



**Colorado
Legislative
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SB16-197

FISCAL NOTE

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

Drafting Number: LLS 16-1255
Prime Sponsor(s): Sen. Steadman

Date: May 3, 2016
Bill Status: Senate Business, Labor, & Technology
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BILL TOPIC: LIQUOR-LICENSED DRUGSTORES MULTIPLE LICENSES

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018	FY 2018-2019
State Revenue	\$0	up to \$270,229	up to \$918,589
General Fund	0	42,939	190,270
Cash Funds	0	up to 227,290	up to 728,319
State Expenditures	\$196,203	up to \$444,586	up to \$646,237
Cash Funds	187,183	up to 389,640	up to 543,486
Centrally Appropriated Costs	9,020	54,946	102,751
TABOR Impact		\$264,364	not estimated
FTE Position Change	1.3 FTE	4.1 FTE	6.8 FTE
Appropriation Required: \$187,183 – Department of Revenue (FY 2016-17).			
Future Year Impacts: Ongoing revenue and expenditure impacts.			

Summary of Legislation

The bill makes several changes to laws related to the licensing of liquor-licensed drugstores, retail liquor stores, and fermented malt beverage retailers licensed with the Liquor Enforcement Division (LED) within the Department of Revenue (DOR).

Liquor-licensed drugstores. From January 1, 2017, through January 1, 2027, a liquor-licensed drugstore can obtain up to five additional liquor-licensed drugstore licenses. To do so, the drugstore must file a single application with the LED and the local licensing authority to transfer ownership of up to two retail liquor stores, change the location of one of the retail liquor stores, and merge and convert two retail liquor licenses into one liquor-licensed drugstore license.

A drugstore applying to merge two retail licenses is not eligible for a temporary permit and a local licensing authority may consider the reasonable requirements of the neighborhood and hold a hearing if sufficient notice is given. The bill specifies that the local licensing fee for a transfer of ownership, change of location, and license merger and conversion may not exceed \$1,000 and that the transfer, merger, and conversion is only permitted if:

- the drugstore has paid a purchase price of at least \$350,000 per retail liquor store;
- the retail liquor store and the drugstore applicant's premises are within the same local licensing authority; and
- the drugstore's licensed premise will not be within 2,500 feet of another licensed liquor retailer in the same local licensing authority jurisdiction.

After January 1, 2027, a liquor-licensed drugstore may obtain an unlimited number of additional liquor-licensed drugstore licenses without having to acquire and convert two retail liquor store licenses.

The bill allows people with a financial interest in a liquor-licensed drugstore to have an interest in certain other liquor-licensed entities. In addition, the bill establishes requirements for:

- liquor-licensed drugstores related to the purchase, sale, and display of alcohol;
- licensed wholesalers related to making deliveries to and ensuring that all available alcohol offered by wholesalers can be purchased by liquor-licensed drugstores; and
- licensed manufacturers and importers related to providing products to liquor-licensed drugstores.

Managers. The bill creates a new liquor-licensed drugstore manager's permit, issued by the DOR. Liquor-licensed drugstores must have at least one permitted manager who controls alcohol beverage operations. The bill establishes requirements for permitted managers and sets the state licensing fee for a permit at \$100 annually.

Retail liquor stores. The bill allows the owners of retail liquor stores to obtain up to five additional retail liquor store licenses and to sell non-alcoholic beverages; snack foods; kits and materials to make beer, wine, and spirits; clothes and accessories related to alcohol; lottery tickets; and tobacco-related products, among other things, as long as merchandise not related to the sale of alcohol does not exceed 20 percent of all revenues.

Fermented malt beverages. The bill removes the 3.2 percent alcohol by weight or 4 percent alcohol by volume limit from the definition of a fermented malt beverage, thus allowing licensed fermented malt beverage retailers to sell full-strength beer.

Data and Assumptions

Current law. Under current law, full-strength beer, wine, and spirits may only be sold for off-premise consumption at retail liquor stores and liquor-licensed drugstores. Grocery stores and convenience stores may obtain a fermented malt beverage retail license to sell beer below 3.2 percent alcohol by weight or 4 percent alcohol by volume (known as 3.2 beer). Retail and drugstore licensees may only have one license per owner.

Implementation timeline. The work implementing the bill will begin January 1, 2017, but the fiscal note assumes that the licensing changes will not be available to current and potential licensees until July 1, 2017.

Fee breakdown. State liquor license fees are split between the General Fund and the Liquor Enforcement Division and State Licensing Authority Cash Fund (Liquor Cash Fund). In addition, the state receives a portion of local licensing fees which are deposited into the Old Age Pension Fund. Table 1 details how the state portion of the license fees are distributed.

Table 1. State Liquor License Fee Revenue Breakdown by Fund Under Current Law

Liquor License Type	State Fee Revenue	General Fund	Liquor Cash Fund	Old Age Pension Fund
Liquor-licensed Drugstore or Retail Liquor Store – New	\$827.50	\$50	\$650	127.50
Liquor-licensed Drugstore or Retail Liquor Store – Renewal	227.50	50	50	127.50
Fermented Malt Beverage License – New	696.25	25	650	21.25
Fermented Malt Beverage License – Renewal	96.25	25	50	21.25
Liquor-licensed Drugstore Manager Permit – New	105.00	50	55	0
Liquor-licensed Drugstore Manager Permit – Renewal	100.00	50	50	0

Liquor-licensed drugstore licenses and manager permits. There are currently 15 liquor-licensed drugstores. The fiscal note assumes that seven will purchase the required retailer licenses and apply for all five additional licenses allowed under the bill, resulting in 35 additional liquor-licensed drugstores. Of those, 12 are expected to receive their licenses in FY 2017-18 and 12 in FY 2018-19. The remainder will apply in future years. The same numbers are expected for the new manager permits.

Retail liquor licenses. There are currently 1,623 retail liquor licensees. Under the bill, retail liquor licensees may obtain up to five additional licenses. The fiscal note assumes that current licensees will obtain varying numbers of additional licenses, for a total of 2,191 new retail liquor licenses, 219 of which will be issued in FY 2017-18, and 767 of which will be issued in FY 2018-19. The remainder will be issued in future years. In addition, there will be a decrease of 24 retail liquor licenses in FY 2017-18 and FY 2018-19, based on the assumption that there will be 12 new liquor-licensed drugstore licensees who each must purchase two retail licenses. As a result, the fiscal note assumes a net increase of 195 retail liquor licenses in FY 2017-18 and 743 in FY 2018-19.

Fermented malt beverage licensees. There are currently 1,546 retailers licensed to sell 3.2 beer. The fiscal note assumes that by allowing fermented malt beverage licensees to sell full-strength beer, there will be a 50 percent increase in licensees, for a total of 773 additional licenses. Of those, 155 will be issued in FY 2017-18, 309 in FY 2018-19, and the remainder in future years.

In addition, assuming all 68 fermented malt beverage manufacturers and wholesalers have both fermented malt beverage and malt liquor (full strength beer) licenses, they will no longer need to renew their fermented malt beverage licenses. Assuming the increase in fermented malt beverage retailers described above and a decrease of 34 licenses in both FY 2017-18 and FY 2018-19, a net increase of 121 fermented malt beverage licenses in FY 2017-18 and 275 in FY 2018-19 is expected.

Fingerprint background checks. All new licensees are required to complete a Colorado Bureau of Investigation (CBI) fingerprint background check, completed by the Department of Public Safety (DPS). Background checks may not be needed if the person is applying for a subsequent license within two years of his or her last background check. The fiscal note assumes that all new licensees will require a background check, resulting in 340 additional checks in FY 2017-18 and 1,042 in FY 2018-19.

State Revenue

The bill does not increase state revenue in FY 2016-17 and increases state revenue by a total of **\$270,229 in FY 2017-18 and \$918,589 in FY 2018-19**. The revenue increase is distributed between the General Fund and two cash funds. The specific impacts are detailed below and in Table 2.

Liquor-licensed drugstore licenses. The bill increases fees from liquor-licensed drugstores by \$9,930 in FY 2017-18 and \$12,660 in FY 2018-19. It is assumed that there will be 12 new licenses in FY 2017-18 and 12 new and 12 renewals in FY 2018-19.

Liquor-licensed drugstore manager's permits. The bill increases fees from liquor-licensed drugstore manager's permits by \$1,260 in FY 2017-18 and \$2,460 in FY 2018-19. It is assumed that 12 permits will be issued in FY 2017-18 and 12 will be issued and 12 renewed in FY 2018-19.

Retail liquor licenses. The bill increases fees from retail liquor licenses by \$161,363 in FY 2017-18 and \$659,196 in FY 2018-19. It is assumed that there will be 195 new licenses in FY 2017-18 and 743 new and 195 renewals in FY 2018-19.

Fermented malt beverages licenses. The bill increases fees from fermented malt beverage licenses by \$84,246 in FY 2017-18 and \$203,115 in FY 2018-19. It is assumed that there will be 121 new licenses in FY 2017-18 and 275 new and 121 renewals in FY 2018-19.

Fingerprint-based background checks — DPS. Fee revenue from fingerprint-based criminal history background checks deposited into the CBI Identification Unit Cash Fund in the DPS will increase by up to \$13,430 in FY 2017-18 and \$41,159 in FY 2018-19, assuming 340 checks in FY 2017-18 and 1,042 in FY 2018-19. The current fee for background checks is \$39.50, which includes \$17.25 for a Federal Bureau of Investigation (FBI) fingerprint-based check, which is passed on to that federal agency. The background check is required only upon initial licensure and is not required for renewal.

Fee impact on liquor licensees. State law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 2 below identifies the fee impact of licensing fees and background checks as a result of this bill.

Table 2. Fee Impact on Liquor Licensees				
Fiscal Year	Liquor License Type	State Fee Revenue	New Licenses	Total Fee Impact
FY 2017-18	Liquor-licensed Drugstore – New	\$827.50	12	\$9,930
	Drugstore Manager Permit – New	105.00	12	1,260
	Retail Liquor Store – New	827.50	195	161,363
	Fermented Malt Beverage License – New	696.25	121	84,246
	CBI Fingerprint Background Check	39.50	340	up to 13,430
TOTAL				\$270,229
<i>Liquor Cash Fund</i>				213,860
<i>General Fund</i>				13,975
<i>Old Age Pension Fund (General Fund)</i>				28,964
<i>CBI Identification Unit Cash Fund</i>				13,430
FY 2018-19	Liquor-licensed Drugstore – New	\$827.50	12	\$9,930
	Liquor-licensed Drugstore – Renewal	227.50	12	2,730
	Drugstore Manager Permit – New	105.00	12	1,260
	Drugstore Manager Permit – Renewal	100.00	12	1,200
	Retail Liquor Store – New	827.50	743	614,833
	Retail Liquor Store – Renewal	227.50	195	44,363
	Fermented Malt Beverage License – New	696.25	275	191,469
	Fermented Malt Beverage License – Renewal	96.25	121	11,646
	CBI Fingerprint Background Check	39.50	1042	up to 41,159
TOTAL				\$918,589
<i>Liquor Cash Fund</i>				687,160
<i>General Fund</i>				59,220
<i>Old Age Pension Fund (General Fund)</i>				131,070
<i>CBI Identification Unit Cash Fund</i>				41,159

State Expenditures

The fiscal note increases state cash fund expenditures by **\$196,203 and 1.3 FTE in FY 2016-17, \$444,586 and 4.1 FTE in FY 2017-18, and \$646,237 and 6.8 FTE in FY 2018-19.** The costs for the Department of Revenue come from the Liquor Cash Fund and the costs for the Department of Public Safety come from the CBI Identification Unit Cash Fund. Table 3 details those expenditures.

Table 3. Expenditures Under SB16-197			
Cost Components	FY 2016-17	FY 2017-18	FY 2018-19
Personal Services	\$26,990	\$171,470	\$305,192
DOR FTE	0.5 FTE	3.0 FTE	5.5 FTE
Operating and Capital Outlay Costs	5,178	12,256	19,524
Fingerprint Background Check Costs	0	8,962	27,467
DPS FTE	0.0 FTE	0.0 FTE	0.2 FTE
Computer Programming	12,500	0	0
Criminal Investigator Equipment	0	6,932	1,283
Legal Services	142,515	190,020	190,020
Department of Law FTE	0.8 FTE	1.1 FTE	1.1 FTE
Centrally Appropriated Costs*	9,020	54,946	102,751
TOTAL	\$196,203	\$444,586	\$646,237

* Centrally appropriated costs are not included in the bill's appropriation.

Personal services — DOR. The DOR requires a staffing increase beginning in FY 2016-17 to implement the changes in the bill, plus standard operating and capital outlay costs. The staffing includes:

- an administrative assistant to develop manager registration and licensing changes and review and process license applications;
- a legal assistant to assist with rulemaking, developing policies and procedures, and processing administrative sanctions against licensees; and
- compliance and criminal investigators to support local licensing authorities, conduct field investigations, and prepare disciplinary reports, findings, and exhibits.

Legal services — DOR. The DOR requires 1,500 hours legal services for rulemaking in FY 2016-17 and 2,000 hours of legal services for rulemaking and enforcement beginning in FY 2017-18, at a rate of \$95.01 per hour. The legal services will provided by the Department of Law using reappropriated funds and an additional allocation of 0.8 FTE in FY 2016-17 and 1.1 FTE beginning in FY 2017-18.

Other costs — DOR. The bill also increases expenditures in the DOR to update the licensing software in FY 2016-17, and provide the law enforcement equipment required by a criminal investigator beginning in FY 2017-18. The bill also increases the workload for DOR to hold additional administrative hearings. This workload increase can be accomplished within existing appropriations.

Judicial Department. The bill will increase the workload for the Judicial Department to handle an increase in cases as a result of an increased number of liquor licensees. Licensees may be subject to civil liability, pursue judicial review of a state or local licensing authority decision, or face criminal charges for unlawful acts related to the sale of alcohol. However, the fiscal note assumes that licensees will follow the law; therefore, the workload increase is expected to be accomplished within existing appropriations.

Fingerprint-based background checks — DPS. The bill increases expenditures for DPS by \$8,962 in FY 2017-18 and \$38,542 and 0.2 FTE in FY 2018-19. This covers the costs of conducting additional CBI background checks, including fingerprint examiner and data specialist time, postage and per-print software and equipment costs, as well as the pass through costs of the FBI background check. These costs are based on up to 340 checks in FY 2017-18 and 1,042 in FY 2018-19.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. Leased space is included to show the incremental impact of the additional FTE, and calculated at DOR's rate of 200 square feet per FTE at a rate of \$27 per square foot. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 4.

Table 4. Centrally Appropriated Costs Under SB16-197			
Cost Components	FY 2016-17	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$4,010	\$24,073	\$45,704
Supplemental Employee Retirement Payments	23,010	14,673	27,347
Leased Space	2,700	16,200	29,700
TOTAL	\$9,020	\$54,946	\$102,751

Local Government Impact

The bill increases revenue and expenditures for local government licensing authorities. The specific impacts are detailed below

Revenue. The bill increases revenue to local licensing authorities from the increased number of liquor-licensed drugstores, retail liquor stores, and fermented malt beverage licensees. Of the local licensing fee, 15 percent remains with the local licensing authority, and 85 percent is transferred to the state Old Age Pension Fund. In addition, local licensing authorities can charge a fee of up to \$1,000 per license transfer, merger, and conversion under the bill. The amount charged to drugstores and the distribution of licensee increases will vary among local jurisdictions.

Expenditures. The bill increases expenditures for local licensing authorities to establish new procedures, update materials, answer questions, and handle the new transfer, merger, and conversion procedures and an increased number of drugstore, retail, and fermented malt beverage licensees.

Effective Date

The bill takes effect January 1, 2017.

State Appropriations

For FY 2016-17, the Department of Revenue requires an appropriation of \$187,183 and an allocation of 0.5 FTE from the Liquor Enforcement Division and State Licensing Authority Cash Fund. Of this, \$142,515 and an additional allocation of 0.8 FTE is reappropriated to the Department of Law.

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