



**Colorado  
Legislative  
Council  
Staff**

**SB16-206**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

<b>Drafting Number:</b> LLS 16-1253	<b>Date:</b> April 29 2016
<b>Prime Sponsor(s):</b> Sen. Cadman; Scheffel Rep. Hulinghorst; Duran	<b>Bill Status:</b> Senate Business, Labor, and Technology
	<b>Fiscal Analyst:</b> Kerry White (303-866-3469)

**BILL TOPIC:** BAN SALE MANUFACTURE POSSESSION POWDERED ALCOHOL

<b>Fiscal Impact Summary</b>	<b>FY 2015-2016 (Current Year)</b>	<b>FY 2016-2017</b>	<b>FY 2017-2018</b>
<b>State Revenue</b> General Fund Cash Funds	Minimal reduction Minimal increase		
<b>State Expenditures</b>	See State Expenditures section.		
<b>TABOR Impact</b>			Potential increase
<b>Appropriation Required:</b> None.			
<b>Future Year Impacts:</b> Ongoing minimal impacts to state revenue and workload.			

**Summary of Legislation**

This bill prohibits the use, possession, sale, purchase, transfer, or manufacture of powdered alcohol. A person who violates this prohibition is subject to punishment for a class 2 misdemeanor. Hospitals, state institutions, private colleges and universities, and pharmaceutical or biotechnology companies that are conducting bona fide research and have filed a notice of possession of powdered alcohol with the Department of Public Health and Environment (DPHE) by September 1, 2016, or 30 days in advance of acquisition are exempted from this prohibition.

**Background**

House Bill 15-1031 required the Department of Revenue (DOR) to adopt rules for regulating the use, purchase, sale, possession or manufacture of powdered alcohol if its use was approved by the federal Alcohol and Tobacco Tax and Trade Bureau. The Alcohol and Tobacco Tax and Trade Bureau granted approval of the product on March 10, 2015, and it is now legal to be sold in the United States.

The DOR was directed, under HB15-1031, to apply an excise tax of \$0.6026 per liter for the amount of liters of water suggested to be added by the manufacturer's packaging. Only one company has been identified as producing powdered alcohol under the trade name Palcohol. It comes in a four-inch by six-inch sealable pouch as vodka, rum, and mixed drinks. As of this writing, the DOR is not aware of any sales occurring in Colorado. To the extent it is being sold, this analysis assumes quantities are minimal.

### **Comparable Crime**

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 both substances are legal under current law, no comparable crime has been identified. The fiscal note assumes that given the limited scope of Palcohol, any convictions under Senate Bill 16-206 will be minimal.

### **State Revenue**

Overall, this bill is anticipated to increase state revenue by a minimal amount. It increases state cash fund revenue from criminal fines and fees and decreases General Fund revenue by a minimal amount.

**Excise taxes.** To the extent that this bill reduces excise tax revenue collected on the sale of powdered alcohol, revenue credited to the General Fund is reduced. The fiscal note assumes any such impact is minimal.

**Criminal fines and fees.** Beginning in the current FY 2015-16, this bill is anticipated to increase state revenue by a minimal amount 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. To the extent that a person is sentenced to probation, a supervision fee of \$50 per month will also be collected. Because powdered alcohol is not yet widely in use, this analysis assumes any increase in revenue is minimal.

### **TABOR Impact**

This bill increases state cash fund revenue from criminal fines and fees, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. No impact is expected in FY 2016-17. This analysis assumes that little to no General Fund revenue is collected via excise taxes, but to the extent this bill decreases such revenue, it will reduce TABOR refund obligations by an identical amount.

### **State Expenditures**

Beginning in the current FY 2015-16, the bill both increases and reduces workload for affected state agencies by a minimal amount. No adjustments in appropriations are required for any state agency.

**Department of Public Health and Environment.** The DPHE will create and collect registration forms from entities choosing to conduct research involving powdered alcohol, increasing workload by a minimal amount.

**Judicial Department.** Under the bill, workload will increase for trial courts to hear any new cases brought under the bill. In addition, if a person is sentenced to probation, workload will increase in the probation services division. Finally, if a defendant is deemed indigent, costs and workload will increase for the Office of the State Public Defender or the Office of the Alternate Defense Counsel to provide representation.

**Department of Revenue.** Under the bill, workload for the regulation and taxation of powdered alcohol is eliminated. The department was not provided an increase in appropriations under HB15-1031. Workload is expected to increase in FY 2016-17 by a minimal amount to update rules and procedures to reflect the change in law under SB16-206.

**Local Government Impact**

**Misdemeanor offenses in county courts.** First, the bill may increase workload for district attorneys to prosecute any new offenses under the bill. Second, to the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under current law, a court may sentence an offender to jail for a class 2 misdemeanor for a period of between 3 and 12 months. 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.

**Denver County Court.** The bill may result in an increase in workload for cases heard in the Denver County Court, managed and funded by the City and County of Denver. Probation services in the Denver County Courts may also experience a minimal increase in workload and revenue to supervise persons convicted under the bill.

**Effective Date**

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

**State and Local Government Contacts**

Counties  
Information Technology  
Municipalities  
Revenue

District Attorneys  
Judicial  
Public Health & Environment  
Sheriffs

Higher Education  
Local Affairs  
Public Safety