

Colorado Legislative Council Staff Fiscal Note

**STATE
FISCAL IMPACT**

Drafting Number: LLS 15-0569
Prime Sponsor(s): Rep. Windholz

Date: January 21, 2015
Bill Status: House SVMA
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BILL TOPIC: BAN USE SALE POSSESSION OF POWDERED ALCOHOL

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
Cash Funds	Less than \$5,000	Less than \$5,000
State Expenditures		
Centrally Appropriated Costs**	Minimal workload increase.	
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

This bill prohibits the use, possession, sale, purchase, transfer, or manufacture of powdered alcohol. A person who violates the prohibition is subject to punishment for a class 2 misdemeanor. The bill exempts hospitals, state institutions, private colleges and universities, and pharmaceutical companies conducting bona fide research as long as they file a notice of possession of powdered alcohol with the Department of Public Health and Environment (DPHE) by September 1, 2015, or 30 days in advance of acquisition. If the federal Food and Drug Administration (FDA) approves powdered alcohol and the state establishes a regulatory structure, the prohibition is repealed.

Background

One company is currently producing powdered alcohol under the trade name Palcohol. It comes in a four-inch by six-inch sealable pouch in vodka, rum, and several flavors of mixed drinks. The federal Alcohol and Tobacco Tax and Trade Bureau granted approval of the product in April 2014, but quickly requested that the company surrender its approval (which it did) so that the bureau could reconsider the product's status.

State Revenue

Beginning in FY 2015-16, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 2 misdemeanor is \$250 to \$1,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed in 2014, the fiscal note assumes that any revenue generated is likely to be less than \$5,000. To the extent that a person incarcerated as a

result of this bill would otherwise be paying income taxes on wages and/or sales taxes on purchases, some of the increased fine revenue will be offset by reduced income and sales tax revenue. Most income and sales tax revenue is credited to the General Fund.

State Expenditures

This bill will result in a minimal increase in workload for three agencies, as shown below.

DPHE. The DPHE will create and collect registration forms from entities choosing to conduct research with powdered alcohol. The fiscal note assumes that the DPHE will not have oversight authority. This increase in workload can be accomplished within existing appropriations.

Judicial Department. Few, if any, cases are expected to be brought for this new crime so the impact of the bill on workload is minimal and doesn't require a new appropriation.

Office of the State Public Defender. As noted above, few, if any, cases are expected to be brought for this crime so the impact on the Office of the State Public Defender is expected to be minimal and doesn't require a new appropriation.

Local Government Impact

This bill impacts local governments by creating the new crime of use, offer for use, purchase, offer to purchase, sell, offer to sell, transfer, offer to transfer, possess, or manufacture powdered alcohol which is a class 2 misdemeanor. The penalty for a class 2 misdemeanor is 3 to 12 months in a county jail, a fine of \$250 to \$1,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal.

Comparable Crime Section

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. Because powdered alcohol is chemically the same as alcohol, and the sale of alcohol is legal and regulated, no comparable crime was identified.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

TABOR Impact

This bill increases state revenue from fees, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund in the year following the excess collections.

State and Local Government Contacts

Higher Education
Public Health and Environment

Judicial
Revenue

Law