

1 AN ACT relating to distilled spirits.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Premises" means a bonded warehouse containing distilled spirits:*

7 *1. The costs of which are financed by one (1) or more series of industrial*
8 *bonds under KRS Chapter 103 issued prior to January 1, 2024; and*

9 *2. Any portion of the costs of which remains outstanding during the*
10 *calendar year; and*

11 *(b) "Taxpayer" means the owner, proprietor, or custodian of one (1) or more*
12 *premises.*

13 *(2) In addition to any other license fee authorized by the General Assembly, the*
14 *governing body of any city, county, consolidated local government, urban-county*
15 *government, fire protection district, or fire protection subdistrict may impose a*
16 *storage license fee on a taxpayer for the privilege of storing or aging distilled*
17 *spirits and operating premises within the jurisdiction for the calendar year as*
18 *provided in this section, beginning in calendar year 2026 and for each calendar*
19 *year thereafter until calendar year 2049.*

20 *(3) The storage license fee levied under subsection (2) of this section from each*
21 *taxpayer in a calendar year shall not exceed an amount that, when added to the*
22 *taxpayer's ad valorem tax imposed by or for the benefit of the governing body*
23 *under KRS 132.150 for the calendar year, equals the amount of the ad valorem*
24 *tax collected by the governing body from that taxpayer in calendar year 2023.*

25 *(4) The storage license fee authorized under subsection (2) of this section shall not*
26 *be imposed in any year on or after January 1, 2049.*

27 *(5) The property valuation administrator shall provide to the governing body any*

1 information necessary for the governing body to levy the storage license fee.

2 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 75 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) As used in this section:

5 (a) "Non-IRB and tax-exempt premises" means a bonded warehouse
6 containing aging distilled spirits:

7 1. The costs of which are not financed by industrial bonds under KRS
8 Chapter 103 during the calendar year; and

9 2. Which are exempt from ad valorem taxation under Section 4 of this
10 Act; and

11 (b) "Owner" means the owner, proprietor, or custodian of one (1) or more non-
12 IRB and tax-exempt premises.

13 (2) When a board of trustees of a fire protection district or subdistrict levies the ad
14 valorem tax permitted by KRS 75.015 and 75.040 and provides for fire or other
15 emergency services at non-IRB and tax-exempt premises, the board of trustees
16 may charge a fee to the owner for the services rendered. In any calendar year, the
17 fee charged shall not exceed an amount that, when added to the receipts collected
18 under Section 4 of this Act, equals an amount that allows the emergency services
19 board to recover the total necessary and reasonable costs incurred for providing
20 the service, including any associated preparation costs. The fee shall be assessed
21 to the owner on a written itemized statement.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 75A IS CREATED TO
23 READ AS FOLLOWS:

24 (1) As used in this section:

25 (a) "Non-IRB and tax-exempt premises" means a bonded warehouse
26 containing aging distilled spirits:

27 1. The costs of which are not financed by industrial bonds under KRS

1 Chapter 103 during the calendar year; and
 2 2. Which are exempt from ad valorem taxation under Section 4 of this
 3 Act; and

4 (b) "Owner" means the owner, proprietor, or custodian of one (1) or more non-
 5 IRB and tax-exempt premises.

6 (2) When an emergency services board levies the ad valorem tax permitted by KRS
 7 75A.050 and provides for fire or other emergency services at non-IRB and tax-
 8 exempt premises, the emergency services board may charge a fee to the owner for
 9 the services rendered. In any calendar year, the fee charged shall not exceed an
 10 amount that, when added to the receipts collected under Section 4 of this Act,
 11 equals an amount that allows the emergency services board to recover the total
 12 necessary and reasonable costs incurred for providing the service, including any
 13 associated preparation costs. The fee shall be assessed to the owner on a written
 14 itemized statement.

15 ➔Section 4. KRS 132.140 is amended to read as follows:

16 (1) The department~~[of Revenue]~~ shall fix the value of the distilled spirits for the
 17 purpose of taxation, assess the same at its fair cash value, estimated at the price it
 18 would bring at a fair voluntary sale, calculate the exempt portion of the property
 19 taxes, and keep a record of the~~[its]~~ valuations and assessments. The department
 20 shall immediately notify the owner or proprietor of the bonded warehouse or
 21 premises of the amount fixed, including the portion of the property tax exemption
 22 as calculated in subsection (2) of this section.

23 (2) There shall be exempt from state and local ad valorem taxes a portion or all of
 24 the property taxes assessed on distilled spirits stored or aging in barrels located in
 25 a bonded warehouse or premises according to the following schedule for distilled
 26 spirits assessed on:

27 (a) January 1, 2026, three percent (3%) of the tax;

- 1 **(b) January 1, 2027, six percent (6%) of the tax;**
 2 **(c) January 1, 2028, nine percent (9%) of the tax;**
 3 **(d) January 1, 2029, thirteen percent (13%) of the tax;**
 4 **(e) January 1, 2030, seventeen percent (17%) of the tax;**
 5 **(f) January 1, 2031, twenty-one percent (21%) of the tax;**
 6 **(g) January 1, 2032, twenty-six percent (26%) of the tax;**
 7 **(h) January 1, 2033, thirty-two percent (32%) of the tax;**
 8 **(i) January 1, 2034, thirty-eight percent (38%) of the tax;**
 9 **(j) January 1, 2035, forty-four percent (44%) of the tax;**
 10 **(k) January 1, 2036, fifty percent (50%) of the tax;**
 11 **(l) January 1, 2037, sixty-five percent (65%) of the tax;**
 12 **(m) January 1, 2038, eighty percent (80%) of the tax; and**
 13 **(n) January 1, 2039, and thereafter, one hundred percent (100%) of the tax.**

14 **(3)** If any owner, proprietor, or custodian of a bonded warehouse or premises fails to
 15 make the report required by KRS 132.130, the department shall ascertain the
 16 necessary facts required to be reported. For that purpose the department shall have
 17 access to the records of the owner, proprietor, or custodian; and the assessment
 18 shall be made and taxes collected thereon, with interest and penalties, as though
 19 regularly reported.

20 ~~**(4)**~~~~**(3)**~~ The assessment made under (1) of this section shall be reviewed according to
 21 KRS 131.110.

22 ➔Section 5. KRS 141.389 is amended to read as follows:

23 **(1) The tax credits apply to taxable years beginning prior to January 1, 2034.**

24 **(2)** (a) There shall be allowed a nonrefundable and nontransferable credit to each
 25 taxpayer paying the distilled spirits ad valorem tax as follows:

26 1. For taxable years beginning on or after January 1, 2015, and before
 27 December 31, 2015, the credit shall be equal to twenty percent (20%) of

- 1 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
2 timely basis;
- 3 2. For taxable years beginning on or after January 1, 2016, and before
4 December 31, 2016, the credit shall be equal to forty percent (40%) of
5 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
6 timely basis;
- 7 3. For taxable years beginning on or after January 1, 2017, and before
8 December 31, 2017, the credit shall be equal to sixty percent (60%) of
9 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
10 timely basis;
- 11 4. For taxable years beginning on or after January 1, 2018, and before
12 December 31, 2018, the credit shall be equal to eighty percent (80%) of
13 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
14 timely basis; and
- 15 5. For taxable years beginning on or after January 1, 2019, ***but prior to***
16 ***January 1, 2024***, the credit shall be equal to one hundred percent
17 (100%) of the tax assessed under KRS 132.160 and paid under KRS
18 132.180 on a timely basis.
- 19 (b) ***For taxable years beginning on or after January 1, 2024, but prior to***
20 ***January 1, 2034, there shall be allowed a nonrefundable and***
21 ***nontransferable credit to each taxpayer up to twenty-five thousand (25,000)***
22 ***barrels of distilled spirits in a bonded warehouse or premises per taxable***
23 ***year. The credit shall be equal to one hundred percent (100%) of the tax***
24 ***assessed under KRS 132.160 and paid by the taxpayer under KRS 132.180***
25 ***on a timely basis.***
- 26 (c) The ~~credits~~ credit shall be applied both to the income tax imposed under
27 KRS 141.020 or 141.040 and to the limited liability entity tax imposed under

1 KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205.

2 ~~(3)~~~~(2)~~ The amount of distilled spirits credits~~[credit]~~ allowed under subsection
3 ~~(2)~~~~(1)~~ of this section shall be used only for capital improvements at the premises
4 of the distiller licensed pursuant to KRS Chapter 243. As used in this subsection,
5 "capital improvement" means any costs associated with:

- 6 (a) Construction, replacement, or remodeling of warehouses or facilities;
7 (b) Purchases of barrels and pallets used for the storage and aging of distilled
8 spirits in maturing warehouses;
9 (c) Acquisition, construction, or installation of equipment for the use in the
10 manufacture, bottling, or shipment of distilled spirits;
11 (d) Addition or replacement of access roads or parking facilities; and
12 (e) Construction, replacement, or remodeling of facilities to market or promote
13 tourism, including but not limited to a visitor's center.

14 ~~(4)~~~~(3)~~ The distilled spirits credits~~[credit]~~ allowed under subsection ~~(2)~~~~(1)~~ of this
15 section:

- 16 (a) May be accumulated for multiple taxable years; **and any accumulated credits**
17 **may be claimed on a return of the taxpayer filed for taxable years beginning**
18 **on or after January 1, 2024; and**

19 ~~(b)~~ ~~Shall be claimed on the return of the taxpayer filed for the taxable year during~~
20 ~~which the credits were used pursuant to subsection (2) of this section; and~~

21 ~~(c)~~ Shall not include:

- 22 1. Any delinquent tax paid to the Commonwealth; or
23 2. Any interest, fees, or penalty paid to the Commonwealth.

24 ~~(5)~~~~(4)~~ (a) Before the distilled spirits credits~~[credit]~~ shall be allowed on any return,
25 the capital improvements required by subsection ~~(3)~~~~(2)~~ of this section shall
26 be completed and specifically associated with the credits~~[credit]~~ allowed on
27 the return.

1 (b) The amount of distilled spirits credits~~[credit]~~ allowed shall be recaptured if
 2 the capital improvement associated with the credits~~[credit]~~ is sold or
 3 otherwise disposed of prior to the exhaustion of the useful life of the asset for
 4 Kentucky depreciation purposes.

5 (c) If the allowed credits are~~[credit is]~~ associated with multiple capital
 6 improvements, and not all capital improvements are sold or otherwise
 7 disposed of, the distilled spirits credits~~[credit]~~ shall be prorated based on the
 8 cost of the capital improvement sold over the total cost of all improvements
 9 associated with the credits~~[credit]~~.

10 ~~(6)~~~~(5)~~ If the taxpayer is a pass-through entity, the taxpayer may apply the
 11 credits~~[credit]~~ against the limited liability entity tax imposed by KRS 141.0401, and
 12 shall pass the credits~~[credit]~~ through to its members, partners, or shareholders in the
 13 same proportion as the distributive share of income or loss is passed through.

14 ~~(7)~~~~(6)~~ The department may promulgate an administrative regulation pursuant to
 15 KRS Chapter 13A to implement the allowable credits~~[credit]~~ under this section,
 16 require the filing of forms designed by the department, and require specific
 17 information for the evaluation of the credits~~[credit]~~ taken by any taxpayer.

18 ~~(8)~~~~(7)~~ No later than September 1, 2016, and annually thereafter, the department shall
 19 report to the Interim Joint Committee on Appropriations and Revenue:

20 (a) The name of each taxpayer taking the credits~~[credit]~~ permitted by subsection
 21 ~~(2)~~~~(1)~~ of this section;

22 (b) The amount of credits~~[credit]~~ taken by that taxpayer; and

23 (c) The type of capital improvement made for which the credits are~~[credit is]~~
 24 claimed.

25 ➔SECTION 6. A NEW SECTION OF KRS 157.310 TO 157.440 IS CREATED
 26 TO READ AS FOLLOWS:

27 *The portion of the assessed value on distilled spirits related to the tax exemption*

1 created in subsection (2) of Section 4 of this Act shall not be included in the
2 calculation of the local effort required for the Support Education Excellence in
3 Kentucky program under KRS 157.310 to 157.440 or the tax rate-setting process in
4 KRS Chapter 160.

5 ➔Section 7. Any settlement agreement between the Department of Revenue and
6 any taxpayer having distilled spirits in a bonded warehouse, which is related to the
7 ongoing assessment or collection of tax under Section 4 of this Act, shall not be
8 considered null and void based upon the statutory changes in this Act but may be
9 renegotiated by the parties to the settlement agreement and the renegotiated agreement
10 shall be promulgated in an administrative regulation following the renegotiation process.