SB11-194

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 11-0823	**Date:**	March 29, 2011
Prime Sponsor(s):	Sen. Boyd	**Bill Status:**	Senate Business, Labor & Technology
		Fiscal Analyst:	Harry Zeid (303-866-4753)

TITLE: CONCERNING THE REGULATION OF ALCOHOL BEVERAGES.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue Cash Funds Liquor Enforcement Division and State Licensing Authority Cash Fund	$1,129,550	
State Expenditures Cash Funds Liquor Enforcement Division and State Licensing Authority Cash Fund	$10,028	
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: See the State Appropriations section.		
Local Government Impact: See the Local Government Impact section.		

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.

In addition to 3.2 percent beer, the bill allows the sale of full-strength beer in convenience stores. A convenience store is defined as a retail business of less than 5,000 square feet that offers quick purchases of food, beverages, or gasoline but does 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 licensed to sell full-strength and 3.2 percent beer 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.

The bill modifies the definition of "malt liquor" in the Colorado Liquor Code to include 3.2 percent beer, thereby allowing all persons licensed under the Colorado Liquor Code to manufacture, import, sell at wholesale or retail, sell for on-premise consumption, or serve 3.2 percent beer as well as full-strength beer. Finally, the bill permits retail liquor store licensees to have an interest in multiple retail liquor store licenses as long as the licensed premises of each retail liquor store does not exceed 5,000 square feet of total retail space and does not contain a pharmacy on the licensed premises.

State Revenue

For FY 2011-12, state cash funds fee revenue from new malt liquor retailer's license applications will increase by $1,129,550.

Tax Revenue — No Net Change. While it is recognized that a certain amount of full-strength beer sales will shift from liquor stores to convenience stores that currently sell only 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. 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.

Fee Revenue — $1,129,550. A total of 1,707 off-premises licenses for 3.2 percent beer were issued in FY 2009-10. Of these, 65 percent, or 1,102 licenses were for convenience stores. The conversion from a 3.2 percent beer off-premises license to a malt liquor retailer's license is considered to be an application for a new license at the time of license renewal. As such, the Colorado Liquor Code requires a new license application process. The application fee for a new state license of $1,025 will apply to each new conversion. It is assumed that all 1,102 conversions will occur in FY 2011-12. Based on 1,102 new license applications, $1,129,550 will be credited to the Liquor Enforcement Division and State Licensing Authority Cash Fund in FY 2011-12.

In addition to the *application fee*, there will be a $75 annual state *license renewal fee* imposed on malt liquor retailers. Since the renewal fee will be the same for malt liquor licenses as it is for the current 3.2 percent beer license, no change in annual state revenue will result from renewal fees.

State Expenditures

The Liquor Enforcement Division in the Department of Revenue will experience a one-time expenditure increase of $10,028 in FY 2011-12. It is estimated that 1,102 convenience stores that currently have a license to sell 3.2 percent beer under the Colorado Beer Code will apply for the new malt liquor retailer's license in FY 2011-12 upon the renewal date of their current license. A temporary administrative assistant II will need up to 30 minutes to review and process each application. At the rate of $18.20 per hour, $10,028 from the Liquor Enforcement Division and State Licensing Authority Cash Fund will be necessary.

Beginning in FY 2012-13, the workload required to process renewals of malt liquor retailer's licenses will be the same as the current workload necessary to process renewals of 3.2 percent beer licenses.

Local Government Impact

Local governments will be able to charge a new local license application fee of $1,000 for each new malt liquor retail location. The fee will stay with the county or city in which the facility is located. Statewide, $1.1 million will be collected through new local license application fees during FY 2011-12.

The annual local renewal fee of $50 for counties or $25 for cities, depending on where the convenience store is located, will be assessed for each renewal application. Of the amount collected, 85 percent flows to the state General Fund via the Old Age Pension Fund. The remaining 15 percent is retained locally. Renewal fee revenue will be the same for malt liquor licenses as it is for 3.2 percent beer license renewals. Therefore, fee revenue from this source will remain unchanged.

State Appropriations

The Department of Revenue requires a cash funds appropriation of $10,028 in FY 2011-12 from the Liquor Enforcement Division and State Licensing Authority Cash Fund.

Departments Contacted

Revenue Local Affairs Public Safety