



**Colorado
Legislative
Council
Staff**

SB16-197

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 16-1255 **Date:** September 8, 2016
Prime Sponsor(s): Sen. Steadman **Bill Status:** Signed into Law
 Rep. Williams; Nordberg **Fiscal Analyst:** Anna Gerstle (303-866-4375)

BILL TOPIC: LIQUOR-LICENSED DRUGSTORES MULTIPLE LICENSES

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018	FY 2018-2019
State Revenue	<u>up to \$60,403</u>	<u>up to \$252,434</u>	<u>up to \$444,001</u>
General Fund	12,293	60,995	123,444
Cash Funds	up to 48,110	up to 191,439	320,557
State Expenditures	<u>up to \$445,178</u>	<u>up to \$474,529</u>	<u>\$576,922</u>
Cash Funds	up to 400,913	up to 410,497	486,724
Centrally Appropriated Costs	44,265	64,032	90,198
TABOR Impact		\$247,552	\$436,307
FTE Position Change	3.7 FTE	4.6 FTE	6.1 FTE
Appropriation Required: \$400,913 – Multiple departments (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 and retail liquor stores licensed with the Liquor Enforcement Division (LED) within the Department of Revenue (DOR). On or after July 1, 2016, no new liquor-licensed drugstore or retail liquor licenses can be issued if the proposed location is within 1,500 feet of another licensed premise, or within 3,000 feet of another licensed premise in municipalities with a population of 10,000 people or less.

Liquor-licensed drugstores. Beginning January 1, 2017, a liquor-licensed drugstore can obtain additional liquor-licensed drugstore licenses, as demonstrated in Table 1. To do so, the drugstore must file a single application with the LED and the local licensing authority to transfer ownership of at least two retail liquor stores and all retail liquor stores within a specified radius; change the location of one of the retail liquor stores; and merge and convert retail liquor licenses into one liquor-licensed drugstore license. If there are fewer than two retail liquor stores within the local licensing authority, the liquor-licensed drugstore must transfer ownership of the necessary number of retail liquor stores in the next closest local licensing jurisdiction.

A liquor-licensed drugstore applying to merge at least 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 are only permitted if:

- the retail liquor stores and the liquor-licensed drugstore applicant's premises are within the same local licensing authority;
- the drugstore transfers ownership of all retail liquor stores within specified radius; and
- the liquor-licensed drugstore's licensed premise will not be within specified distances of another licensed retail liquor store in the same local licensing authority jurisdiction.

The bill allows individuals with a financial interest in a liquor-licensed drugstore to have an interest in certain other liquor-licensed entities and establishes requirements for:

- liquor-licensed drugstores related to the purchase and sale 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, sets the state licensing fee for a permit at \$100 annually, and encourages permitted managers to purchase locally-produced alcohol products.

Retail liquor stores. The bill allows the owners of retail liquor stores to sell non-alcohol products, as long as merchandise not related to the sale of alcohol does not exceed 20 percent of all revenues. A retail liquor stores licensed before January 1, 2016 may also apply to move its store to a location outside its current municipality or county. Beginning January 1, 2017, retail stores may obtain additional licenses, as demonstrated in Table 1.

Table 1. Phase-in Schedule for Additional Retail Alcohol Licenses		
Dates	Maximum Liquor-Licensed Drugstores Licenses	Maximum Retail Liquor Store Licenses
January 1, 2017 – December 31, 2021	5	2
January 1, 2022 – December 31, 2026	8	3
January 1, 2027 – December 31, 2031	13	4
January 1, 2032 – December 31, 2036	20	
Beginning January 1, 2037	unlimited	

Fermented malt beverages. The bill removes the 3.2 percent alcohol by weight or 4 percent alcohol by volume limit from the definition of fermented malt beverage beginning January 1, 2019. The bill establishes a liquor industry working group to analyze the impact that removing the alcohol content limit on fermented malt beverages will have on the industry; consider necessary legislative, regulatory, or administrative changes to the liquor licensing structure; and make recommendations related to tastings and the sale of growlers on retail liquor store premises.

The bill specifies the composition and selection of the working group, which will be appointed by the Executive Director for the DOR and staffed by the LED. The group will convene no later than August 1, 2016, and will report its findings to the business committees of the General Assembly by January 1, 2018.

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. Retail and liquor-licensed drugstore licensees may only have one license per owner.

Grocery stores and convenience stores currently 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). Removing the distinction between 3.2 beer and full-strength beer allows licensed fermented malt beverage retailers to sell full-strength beer. There are no impacts of this change until FY 2018-19.

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 2 details how the state portion of the license fees are distributed 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 nine will purchase the required retailer licenses and apply for the four additional licenses allowed under the bill, resulting in 36 additional liquor-licensed drugstores. Of those, 12 are expected to receive their licenses in FY 2016-17, 12 in FY 2017-18, and 8 in FY 2018-19. The remaining four 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 one additional license between 2017 and 2022. The fiscal note assumes that 50 percent of current licensees will obtain an additional license, for a total of 811 new retail liquor licenses, 81 of which will be issued in FY 2016-17, 283 of which will be issued in FY 2017-18, and 325 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 at least 24 retail liquor licenses in FY 2016-17 and

FY 2017-18, and 16 in FY 2018-19, based on the assumption that each new liquor-licensed drugstore licensee must purchase two retail licenses. As a result, the fiscal note assumes a net increase of 57 retail liquor licenses in FY 2016-17, 259 in FY 2017-18, and 309 in FY 2018-19.

Fermented malt beverage licensees. There are currently 1,546 retailers licensed to sell 3.2 beer. This fiscal note assumes that each new liquor-licensed drugstore location currently is a fermented malt beverage licensee, thus there will be a decrease in fermented malt beverage license renewals equal to the number of new liquor-licensed drugstore licensees (12 in FY 2016-17 and FY 2017-18, and 8 in FY 2018-19). The fiscal note also assumes that by allowing fermented malt beverage licensees to sell full-strength beer beginning in 2019, there will be a 50 percent increase in licensees, for a total of 773 additional licenses. Of those, 155 will be issued in FY 2018-19.

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 FY 2018-19, a net increase of 121 fermented malt beverage licenses in FY 2018-19.

Fingerprint background checks. All new applicants 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 applicants will require a background check, resulting in 81 additional checks in FY 2016-17, 283 in FY 2017-18, and 446 in FY 2018-19.

State Revenue

The bill increases state revenue by a total of **\$60,403 in FY 2016-17, \$252,434 in FY 2017-18, and \$444,001 in FY 2018-19.** The revenue increase is distributed between the General Fund, the Liquor Cash Fund, and the CBI Investigation Unit Cash Fund. 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 2016-17, \$12,660 in FY 2017-18, and \$12,080 in FY 2018-19. It is assumed that there will be 12 new licenses in FY 2016-17, 12 new and 12 renewals in FY 2017-18, and 8 new and 24 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 2016-17, \$2,460 in FY 2017-18, and \$3,240 in FY 2018-19. It is assumed that 12 permits will be issued in FY 2016-17, 12 will be issued and 12 renewed in FY 2017-18, and 8 issued and 24 renewed in FY 2018-19.

Retail liquor licenses. The bill increases fees from retail liquor licenses by \$47,168 in FY 2016-17, \$227,291 in FY 2017-18, and \$327,588 in FY 2018-19. It is assumed that there will be 57 new licenses in FY 2016-17, 259 new and 57 renewals in FY 2017-18, and 309 new and 316 renewed in FY 2018-19.

Fermented malt beverage licenses. The bill decreases fees from fermented malt beverage licensees by \$1,155 in FY 2016-17 and FY 2017-18, assuming 12 fermented malt beverage licensees each year do not renew their licenses and are instead licensed as liquor-licensed drugstores. In FY 2018-19, the bill increases fees from fermented malt beverage licenses by \$83,476 in FY 2018-19, based on a projected 121 new licenses and 8 that are not renewed.

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 \$3,200 in FY 2016-17, \$11,179 in FY 2017-18, and \$17,617 in FY 2018-19, assuming 81 checks in FY 2016-17, 283 in FY 2017-18, and 446 in FY 2018-19. The current fee for background checks is \$39.50, including \$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 3 below identifies the fee impact of licensing fees and background checks, based on current DOR and DPS fees. Fees are estimates only. The DOR will set fees administratively to cover program costs.

Table 3. Fee Impact on Liquor Licensees Under SB16-197				
Fiscal Year	Liquor License Type	State Fee Revenue	New Licenses	Total Fee Impact
FY 2016-17	Liquor-licensed Drugstore – New	\$827.50	12	\$9,930
	Drugstore Manager Permit – New	105.00	12	1,260
	Retail Liquor Store – New	827.50	57	47,168
	Fermented Malt Beverage License - Renewal	96.25	(12)	(1,155)
	CBI Fingerprint Background Check	39.50	81	3,200
TOTAL				\$60,403
<i>Liquor Cash Fund</i>				44,910
<i>General Fund</i>				3,750
<i>Old Age Pension Fund (General Fund)</i>				8,543
<i>CBI Identification Unit Cash Fund</i>				3,200
FY 2017-18	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	259	214,323
	Retail Liquor Store – Renewal	227.50	57	12,968
	Fermented Malt Beverage License - Renewal	96.25	(12)	(1,155)
	CBI Fingerprint Background Check	39.50	283	up to 11,179
TOTAL				\$252,434
<i>Liquor Cash Fund</i>				180,260
<i>General Fund</i>				17,900
<i>Old Age Pension Fund (General Fund)</i>				43,095
<i>CBI Identification Unit Cash Fund</i>				11,179

Table 3. Fee Impact on Liquor Licensees Under SB16-197 (Cont.)				
Fiscal Year	Liquor License Type	State Fee Revenue	New Licenses	Total Fee Impact
FY 2018-19	Liquor-licensed Drugstore – New	\$827.50	8	\$6,620
	Liquor-licensed Drugstore – Renewal	227.50	24	5,460
	Drugstore Manager Permit – New	105.00	8	840
	Drugstore Manager Permit – Renewal	100.00	24	2,400
	Retail Liquor Store – New	827.50	309	255,698
	Retail Liquor Store – Renewal	227.50	316	71,890
	Fermented Malt Beverage License - New	696.25	121	84,246
	Fermented Malt Beverage License - Renewal	96.25	(8)	(770)
	CBI Fingerprint Background Check	39.50	446	up to 17,617
			TOTAL	\$444,001
			<i>Liquor Cash Fund</i>	302,940
			<i>General Fund</i>	37,275
			<i>Old Age Pension Fund (General Fund)</i>	86,169
			<i>CBI Identification Unit Cash Fund</i>	17,617

TABOR Impact

This bill increases state revenue from liquor licensing fees, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. No TABOR refund is expected in FY 2016-17.

State Expenditures

The fiscal note increases state cash fund expenditures by **\$445,178 and 3.7 FTE in FY 2016-17, \$474,529 and 4.6 FTE in FY 2017-18, and \$576,922 and 6.1 FTE in FY 2018-19**. The costs for the DOR come from the Liquor Cash Fund and the costs for the DPS come from the CBI Identification Unit Cash Fund. Table 4 details these expenditures.

Table 4. Expenditures Under SB16-197			
Cost Components	FY 2016-17	FY 2017-18	FY 2018-19
Personal Services	\$140,695	\$199,219	\$269,983
DOR FTE	2.4 FTE	3.5 FTE	5.0 FTE
Operating and Capital Outlay Costs	11,686	12,731	14,156
Fingerprint Background Check Costs	2,135	7,460	11,498
Computer Programming	12,500	0	0
Criminal Investigator Equipment	5,777	987	987
Legal Services	228,120	190,100	190,100
Department of Law FTE	1.3 FTE	1.1 FTE	1.1 FTE
Centrally Appropriated Costs*	44,265	64,032	90,198
TOTAL	\$445,178	\$474,529	\$576,922

* 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 to review and process license applications;
- a legal assistant to assist with rulemaking, developing policies and procedures, processing administrative sanctions against licensees, and staffing the industry working group; 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 of legal services for rulemaking and 900 hours for enforcement in FY 2016-17 and 2,000 hours of legal services for rulemaking and enforcement beginning in FY 2017-18, at a rate of \$95.05 per hour. The legal services will be provided by the Department of Law using reappropriated funds and an additional allocation of 1.3 FTE in FY 2016-17 and 1.1 FTE in FY 2017-18 and FY 2018-19. The bill also increases the workload of the Department of Law to have a representative on the working group, which can be accomplished within existing resources.

Other costs — DOR. The bill 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, as outlined in Table 4. The bill will also increase the workload for DOR to hold additional administrative hearings and to have two staff represent DOR and LED on the working group, which 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. Because the fiscal note assumes that licensees will follow the law, any workload increase is expected to be minimal and accomplished within existing appropriations.

Fingerprint-based background checks — DPS. The bill increases expenditures for DPS by \$2,135 in FY 2016-17, \$7,460 in FY 2017-18, and \$11,498 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 81 checks in FY 2016-17, 283 in FY 2017-18, and 446 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 5.

Table 5. 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)	\$19,265	\$28,084	\$40,095
Supplemental Employee Retirement Payments	12,040	17,048	23,103
Leased Space	12,960	18,900	27,000
TOTAL	\$44,265	\$64,032	\$90,198

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. In addition, there must be representatives of municipal and county governments on the working group, which will increase the workload for one municipal and one county government.

Effective Date

This bill was signed into law by the Governor on June 10, 2016, and took effect on July 1, 2016, except that Sections 3, 4, 6, 7, and 16 go into effect January 1, 2019.

State Appropriations

Consistent with this fiscal note, the bill includes an appropriation of \$398,778 from the Liquor Enforcement Division and State Licensing Authority Cash Fund and an allocation of 2.4 FTE to the Department of Revenue in FY 2016-17. Of this, \$228,120 and an additional allocation of 1.3 FTE is reappropriated to the Department of Law.

The bill also includes an appropriation of \$2,135 from the CBI Investigation Unit Cash Fund to the Department of Public Safety in FY 2016-17.

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