

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1406H.04P
Bill No.: Perfected HCS for HB Nos. 547 & 752
Subject: Alcohol; Business and Commerce
Type: Original
Date: February 17, 2021

Bill Summary: This proposal modifies provisions relating to alcoholic beverages.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

- ☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§311.101 and 311.202 – Alcoholic beverages

Officials from the **Department of Public Safety – Division of Alcohol and Tobacco Control (ATC)** state §311.101 was revised to remove “unfinished” from the language. However, subsection 1(2) requires that the beverage be partially consumed during the meal. Therefore, the beverage would be unfinished. ATC will interpret that the more strict packaging requirements in §311.202 will apply to §311.101 because it would be considered retailer-packaged alcohol. Thus, it must meet the requirements of §311.202.

Section 311.202 allows the holder of a retail by drink license to sell retailer-packaged alcohol to consumers as long as the intoxicating liquor is in a rigid, durable, leak-proof, sealable container; the contents of the container doesn't exceed 128 ounces; the consumer orders a meal with the alcohol; the alcohol purchase does not exceed twice the number of meal servings; a dated receipt or electronic record is provided to the consumer for the meal and alcohol purchase, and the sealed container is placed in a one-time use tamperproof bag or the container is separately sealed with tamperproof tape. The container must also have a label that states "THIS BEVERAGE CONTAINS ALCOHOL" and it must be filled in compliance with Section 3-304.17(c) of the 2009 Food and Drug Administration Food Code. Wholesalers and manufacturers are not allowed to furnish these containers to retailers.

Currently, ATC has 15 agent positions that are responsible for 16,200 primary licenses or one agent per 1,080 licenses. It will be extremely difficult for ATC to regulate this change, in addition to the agent's current responsibilities, and ensure compliance and a safe environment with the current agent to license ratio. ATC is asking for four (4) Special Agents, one for each district office, to allow the division to better regulate and enforce this new section.

The National Liquor Law Enforcement Association (NLLEA) did a survey last year of agent to liquor license ratio. Of 18 states that participated, the average agent to license ratio was 1:581. Even with 4 additional agents, ATC's agent to license ratio would be 1:852, which is well over that average.

During 2020, alcohol sales have shifted from on premise to off-premise sales (Nielsen). There seems to be a stronger association between off-premise alcohol sales and an increased rate of violence, assaults, child abuse, alcohol-attributed hospital admissions and impaired driving (Science Direct). Increased off-premise alcohol sales also seems to have an association with increased youth access to alcohol. Compliance checks were conducted in several states as a result of complaints received regarding youth accessing alcohol through curbside services and home delivery. The compliance checks showed a high rate of non-compliance with alcohol being sold to minors (Washington Post). This bill allows alcohol to be purchased with a meal to be consumed off of the licensed premises. Many of these transactions take place through curbside pickup or home delivery, which will increase the ability for minors to access alcohol if the proper age verification isn't conducted. In order for ATC to properly enforce alcohol sale to minor laws, the division will need additional agents to do so.

Oversight notes the ATC currently has 15 agent positions available to enforce violations that result from alcohol compliance checks. This legislation does not change the licensing requirements or compliance checks. Therefore, Oversight assumes the ATC can absorb the provisions from this proposal with existing personnel and resources. However, if additional duties require increased staffing, the ATC may request additional funding through the appropriations process.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

This proposal could impact certain small businesses that sell intoxicating liquor.

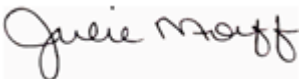
FISCAL DESCRIPTION

The proposed legislation appears to have no direct fiscal impact.

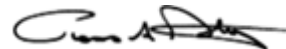
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety – Division of Alcohol and Tobacco Control



Julie Morff
Director
February 17, 2021



Ross Strope
Assistant Director
February 17, 2021