply for or hold a malt beverage distributor's or retail package license.

The purpose of the bill is to enforce a three-tier system for beer production, distribution, and sales parallel to the three-tier system for distilled spirits and wine, which permits alcohol producers to sell only to distributors or wholesalers who sell only to retailers.

## CONTROLLED SUBSTANCES



### **HB 24 DEXTROMETHORPHAN ABUSE**

Sponsor: Representative Fitz Steele (D-Hazard)

HB 24 creates new sections of KRS Chapter 218A to prohibit the sale of products containing dextromethorphan (DMX), a cough suppressant contained in cold medicines, to persons under 18 years of age. Any person who sells any product containing DMX must limit access by requiring proof of age from a prospective buyer by showing a government-issued photo identification card that displays his or her date of birth if the seller has reason to believe the prospective buyer is under the age of 18 years. A person under the age of 18 years is prohibited by HB 24 to purchase, attempt to purchase, or have another person purchase for him or her a product containing DMX. In any prosecution for selling a product containing DMX to a person under 18 years of age, it will be a defense that the sale was induced by the use of a false, fraudulent, or altered government-issued photo identification card and the appearance and character of the purchaser indicated he or she was of legal age to purchase products containing DMX.

Any person who knowingly sells a product containing DMX to a person under the age of 18 years is subject to a fine of \$25 for the first violation and \$200 for each subsequent violation. Any person under the age of 18 years who purchases, attempts to purchase, or has another person purchase for him or her a product containing DMX is subject to a fine of \$25 for the first violation and \$100 for each subsequent violation. Any person who assists a person under 18 years of age in purchasing any product containing DMX is subject to a fine of \$100 for the first violation and \$200 for each subsequent violation.

HB 24 additionally prohibits the possession of one gram or more of pure DMX by anyone other than a medical facility, medical practitioner, pharmacy or pharmacist.

### **HB 329 PAIN MANAGEMENT FACILITIES**

Sponsor: Representative Jody Richards (D-Bowling Green)

HB 329 amends KRS 218A.175 to modify operational and ownership requirements for nonphysician-owned pain management facilities. HB 1 enacted by the 2012 General Assembly required pain management facilities to be owned by a physician licensed to practice medicine in Kentucky with the exception of existing pain management facilities not owned by a physician. These facilities were permitted to continue to operate so long as there is no administrative sanction or criminal conviction relating to controlled substances imposed on the facility or any person working on behalf of the facility.

HB 329 permits “grandfathered” nonphysician-owned pain management facilities whose ownership has been continuously held jointly and exclusively by practitioners licensed to dispense or administer controlled substances in Kentucky since April 24, 2012, to: (1) open and operate no more than two additional facilities in locations other than those locations existing and operating on



## CONTROLLED SUBSTANCES (CONT.)

April 24, 2012; (2) transfer whole or partial ownership interest between existing practitioner owners; (3) transfer whole or partial ownership interest to new owners if the new owners are physicians licensed to practice in Kentucky and the facility notifies the Cabinet for Health and Family Services of the transfer 30 days before it occurs; and (4) pass the ownership interest of a licensed former owner through that person's estate to a physician licensed to practice in Kentucky without disqualifying the facility's grandfathered status if the facility notifies the Cabinet of the transfer 20 days before it occurs when the interest is being transferred to a physician who is not an existing owner of the facility.



### **SB 192 CONTROLLED SUBSTANCES**

Sponsor: Senator Paul Hornback (R-Shelbyville)

SB 192 is comprehensive legislation designed to curb the state's heroin problem by providing increased options for substance abuse treatment, tougher penalties for heroin traffickers, an option for local health departments to establish needle exchange programs for protection of public health with approval of city and county governments, as well as other measures.

#### **Treatment Programs**

KRS 146.288 is amended by SB 192 to require 50 percent of savings from previously enacted criminal justice reforms to be distributed for the following purposes:

- ◆ To the Department of Corrections to provide substance abuse treatment in county jails;
- ◆ To the Kentucky Agency for Substance Abuse Policy in the Justice and Public Safety Cabinet to provide substance abuse prevention programs in county jails; to offer supplemental grant funding to community mental health centers for additional substance abuse treatment resources; to address neonatal abstinence syndrome by providing supplemental grant funding for residential treatment services for pregnant women; and to provide supplemental funding for traditional substance abuse programming by the Kentucky Agency for Substance Abuse Policy;
- ◆ To the Department of Corrections for the purchase of FDA-approved extended-release treatment for inmates with an opiate addiction participating in a substance abuse treatment program;
- ◆ To the Department for Public Advocacy to provide supplemental funding for social worker positions to develop individualized alternative sentencing plans; and
- ◆ To the Prosecutors Advisory Council to enhance prosecutions in controlled substance cases.

The legislation includes an appropriation of \$10 million in fiscal year 2015-2016 for implementation of the above programs. The secretary of the Justice and Public Safety Cabinet is directed to determine the distribution of the funds.

## CONTROLLED SUBSTANCES (CONT.)

### Administration of Naloxone

KRS 217.186 is amended to: (1) authorize peace officers, jailers, firefighters, paramedics and emergency medical technicians to receive a prescription for the opiate overdose rescue medication naloxone, possess naloxone and administer naloxone to an individual suffering from an apparent opiate-related overdose; (2) allow pharmacists holding a separate certification issued by the Kentucky Board of Pharmacy to prescribe and dispense naloxone; and (3) permit schools to keep naloxone on the premises for administration by qualified personnel to an individual suffering from an apparent opiate-related overdose.

### “Good Samaritan” Provision

A new section of KRS Chapter 218A is created to provide immunity from prosecution for possession of a controlled substance or drug paraphernalia by a person who seeks emergency medical assistance for himself or herself or for another person suffering from an apparent drug overdose. If emergency medical assistance is sought for another person, the person seeking assistance must remain with the individual experiencing the apparent overdose until the requested assistance is provided.

### Criminal Penalties

New sections of KRS Chapter 218A:

1. Create the offense of importing heroin into Kentucky with the intent to sell or distribute the heroin, which may be charged as a separate offense in addition to other violations of KRS Chapter 218A occurring during the same course of conduct. Importing heroin is a Class C felony with a requirement to serve at least 50 percent of the sentence imposed; and
2. Create the offense of aggravated trafficking in a controlled substance in the first degree when a person knowingly traffics in 100 grams or more of heroin. Aggravated trafficking is a Class B felony with a requirement to serve at least 50 percent of the sentence imposed.

KRS 218A.1412 is amended to revise probation and parole eligibility for certain drug offenders:

1. Persons convicted of a Class C felony or higher for trafficking in a controlled substance must serve at least 50 percent of the sentence imposed; and
2. Persons convicted of a Class D felony for trafficking in less than 2 grams of heroin while possessing more than one item of drug paraphernalia, which indicates the trafficking to have been a commercial activity, must serve at least 50 percent of the sentence imposed.

KRS 218A.1414 is amended to increase the penalty for trafficking in Schedule IV or V controlled substances from a Class A misdemeanor to a Class D felony for trafficking in more than 120 dosage units.

KRS 218A.500 is amended to exempt from a charge of possession of drug paraphernalia any person who declares to a peace officer the presence of a needle or other sharp object prior to a search by the officer of his or her person, premises or vehicle.

## CONTROLLED SUBSTANCES (CONT.)

### Needle Exchange Program

KRS 218A.500 is amended to authorize local health departments to operate a substance abuse treatment outreach program that allows participants to exchange hypodermic needles and syringes. A program must first be approved by the legislative body of the city in which the program would operate, if located in a city, and the legislative body of the county in which the program would operate. Approval may be revoked at any time.

### Other Provisions

1. KRS 72.026 is amended to require coroners to notify the Commonwealth's attorney and a local law enforcement agency in the circuit where the death occurred if the death resulted from the use of a Schedule I controlled substance along with the types and concentrations of Schedule I drugs detected.
2. A new section of KRS Chapter 205 is created to require the Department for Medicaid Services to provide a substance use disorder benefit that includes a broad array of treatment options for persons with heroin and other substance use disorders.
3. A new section of KRS Chapter 216B is created to require persons admitted to a hospital emergency room for treatment of a drug overdose to be informed of available substance abuse treatment services.

### In-Service Training for Law Enforcement Officers

The Department of Criminal Justice Training is directed to offer voluntary in-service training on the topic of heroin for law enforcement officers employed by agencies that utilize the department for basic training of recruits. The training must include instructional material on the detection and interdiction of heroin trafficking, the dynamics of heroin abuse and available treatment options for addicts. At least one course must be offered in each area development district by December 31, 2015.

### Emergency

An EMERGENCY is declared to exist. SB 192 became law on March 25, 2015, when signed by the Governor.

## ECONOMIC DEVELOPMENT



### **SB 168** **KENTUCKY APPALACHIAN REGIONAL DEVELOPMENT FUND**

Sponsor: Senator Albert Robinson (R-London)

SB 168 amends and creates new sections of KRS Chapter 154.33 to create the Appalachian Regional Development Fund administered by the Department for Local Government to support job creation and retention, entrepreneurship, tourism, broadband deployment, education, workforce training, leadership development, public engagement, health and wellness, sustainable agricultural practices and food systems, arts and heritage, infrastructure, and economic diversity within the Appalachian region of Kentucky as defined by federal law. The fund replaces the Kentucky Economic Development Fund administered by the East Kentucky Corporation.

Kentucky counties within the designated area include: Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Edmonson, Elliott, Estill, Fleming, Floyd, Garrard, Green, Greenup, Harlan, Hart, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Metcalfe, Monroe, Montgomery, Morgan, Nicholas, Owsley, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Wayne, Whitley and Wolfe.

The following entities within the Appalachian region are eligible to apply for loans, grants or investments from the fund: (1) nonprofit corporations; (2) entities representing Shaping Our Appalachian Region, Inc. (SOAR); and (3) departments, divisions, or offices of a city or county within the region. Applications must be submitted to the executive director of SOAR for review by the board of directors. Criteria for selection include: (1) the unemployment level in each community where the project will be located; (2) the likelihood the project will generate future revenue for the community; (3) the number of new direct and indirect jobs and wages to be paid; (4) funding match from the local community, private sector persons or foundations; and (5) the likelihood the project can sustain itself in the future. Following review, applications will be forwarded to the Department for Local Government with recommendations for approval or disapproval.

The commissioner of the Department for Local Government has authority to approve applications and determine reasonable terms and conditions for loans, grants or investments in consultation with the Cabinet for Economic Development. A report detailing the operation and financial status of the fund, initiatives supported by the fund, and the status of the measures of success identified for each funded initiative must be prepared by the department and submitted to the Governor and the Legislative Research Commission on an annual basis.

## **HB 150 WRITE-IN CANDIDATES IN LOCAL ELECTIONS**

Sponsor: Representative Tommy Thompson (D-Owensboro)

HB 150 amends KRS 117.265 to make any candidate for county, urban county, consolidated local government, charter county government or unified local government office who is defeated in a partisan or nonpartisan primary ineligible to run as a write-in candidate for the same office in the regular election. The bill extends the current ineligibility of a candidate for city office who is defeated in a partisan or nonpartisan primary to run as a write-in candidate for the same office in the regular election to candidates in other local government elections.



## **SB 62 REEMPLOYMENT AFTER RETIREMENT OF ELECTED OFFICIALS**

Sponsor: Senator John Schickel (R-Union)

SB 62 amends KRS 61.637 to provide that an elected official participating in a retirement plan administered by the Kentucky Retirement Systems who is reelected to a new term of office in the same position and who then retires following reelection, but prior to taking office for the new term, shall be deemed to have a prearranged agreement in violation of KRS 61.637 and will have his or her initial retirement voided.

# ENVIRONMENTAL PROTECTION



## **HB 100 ENERGY PROJECT ASSESSMENT DISTRICTS**

Sponsor: Representative James Kay (D-Versailles)

HB 100 creates new sections of KRS Chapter 65 to allow local governments to establish energy project assessment district programs to finance projects to increase the efficient use of energy or decrease water or energy consumption or demand by voluntary assessments on real properties participating in the program. “Energy project” is defined to mean “the installation or modification of a permanent energy improvement fixed to real property.” “Energy project assessment district” (EPAD) means “a geographic area designated by a local government within which energy projects may be undertaken and financed through the imposition of an assessment on the real property being improved by the energy project.” Real property for purposes of HB 100 excludes residential property consisting of less than five units.

An EPAD program permits property owners to voluntarily participate in a program to repay energy improvement costs over an agreed time period through property assessments that are secured by the property and paid as an addition to the owner’s property tax bill.

A local government may establish an EPAD program by resolution or ordinance that includes the following: (1) designation of an energy project assessment district; (2) a statement that assessments on real property will be utilized to finance private sector energy projects to advance the conservation and efficient use of energy and water resources within the district; and (3) a procedure for the owners of record of real property located within the district to petition the local government for participation in the program.

Upon receipt of a petition to participate in an EPAD program, a written contract must be signed between the local government and the owner of record of the real property to be assessed accepting the energy project into the program and establishing the terms and conditions for the project, including the assessment to be imposed and period for repayment. Financing for energy improvements within an EPAD may be provided by a local government by issuance of bonds or by a third party financial institution with a physical presence in Kentucky whose deposits are insured by the Federal Deposit Insurance Corporation.

Energy project assessments must be recorded in the property tax records of the county in which the property is located; added to the property tax bill for the relevant property; and collected and distributed by the sheriff or other designated local official or department to the imposing local government in the same manner as other real property taxes. The assessment constitutes a first and prior lien against the real property on which the assessment is imposed as a lien for any other state or local ad valorem tax upon the property.



### **HCR 168 FEDERAL ENVIRONMENTAL REGULATION IMPACT ASSESSMENT TASK FORCE**

Sponsor: Representative Jim Gooch (D-Providence)

House Concurrent Resolution 168 directs the Legislative Research Commission to establish a Federal Environmental Regulation Impact Assessment Task Force to study the potential effect of federal environmental policies and regulations on the affordability and reliability of electricity generation and transmission in Kentucky for residents, local governments, school districts and businesses.

The task force shall be composed of the following members or their designees, including the presidents of the Kentucky League of Cities and Kentucky Association of Counties: chair of the House Standing Committee on Natural Resources and Environment to serve as co-chair; chair of the Senate Standing Committee on Natural Resources and Energy to serve as co-chair; two additional members of the Senate; two additional members of the House of Representatives; secretary of the Energy and Environment Cabinet; secretary of the Cabinet for Economic Development; executive director of the Public Service Commission; director of the Division of Emergency Management of the Department of Military Affairs; executive director of the Kentucky School Boards Association, executive director of Kentucky Industrial Utility Customers; president of the Kentucky Coal Association; president of the Kentucky Oil and Gas Association; director of the Center for Applied Energy Research at the University of Kentucky; director of the Conn Center for Renewable Energy Research at the University of Louisville; president of the Kentucky Association of Manufacturers; executive director of Community Action Kentucky; Kentucky state director of the American Association of Retired Persons; and the Kentucky state director of the National Federation of Independent Business.

The task force is required by HCR 168 to meet at least three times prior to submission of its findings and recommendations to the Legislative Research Commission by December 31, 2016.

A majority of the members appointed to the task force may vote to recommend that the Legislative Research Commission engage an outside entity or entities to complete an analysis or study of the issues on behalf of the task force.

## LAW ENFORCEMENT



### **HB 19 DISPOSAL OF FORFEITED VEHICLES**

Sponsor: Representative Hubert Collins (D-Wittensville)

HB 19 amends KRS 218A.420 to define procedures for forfeiture of vehicles contaminated by methamphetamine. Vehicles used to facilitate the transportation of illegal controlled substances or new materials, products and equipment used or intended for use in manufacturing any illegal controlled substance are subject to forfeiture pursuant to KRS 218A.410.

HB 19 requires any vehicle seized by a law enforcement agency that is determined by a state or local law enforcement agency to be contaminated with methamphetamine to be destroyed or salvaged for scrap metal, rather than used, resold or salvaged for parts. Vehicles that have only transported prepackaged materials or products, precursors or any other materials that have not been subjected to extraction shall not be deemed contaminated by methamphetamine and thus may be used, sold or salvaged for parts rather than destroyed or salvaged for scrap metal.



### **HB 333 POLICE OFFICER BILL OF RIGHTS**

Sponsor: Representative Denver Butler (D-Louisville)

HB 333 clarifies and expands provisions of KRS 15.520, commonly known as the “Police Officer Bill of Rights,” to distinguish between disciplinary protocols for violations of law enforcement procedures and disciplinary protocols for violations of general employment policies.

When a citizen complaint alleging misconduct is filed against a peace officer or an officer is accused by the law enforcement agency employing the officer of an act or omission that would constitute a violation of law enforcement procedures, the employing agency must conform the conduct of any investigation and disciplinary hearing to the provisions of KRS 15.520 before any disciplinary action may be taken against the officer. Law enforcement procedures is defined to mean “policies, rules, and customs carried out in the course of peace officer functions that are specific to the conduct of officers in the exercise of law enforcement powers and functions, including, without limitation: use of force, conduct in the course of pursuits, conduct during stops or detentions of citizens, investigative conduct, and conduct in the course of interacting with, assisting, or questioning of citizens.” Disciplinary action is defined to mean “termination, demotion, suspension, a decrease in pay or grade, suspension without pay, and a written reprimand.”

An employing agency is not required to conform the conduct of any investigation and disciplinary hearing to the provisions of KRS 15.520 in addressing conduct by an officer that would constitute a violation of general employment policies, rather than law enforcement procedures, of the employing agency. General employment policies is defined to mean “the rules, regulations, policies, and procedures commonly applicable to the general workforce or to civilian employees that are not unique to law enforcement activities or the exercise of peace officer authority, regardless of whether those rules, regulations, policies, and procedures exist or appear in a departmental manual or



handbook that is solely applicable to a law enforcement department or agency within the unit of government employing the officer.”

In instances when KRS 15.520 is inapplicable, KRS 90.310 to 90.410, 95.450, and 95.765 remain in effect for those cities subject to the applicable provisions for disciplinary proceedings involving an alleged violation of general employment policies. HB 333 further distinguishes between disciplinary proceedings for violations of law enforcement procedures and disciplinary proceedings for violation of general employment policies by defining interrogation to mean “a formal investigative interview and does not mean conversations or meetings of supervisory personnel and subordinate officers that are not intended to result in disciplinary action, such as conversations or meetings held for the purpose of providing corrective instruction counseling or coaching.”

Any complaint by a citizen or allegation of conduct that would constitute a violation of law enforcement procedures must be investigated by the employing agency if the employing agency determines that an investigation of the complaint or the alleged conduct is warranted. If it is determined through investigation or other means that the facts alleged in a citizen complaint or in an accusation of violation of law enforcement procedures warrant charging the officer, the charge must be in writing with sufficient specificity to fully advise the officer of the nature and circumstances of the alleged violation. Unless waived by the charged officer in writing, a hearing must be conducted by the employing agency to determine whether there is substantial evidence to prove the charges and, if proved, the appropriate disciplinary action. The officer must be given at least 12 days written notice of any hearing. Due process rights afforded the officer include the right to obtain and be represented by counsel. The hearing authority may conduct the hearing in a closed session unless the officer submits a written request for an open session at least three days prior to the hearing. Any officer who is found guilty by a hearing authority of any charge may appeal the action of the hearing authority to the Circuit Court in the county in which the employing agency is located within 30 days of the date written findings are issued. Review by the Circuit Court must be based solely on the administrative record before the hearing authority and any evidence offered by the officer of arbitrariness on the part of the hearing authority.

HB 333 additionally establishes a minimum system of professional conduct and administrative due process rights for police officers of a consolidated local government, clarifying that police officers of a consolidated local government are not subject to the provisions of KRS 15.520.



### **SB 28** **INTERNET SWEEPSTAKES CAFES**

Sponsor: Senator Mike Wilson (R-Bowling Green)

SB 28 amends KRS 528.010 of the Kentucky Penal Code to expand the definition of “gambling device” to include computers used in Internet sweepstakes cafes defined by SB 28 as “any mechanical or electronic device permanently located in a business establishment, including a private club, that is offered or made available to a person to play or participate in a simulated gambling program in return for direct or indirect consideration, including but not limited to consideration paid for Internet access or computer time, or a sweepstakes entry, which when operated may deliver as a result of the application of an element of chance, any money

## LAW ENFORCEMENT (CONT.)

or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.”

“Simulated gambling program” is defined by SB 28 to mean “any method intended to be used by a person playing, participating, or interacting with an electronic device that may, through the application of an element of chance, either deliver money or property or an entitlement to receive money or property.”

Devices dispensing or selling combination or French Pools on historical races at licensed, regular racetracks as lawfully authorized by the Kentucky Horse Racing Commission are specifically excluded by SB 28 from the definition of “gambling device.”

The purpose of the legislation is to clarify the status of Internet sweepstakes cafes as illegal gambling activity.

An EMERGENCY is declared. SB 28 became law on March 18, 2015, when signed by the Governor.



### **SB 89 FIREARMS SALES TO CURRENT AND RETIRED PUBLIC SAFETY EMPLOYEES**

Sponsor: Senator Danny Carroll (R-Paducah)

SB 89 amends KRS 65.041 to permit a local government to sell a firearm that is being replaced to the employee to whom the firearm was issued in the course of his or her employment if the employee is otherwise authorized by law to own or possess the firearm.

SB 89 additionally amends KRS 45A.600 to permit an agency of Kentucky state government and a safety and security department of a public university established pursuant to KRS 164.950 to sell a firearm that is being replaced to the employee to whom the firearm was issued if the employee is otherwise authorized by law to own or possess the firearm. The agency of state government or safety and security department must notify employees of the intended replacement of firearms and opportunity to purchase. An employee desiring to purchase the firearm issued to him or her must notify the head of the issuing agency not less than 10 days after receiving notice of the intended replacement.

### **SB 117** **COUNTY ATTORNEY-OPERATED TRAFFIC SCHOOLS**

Sponsor: Senator Whitney Westerfield (R-Hopkinsville)

County attorneys are authorized pursuant to KRS 186.174 to operate a traffic safety program for traffic offenders prior to adjudication of the offense. Each participant in the program must pay a fee to the county clerk and county attorney, but have historically not been required to pay court costs pursuant to KRS 24A.176 and KRS 42.320 that are otherwise required to be paid by participants in a state-operated traffic school for the same services. SB 117 amends KRS 186.574 to require participants in a county attorney-operated traffic safety program to pay an additional fee of \$30 to the county attorney in lieu of court costs. Fees collected must be forwarded by the county attorney to the Finance and Administration Cabinet on a monthly basis for distribution in the same proportions as required by KRS 24A.176 and KRS 42.320, including 33.2 percent to: (1) local governments in accordance with the formula set out in KRS 24A.176(5) for local governments with police departments or local governments that contract for police services; (2) local governments with police departments on a per capita basis according to the number of certified police officers employed by the police department or providing services to the local government pursuant to a contract; and (3) to counties with fiscal responsibilities for jails or the transporting of prisoners.

# LOCAL GOVERNMENT ADMINISTRATION



## **HB 136 ADMINISTRATION OF MUNICIPAL PROPERTY TAXES**

Sponsor: Representative Arnold Simpson (D-Covington)

HB 136 amends KRS 91A.070 to provide broader authority to cities that do not elect to have city ad valorem property taxes collected by the sheriff to regulate the manner of collection. The bill permits a city to specify by ordinance:

1. The date city ad valorem taxes are due and payable, which may be different than the date state and county ad valorem taxes are due, except that ad valorem taxes on motor vehicles and motorboats must be governed by the provisions of KRS 134.800 to 134.830;
2. The manner of billing;
3. The place and manner for payment, which may permit payment in installments under such terms and conditions specified in the ordinance;
4. Discounts, if any, for early payment;
5. Any penalties and interest for late payment or nonpayment, including any amnesty program for the forgiveness or reduction of accumulated penalties and interest for late payment or nonpayment in previous tax years; and
6. Any other necessary procedures related to ad valorem tax administration not otherwise in conflict with state law.

## **HB 202 LOCAL TRANSIENT ROOM TAX**

Sponsor: Representative Tommy Thompson (D-Owensboro)

HB 202 amends KRS 91A.392 to permit all or a portion of money collected from a transient room tax levied pursuant to KRS 91A.392 that exceeds the amount required to satisfy the annual debt service for bonds issued to finance the expansion, construction, or operation of a governmental or nonprofit convention center or fine arts center to be used under certain circumstances to defray costs to operate, renovate, or expand the convention center or fine arts center. The bill is applicable only to a transient room tax levied pursuant to KRS 91A.392 prior to the effective date of HB 202 by a fiscal court of a county having a population between 75,000 and 100,000 based on the 2010 federal decennial census and only if an amount equal to one year's required debt service is held in reserve to satisfy any future debt service obligations of the bond. Effective July 1, 2015.



### **HB 225 FIRE DEPARTMENT PLATOONS**

Sponsor: Representative Kevin Sinnette (D-Ashland)

HB 225 amends KRS 95.500 relating to fire department platoons in cities required to maintain a 24-hours on, 48-hours off work shift. In addition to the fire chief and assistant chief, the legislation excludes clerical employees, maintenance employees, fire inspectors and arson investigators from any requirement to work a 24/48-hour shift.



### **HB 276 KENTUCKY INFRASTRUCTURE AUTHORITY LOANS**

Sponsor: Representative Tom McKee (D-Cynthiana)

HB 276 amends KRS 224A.111 relating to loans made by the Kentucky Infrastructure Authority using the federally assisted wastewater revolving fund to provide financial assistance to government agencies for the construction of publicly owned wastewater treatment projects. The bill extends the time annual principal and interest payments must commence from the date of completion of the project to one year from initiation of operation and the time a loan must be fully amortized from 20 years to 30 years.

### **HB 348 SPECIAL PURPOSE GOVERNMENTAL ENTITIES**

Sponsor: Representative Mike Denham (D-Maysville)

HB 348 amends three statutes related to special purpose governmental entities.

- ♦ The definition of “private entity” in KRS 65A.010 is amended to clarify that a private entity does not include an entity created wholly or in part by a local government; one whose membership includes any member appointed by a local government; or one whose voting membership includes government officials who serve in an ex officio capacity.
- ♦ The definition of “special purpose governmental entity” in KRS 65A.010 is amended to exclude from the definition: (1) chambers of commerce; (2) any entity whose finances are fully integrated into the finances of the local government in which it operates; and (3) federally regulated public housing authorities established pursuant to KRS Chapter 80 that receive no more than 20 percent of their total funding for any fiscal year from nonfederal fees, not including rental income.
- ♦ KRS 65A.020 is amended to permit onetime grant revenues to be excluded for purposes of calculation of the annual registration fee payable to the Department for Local Government and in determining requirements relating to audits and financial statements if a written

## LOCAL GOVERNMENT ADMINISTRATION (CONT.)

request is submitted to the Department for Local Government by the special purpose governmental entity.

- ◆ KRS 65A.030 is amended to permit a board, commission, or agency with regulatory or oversight responsibilities for a category of special purpose governmental entities to apply to the Auditor of Public Accounts for approval to provide an alternative financial review of the special purpose governmental entities it regulates or oversees that are otherwise required by KRS 65.030 to submit an attestation engagement. If approved, the Auditor must notify the Department for Local Government. Any board, commission or agency approved to provide alternative financial reviews must reapply to the Auditor of Public Accounts for approval to continue to provide alternative financial reviews at least once every four years.

HB 348 additionally amends KRS 65.003 relating to local ethics codes to delete: (1) a provision permitting exemption of nonpaid members of jointly created agencies from filing financial disclosure statements; and (2) a provision exempting board members, officers and employees of special purpose governmental entities from a requirement to file financial disclosure statements unless the special purpose governmental entity adopts ethics provisions that require the filing of financial disclosure statements.

The effect of the amendment is to allow local governments or special purpose governmental entities discretion in requiring the filing of financial disclosure statements by nonpaid members of jointly created agencies and board members, officers and employees of special purpose governmental entities. Pursuant to KRS 65A.070, board members, officers and employees of special purpose governmental entities are subject to the code of ethics of the establishing entity in which the special purpose governmental entity's principal business office is located unless the governing body of a special purpose governmental entity adopts ethics provisions that are more stringent than those of the establishing entity.

### **HJR 134** **STATEWIDE ENFORCEMENT OF ENTIRE BUILDING CODE**

Sponsor: Representative Tommy Thompson (D-Owensboro)

House Joint Resolution 134 directs the Department of Housing, Buildings and Construction to create a task force of stakeholder organizations to study the feasibility of providing structural inspections of all newly constructed homes in Kentucky under guidelines of the Kentucky Residential Building Code created by the General Assembly for nonmandatory adoption and enforcement by local governments.

Stakeholders may include, but not be limited to, the Home Builders Association of Kentucky, the Code Administrators Association of Kentucky, the Kentucky Association of Realtors, the Kentucky Bankers Association, the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Insurance Institute and the Kentucky Housing Corporation.

In undertaking the study, the department is required by HJR 134 to study the following: (1) how to allow cities and counties to have the option of providing new home inspections and, if they choose not to create a building department, how the state can provide those inspections where local governments do not; (2) costs involved in creating a system of statewide inspections; (3) the effects of such a system on home builders, cities, counties, banks and insurance companies; and (4) any similar programs in other states. The department must submit its report to the Interim Joint Committee on Local Government by November 30, 2015.

One-half of Kentucky counties currently enforce the Kentucky Residential Building Code. Counties that do not enforce the Building Code do not conduct structural inspections of newly constructed homes. Other aspects of new home construction are inspected statewide, including the electrical, plumbing, and heating and cooling systems.

### **SB 55** **DONATION OF GAME MEAT**

Sponsor: Senator Robin Webb (D-Grayson)

SB 55 creates a new section of KRS Chapter 217 to prohibit restrictions by the state or a local government, including a local health department, on donations of game meat to or from a not-for-profit organization for the purpose of free meat distribution to individuals in need if the game meat: (1) comes from fish or wildlife that was taken within Kentucky; (2) is properly field dressed and processed; and (3) is apparently disease-free when taken and unspoiled when processed. The legislation promotes the donation of processed game meat by hunters to homeless shelters and other not-for-profit organizations.

## **PUBLIC HEALTH & SAFETY (CONT.)**

### **SB 107 INDEPENDENT DISTRICT BOARDS OF HEALTH**

Sponsor: Senator David Givens (R-Greensburg)

SB 107 amends KRS 212.786 to eliminate required proportional representation of professionals and reduce membership on independent district boards of health. The bill requires membership to include the judge/executive from each participating county, the chairman from each participating local health department, and additional members appointed by the judge/executive with approval of the fiscal court representing the following professions to the extent practicable: registered nurses, dentists, physicians, podiatrists, optometrists, pharmacists, veterinarians, mental health professionals, public health professionals and consumers.

Appointments must be made taking into consideration the need for a balanced representation on the board of the named professions with each county appointing one member for each 30,000 in population, or portion thereof, with additional members appointed at a rate of one member per whole increment of 30,000 population. The bill increases the current requirement of one member per 15,000 population. The mayor of each city containing a population equal to or greater than 15,000 serves as an ex officio member of the district board of health and counts against the population-based appointees.

All appointments made prior to the effective date of SB 107 will remain in effect with members serving the remainder of their terms. SB 107 additionally amends KRS 212.784 to prohibit independent district boards of health from adopting rules and regulations in conflict with state law.





## **HB 299 GAS TAX STABILIZATION**

Sponsor: Representative Rick Rand (D-Bedford)

HB 299 amends and creates new sections of KRS 138.210 to 138.240 relating to gasoline taxes to revise the method by which the Department of Revenue determines the average wholesale price of gasoline to prevent the state gasoline tax rate, which rises and falls based on the average wholesale price of gasoline, from dropping below a designated floor when fuel prices are low. The average wholesale price adjustment for each fiscal year may not increase or decrease more than 10 percent from the average wholesale price at the close of the previous fiscal year. The state gasoline tax rate may not drop below a floor of \$0.26 per gallon.

The department will determine the average wholesale price of gasoline on an annual basis rather than on the current quarterly basis. The average wholesale price on July 1, 2016, and on July 1 of each fiscal year thereafter shall be the annual survey value. "Annual survey value" means the average of the quarterly survey values for a fiscal year as determined by the Department of Revenue based upon surveys taken during the first month of each quarter of the fiscal year.

An EMERGENCY is declared. HB 299 became law on March 25, 2015, when signed by the Governor. The Department of Revenue must notify all licensed dealers of the average wholesale price effective April 1, 2015.

Kentucky law requires 48.2 percent of Kentucky motor fuels tax collections to be distributed to local governments as follows: County Road Aid (18.3%), Rural Secondary Aid (22.2%) and Municipal Road Aid (7.7%).

HB 510 (2015) amended the 2014-2016 Transportation Cabinet biennial budget to include the following supplemental appropriations for county and municipal road aid: (1) \$2,310,000 in fiscal year 2014-2015 for the Municipal Road Aid Program; and (2) \$5,490,000 in fiscal year 2014-2015 for the County Road Aid Program.

## **SB 153 MOTOR CARRIERS**

Sponsor: Senator Ernie Harris (R-Prospect)

SB 153 is an omnibus revision of KRS Chapter 281 relating to motor carriers. Many of the revisions relate primarily to state regulation of motor vehicles, including removal of any requirement for taxicabs, limousines, buses or motor carriers for the transportation of household goods to obtain a certificate of convenience from the state prior to operation. A certificate for the intrastate transportation of passengers or property must be issued by the state Department of Vehicle Regulation to any qualified applicant. Certification requirements for taxicabs, limousines, buses and other motor carriers include payment of an annual fee, proof of insurance, filing of a current rate schedule and a criminal background check.

## TRANSPORTATION (CONT.)

Revisions of KRS Chapter 281 relating to local governments include the following:

1. KRS 281.631 is repealed and reenacted to permit all cities and counties to impose an annual license fee not to exceed \$30 per vehicle on intrastate taxicabs, limousines and disabled persons vehicles operated from the city or county.
2. KRS 281.635 is amended to permit the governing body of any city with a population greater than 20,000 or a county that contains a city with a population greater than 20,000 in which taxicabs, limousines or disabled persons vehicles operate to have concurrent supervisory and regulatory power over those certified carriers operating from the city and county, including authority to enforce all ordinances or regulations pertaining to their operation. Local regulatory authority includes the power to prescribe the qualifications of drivers and issue permits for qualified drivers. Cities continue authority under KRS 281.635 to regulate bus service over city streets.
3. KRS 381.830 is amended to clarify that cities and counties may not impose or collect any fee or tax of any kind upon any interstate or intrastate commercial private or for-hire motor carrier for loading or unloading of property.

New certification requirements are established by SB 153 for transportation network company (TNC) vehicles such as Uber and Lyft. “Transportation network company” means a person or entity that connects passengers through its digital network or mobile application to its drivers for the provision of transportation network company services. All regulatory authority over TNC vehicles and drivers is vested by SB 153 with the Department of Vehicle Regulation. A TNC driver must file an application for a certificate for the intrastate transportation of passengers with the department pursuant to administrative regulations promulgated by the department. Certification requirements include proof of insurance similar to proof of insurance limits required for taxicabs and limousines. Local license fees may not be imposed on TNC vehicles. However, city occupational taxes may be collected from drivers listed with the Department of Vehicle Regulation.

An emergency administrative regulation establishing requirements for a transportation network company to apply for and maintain operating authority in Kentucky is available at 601 KAR 1:112E.

Any certificate or permit issued by the Department of Vehicle Regulation under the provisions of KRS Chapter 281 or by a local government under the provisions of KRS 281.910 that is valid on the effective date of SB 153 shall continue to be valid until the renewal date of the permit or certificate. Existing certificate or permit holders must make initial application to the Department of Vehicle Regulation for the appropriate certificate under the provisions of SB 153 prior to the holder’s renewal date.





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