



# KENTUCKY LEGISLATURE

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## HB272

### WWW Version

**NOTE: The hyperlink to a bill draft that precedes a summary contains the most recent version (Introduced/GA/Enacted) of the bill. If the session has ended, the hyperlink contains the latest version of the bill at the time of sine die adjournment. Note that the summary pertains to the bill as introduced, which is often different from the most recent version.**

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[HB 272/LM](#) (BR 1089) - J. Hoover

AN ACT relating to revenue and taxation and making an appropriation therefor and declaring an emergency.

Governor's tax reform package: Amend and create various Sections of KRS Chapters 131, 132, 136, 138, 139, 140, 141 to: Remove corporation license tax after 2005, and address ITW issue for returns due on or after April 15, 2004; change individual income tax rates; exclude state replacement payments for Phase II tobacco payments; alter coverage and rates of the low income tax credit; change rates of corporation income tax, extend to include all limited liability entities, create an alternative minimum calculation and a minimum assessment, require consolidated returns of certain groups of corporations; allow a passthrough credit for tax paid by passthrough entities; expand nexus standards; create credits for brownfield remediation, biodiesel manufacture and sale, heritage property rehabilitation, environmental stewardship, clean coal electricity production, education tuition payment; use common three factor apportionment formula for all business entities; disallow certain related party transactions; limit application of the recycling credit; enact the Kentucky Enterprise Initiative; expand the state intangible property tax exclusion; implement a state transient room tax, dedicate all proceeds to tourism efforts; expand sales tax to include prepaid calling cards; implement a sales tax holiday; alter aviation sales tax exclusion; increase cigarette tax rate, assess new tax on smokeless tobacco, implement rate setting and adjustment procedures, implement floor stocks tax procedures; implement a new tax on telecommunications services to replace several existing taxes; exempt certain horses from sales tax; create a thoroughbred breeders incentive fund, a standardbred breeders incentive fund, and a horse breeders incentive fund, earmark a portion of sales tax from appropriate horse breeding to the fund, specify how funds may be used; establish an automatic income tax rate reduction trigger; create an LRC task force to study local taxes; amend various other sections of the Kentucky Revised Statutes to conform; repeal various sections of the Kentucky Revised Statutes to conform; EMERGENCY.

### [HB 272](#) - AMENDMENTS

[HCS/LM](#) - Retain the provisions of the original bill; amend KRS 141.010 to incorporate the provisions of the Military Family Relief Act of 2003; add definitions for "cost of goods sold" and "Kentucky gross profits"; amend KRS 141.020 to provide that income between \$8,000 and \$75,000 be taxed at 5.8%; amend KRS 141.040 to reduce the top corporate rate to 7% in calendar year 2006, with a further reduction to 6% beginning in calendar year 2007; provide for a second alternative minimum tax calculations based on \$0.75 per \$100 on gross profits; amend KRS 141.066 to provide for a low income tax credit at poverty level for a family size of up to 4; provide for a

credit for individual owners of pass through entities in 2006 to the extent that the tax liability as determined under the corporate rate exceeds the tax liability on the same income as determined under the individual rates; delete the restricted fund under the Kentucky Tourism, Meeting and Convention Marketing Act; amend KRS 138.140 to impose a surtax of \$0.26 on each 20 cigarettes; allow taxpayers to pay the floor stock tax in three installments rather than at the time the return is due; impose an excise tax of 3% on cable and direct broadcast satellite companies; impose a gross revenues tax on telephone, cable and direct broadcast satellite; increase the alcohol wholesale tax from 9% to 11%; amend the historic preservation credit to impose an upper limit on non-individuals; delete the income tax rate reduction trigger; attach the provisions of HB 353.

[HCA \(1\)](#), H. Moberly Jr) - Amend definition of "other tobacco products" to include all tobacco products except cigarettes and snuff; change the rate on other tobacco products to seven and one-half percent; change the rate on snuff to five cents per unit.

[HCA \(2\)](#), H. Moberly Jr) - Make technical corrections.

[HCA \(3\)](#)/Title, H. Moberly Jr) - Make title amendment.

[HFA \(1\)](#), T. Pullin) - Amend to cap the income tax reduction to persons with income less than \$75,000; add a new section of KRS Chapter 132 to reduce the assessed value of motor vehicles for state property tax purposes.

[HFA \(2\)](#), R. Nelson) - Attach provisions of HB 429 deleting the writing portfolios from the statewide school accountability system.

[HFA \(3\)](#)/Title, R. Nelson) - Make title amendment.

[HFA \(4\)](#), R. Nelson) - Attach provisions of HB 429 deleting the writing portfolios from the statewide school accountability system.

[HFA \(5\)](#), D. Floyd) - Amend KRS 139.470 to continue the sales tax exemption for the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale.

[HFA \(6\)](#), H. Moberly Jr) - Amend definition of "other tobacco products" to include all tobacco products except cigarettes and snuff; change the rate on other tobacco products to 7.5% of gross receipts.

[HFA \(7\)](#), D. Butler) - Create a new section of KRS 243.882 to 243.892 that establishes the alcohol tax distribution fund, earmarks alcohol taxes to the fund, and restricts spending from the fund to counties that permit the sale of alcoholic beverages.

[HFA \(8\)](#), D. Floyd) - Restore current 9% wholesale rate on beer, wine, and distilled spirits.

[SCS/LM](#) - Retain the provisions of the original bill except amend KRS 141.010 to adopt the internal revenue code in effect on December 31, 2004; amend language throughout the bill to add reference to "Kentucky gross receipts; clarify language regarding NOL carrybacks; clarify that the 7% top corporate rate takes effect on January 1, 2005 and applies through December 31, 2006; delete election requirement for the alternative minimum calculation; amend and clarify provisions of the low income credit; amend refundable credit language to provide that the credit is available for tax periods beginning after December 31, 2004 and ending prior to January 1, 2007; amend the recycling credit to provide an additional credit for major projects; restore the tourism fund included in the original version; add language reflecting the intent of the legislature regarding the taxation of tobacco products; amend language to clarify intent regarding the taxation of communications providers and multichannel video programming service

providers; affirm that direct broadcast satellite will be taxed at the same rate as cable for the school tax; amend biodiesel credit language to apply to in state producers and blenders; amend the clean coal credit to reduce initial investment to \$150,000,000; restore the historic preservation credit to the form it was in as introduced; allow the Revenue Cabinet to interpret the provisions of the Act consistent with the provisions of the Act through the promulgation of regulations; delete the sales tax holiday; make technical corrections.

[SCA \(1, C. Borders\)](#) - Add provision to KRS 141.040 to tax electing single member Limited Liability Entities at the individual level and ignore the entity for corporate tax purposes.

[FCCR](#) - Retain provisions of HB 272 / SCS with the following changes: permit publicly traded partnerships and affiliates to be treated as a partnership rather than a corporation; clarify that direct labor costs and certain delivery costs are included in cost of goods sold and provide definitions; decrease the minimum corporation tax to \$175; allow additional compensation from June 1, 2005, to November 30, 2005, to cigarette wholesalers; limit additional compensation to apply to no more than 150% of the number of stamps sold during the previous six months; change the qualifications for a clean coal facility to include facilities beginning commercial operation on or after January 1, 2005; remove the tax on broadcast, television, and motion picture rights for professional boxing and wrestling matches; make technical corrections.

Feb 2-introduced in House  
 Feb 3-to Appropriations and Revenue (H)  
 Feb 9-floor amendment (1) filed  
 Feb 14-posting waived; reported favorably, 1st reading, to Calendar  
 Feb 15-2nd reading, to Rules; recommitted to Appropriations and Revenue (H)  
 Feb 17-floor amendment (4) filed to Committee Substitute, floor amendments (2) (3-title) and (5) filed  
 Feb 18-reported favorably, to Rules with Committee Substitute, committee amendments (1) (2) and (3-title) ; floor amendments (6) (7) and (8) filed to Committee Substitute ; posted for passage in the Regular Orders of the Day for Friday, February 18, 2005; 3rd reading, passed 96-4 with Committee Substitute, committee amendments (1) (2) and (3-title), floor amendment (6)  
 Feb 22-received in Senate; to Committee on Committees (S); taken from committee; laid on clerk's desk; taken from clerk's desk; 1st reading; returned to Committee on Committees (S); to Appropriations and Revenue (S)  
 Feb 24-taken from committee; laid on clerk's desk; taken from clerk's desk; 2nd reading; returned to Appropriations and Revenue (S)  
 Feb 28-reported favorably, to Rules with Committee Substitute, committee amendment (1) ; posted for passage in the Regular Orders of the Day for Monday, February 28, 2005; 3rd reading, passed 37-0 with Committee Substitute, committee amendment (1)  
 Mar 1-received in House; to Rules (H); taken from committee; posted for passage for concurrence in Senate Committee Substitute, committee amendment (1) ; House refused to concur in Senate Committee Substitute, committee amendment (1) ; received in Senate; posted for passage for receding from Senate Committee Substitute, committee amendment (1) ; Senate refused to recede from Committee Substitute, committee amendment (1) ; Conference Committee and Free Conference Committee appointed in House and Senate  
 Mar 2-Conference Committee report filed in House; Conference Committee report adopted in House; Bill sent to Free Conference  
 Mar 3-Conference Committee report filed in Senate; Conference Committee report adopted in Senate; Bill sent to Free Conference  
 Mar 8-Free Conference Committee report filed in House and Senate; Free Conference Committee report adopted in Senate; bill passed 37-0; received in House; Free Conference Committee report adopted in House; bill passed 96-3; enrolled, signed by each presiding officer; delivered to Governor

Mar 18-signed by Governor

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