COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4100-01
Bill No.: HB 1882
Subject: Public Assistance; Alcohol
Type: Original
Date: January 6, 2016

Bill Summary: This proposal revises the definition of "liquor store" as it applies to provisions regarding public assistance.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on General Revenue	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Federal	($16,364 to $10,866,364)	($16,774 to $10,866,364)	($17,193 to $10,866,364)
Total Estimated Net Effect on All Federal Funds	**($16,364 to $10,866,364)**	**($16,774 to $10,866,364)**	**($17,193 to $10,866,364)**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $100,000 in any Of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services (DSS), Family Support Division (FSD)** state the bill would change the definition of "liquor store" from a "retail establishment which sells exclusively or primarily intoxicating liquor" to a "retail establishment where at least eighty-five percent of the merchandise sold at such establishment is intoxicating liquor".

FSD has established blocking of electronic benefit transaction (EBT) purchases at establishments with a Merchant Category Code (MCC) indicating liquor is the predominate good or service provided. The MCC is assigned by the financial institution that handles the merchant's credit and debit card payment system. Each merchant is classified by its financial institution according to the type of goods or services it provides. FSD has created a claims process and procedures are in place if eligible Temporary Assistance (TA) participants make an EBT purchase in violation of section 208.024.

At present, the use of the MCC satisfies the federal requirement that a merchant be classified as a liquor store if the store primarily sells liquor. This proposed state law is problematic because it sets a much higher standard in that 85% of all merchandise sold at the store must be intoxicating liquor before the store would be classified as a liquor store and thereby prohibited from accepting EBT cards.

FSD currently has no means of determining actual merchandise at any given store. Moreover, the use of the 85% standard would result in Missouri allowing participation in the program by stores whose merchandise consists of less than 85% liquor, but the proportion of merchandise consisting of liquor would still exceed the standard established by federal regulation. Allowing merchants whose merchandise consists of 60%, 70%, or even 84% intoxicating liquor to accept EBT cards would violate the federal standard that they be excluded because their sales are primarily liquor. This could result in possible penalties to the state.

The current report of Missouri Primary Alcohol Licenses shows 14,727 active licenses. 4,985 of these licenses are categorized as "Original Package Liquor" or "Original Package 5% Beer" license types. These businesses would have to be contacted to determine the type of business. If they presumably meet this definition of a liquor store and they accept EBT or have an ATM on the premises, their sales records would need to be audited to determine if liquor sales meet the minimum 85% of sales. The DSS has no authority to audit any retail establishment to determine the type or percentage of merchandise sold. Therefore, the DSS assumes the determination of the percentage of merchandise sold that is intoxicating liquor would be made by the retail establishment.

ASSUMPTION (continued)

DSS would send a letter to these retail establishments requesting they provide the percentage of merchandise sold that is intoxicating liquor. A return envelope for the survey would be included. If the retail establishment accepts EBT cards or has an ATM and reports 85% or more of their merchandise is intoxicating liquor, DSS would identify these Point of Service (POS) terminals and ATM's and provide to the EBT vendor to block transactions at this location. Terminal ID's are sent to the EBT vendor monthly to add to the list for blocking.

Mailing costs for this would be $2,243 rounded (4,985 X $.45 per mailing) and a return postage paid envelope would be included to allow retailers to return their information at a cost of $2,941 rounded (4,985 x $.59). The total annual postage cost is $5,184 ($2,243 + $2,941). This would require continual monitoring as new liquor licenses are issued and are subject to change. The DSS will need temporary clerical staff to assist with mailing, tracking and receipt of these letters. FSD estimates 0.5 staff will be needed to implement this change. Based on the statewide contract for temporary services, the average hourly rate for a Senior Office Support Assistant is $10.75 per hour (20 hours x 52 weeks x $10.75 =$11,180). Total administrative cost to implement this change is $16,364 (temporary clerical staff + postage costs).

The federal law requires states to prevent the use of EBT cards at liquor stores (42 USC 608(a)(12)(A)). Federal law considers a business a liquor store if it sells primarily liquor (42 USC 608(a)(12)(B)). If the Department of Health and Human Services (DHHS) finds that Missouri is not implementing the provisions of the federal law because it is not banning sales at all business that have a primary business of selling liquor, the state could be subject to a penalty equal to 5% of the State Family Assistance Grant (Missouri's portion of the Temporary Assistance for Needy Families (TANF) Block Grant) which is approximately $217 million. The penalty would be $10,850,000 if DHHS finds that Missouri is not implementing the provisions of federal law.

NOTE: The Middle Class Tax Relief and Job Creation Act of 2012 (PL 112-96) states "(A)…. The Secretary shall reduce, by an amount equal to 5 percent of the State family assistance grant, the grant payable to such State under ………" Also, in "(B) Reduction of applicable penalty. – The Secretary may reduce the amount of the reduction required under subparagraph (A) based on the degree of noncompliance." The penalty is not listed as a range from 1 percent to 5 percent as stated in previous fiscal notes; therefore, the penalty reflected in this fiscal note is based upon 5 percent.

Total fiscal impact for FN 4100-01 is as follows:

- FY 17: $16,364 to $10,866,364
- FY 18: $16,774 to $10,886,774
- FY 19: $17,193 to $10,867,193

ASSUMPTION (continued)

Officials from the **Division of Legal Services (DLS)** state the provisions of this proposal would have no foreseeable effect on DLS.

Officials from the **Office of Administration, Information Technology Services Division (ITSD)/DSS** do not anticipate a fiscal impact.

Officials from the **Department of Public Safety, Division of Alcohol and Tobacco Control** assume the proposal would not fiscally impact their agency.

FISCAL IMPACT - State Government	FY 2017 (10 Mo.)	FY 2018	FY 2019
FEDERAL FUNDS			
Costs - DSS (§208.024)			
Temporary staff and mailing costs	($16,364)	($16,774)	($17,193)
Penalty reduction in TANF Block Grant	$0 to ($10,850,000)	$0 to ($10,850,000)	$0 to ($10,850,000)
Total Costs - DSS	($16,364 to $10,866,364)	($16,774 to $10,866,364)	($17,193 to $10,866,364)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	**($16,364 to $10,866,364)**	**($16,774 to $10,866,364)**	**($17,193 to $10,866,364)**

FISCAL IMPACT - Local Government	FY 2017 (10 Mo.)	FY 2018	FY 2019
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

This proposal would have a direct, positive impact on small businesses that are currently classified as liquor stores because the stores primarily sell liquor. Assuming the small businesses would not meet the 85% threshhold set by the proposal, they would be allowed to accept EBT cards from TANF recipients.

FISCAL DESCRIPTION

This bill revises the definition of "liquor store" as it applies to the provisions regarding temporary assistance for needy families benefits as any retail establishment where at least 85% of the merchandise sold at the establishment is intoxicating liquor.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety -
    Division of Alcohol and Tobacco Control
Department of Social Services -
    Family Support Division
    Division of Legal Services
Office of Administration -
    Information Technology Services Division/DSS

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