



FINAL
FISCAL NOTE

Drafting Number: LLS 11-0823

Date: June 6, 2011

Prime Sponsor(s): Sen. Boyd

Bill Status: Deemed Lost

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TITLE: CONCERNING THE REGULATION OF ALCOHOL BEVERAGES.

Summary of Legislation

Current law contains a separate category of licenses for establishments manufacturing or selling fermented malt beverages — beer with an alcohol content of 3.2 percent or less by weight, as distinguished from licenses that permit the manufacture or sale of other alcohol beverages with higher alcohol content — full-strength beer, wine, and spirits. Persons licensed under the *Colorado Beer Code* may manufacture or sell only 3.2 percent beer, while persons licensed under the *Colorado Liquor Code* may manufacture or sell only full-strength beer, wine and spirits.

The bill establishes a new category of license — a malt liquor retailer's license. Any convenience store holding a fermented malt beverage retailer's license that was issued prior to the effective date of the bill is eligible to automatically convert that license to a malt liquor retailer's license without additional application or fee if certain conditions are met. The annual license fee will be \$75 for either a fermented malt beverage retailer's license or the new malt liquor retailer's license.

The bill defines a convenience store to mean a retail business with total retail space of less than 5,000 square feet whose primary business consists of providing the public with a convenient location to quickly purchase food items, beverages, gasoline, or a combination of items. Under the definition, a convenience store may not have a pharmacy or employ pharmacists. Convenience stores would continue to be prohibited from selling other types of alcohol beverages such as wine or spirits and would be permitted to sell beer only between the hours of 8 a.m. and 12 midnight. A convenience store with a malt liquor retailer's license may employ a person under 18 years of age if the person is supervised by a person who is at least 21 years of age, but the employee under 18 cannot sell or dispense beer, check age identification, or make deliveries beyond the customary parking area for the licensed premises. In order to sell full-strength beer, a convenience store may not be located within 500 feet of a public or parochial school, or the principal campus of any college, university, or seminary, unless the local licensing authority or appropriate governing body has reduced or eliminated the distance requirement.

Finally, consistent with federal law, the bill makes it unlawful for any person to import, produce, manufacture, distribute, sell at wholesale or at retail, give away, or serve a caffeinated alcohol beverage.

The bill was laid over until May 12, 2011, by the Senate during second reading on April 5, 2011. As such, the bill was deemed lost

Assessment

The bill is assessed as having no fiscal impact on state or local revenue or expenditures. While it is recognized that a certain amount of full-strength beer sales will shift from liquor stores to convenience stores that currently sell 3.2 percent beer, and that the trend in beer sales will move further away from 3.2 percent beer towards full-strength beer, no evidence exists to suggest that the aggregate amount of statewide beer sales will change.

Effect on State Revenue. The rate of excise tax and sales tax is the same for both 3.2 percent beer and full-strength beer. The bill allows for a change to the product mix and alcohol content of beers offered for sale at convenience stores. However, taxes collected on the overall volume of beer sold at all licensed outlets will not change significantly.

The bill will not affect state license fee revenue. Current license holders will continue to renew licenses in their current license category. Liquor stores will be licensed to sell all strengths of beer, wine, and liquor under the Colorado Liquor Code; and convenience stores will be licensed to sell all strengths of beer under the Colorado Beer Code.

Effect on State Expenditures. There is no state expenditure impact to implement the bill since there will be no change in workload for the Liquor Enforcement Division to process existing license applications or renewals. Also, no change in computer programming or data processing for the division is anticipated. Finally, no workload changes are anticipated for local licensing authorities or for local law enforcement due to the increased number of locations authorized to sell full-strength beer.

Departments Contacted

Revenue Local Affairs Public Safety