



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

**FINAL
FISCAL NOTE**

Drafting Number: LLS 18-1095 **Date:** June 4, 2018
Prime Sponsors: Sen. Jahn; Sonnenberg **Bill Status:** Postponed Indefinitely
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Bill Topic: ALCOHOL BEVERAGE RETAILER OFF-SITE SERVICE PERMIT

Summary of Fiscal Impact:

| | |
|---|--|
| <input checked="" type="checkbox"/> State Revenue | <input checked="" type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

The bill creates an off-site service permit to allow certain liquor licensees to furnish and serve alcohol at private events on unlicensed premises. The bill increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: The bill requires an appropriation of \$103,719 to the Department of Revenue.

Fiscal Note Status: This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under SB 18-217**

| | | FY 2018-19 | FY 2019-20 |
|---------------------|------------------------|------------------|------------------|
| Revenue | General Fund | \$20,113 | \$18,900 |
| | Cash Funds | \$172,968 | \$24,980 |
| | Total | \$193,080 | \$43,880 |
| Expenditures | Cash Funds | \$103,719 | \$87,530 |
| | Centrally Appropriated | \$31,794 | \$33,727 |
| | Total | \$135,513 | \$121,257 |
| | Total FTE | 2.0 FTE | 2.0 FTE |
| Transfers | | - | - |
| TABOR Refund | General Fund | \$193,080 | \$43,880 |

Summary of Legislation

The bill creates an off-site service permit that allows licensed retail liquor stores, liquor-licensed drugstores, and hotel and restaurant licensees to furnish and serve alcohol at private events held on unlicensed premises. Permittees must:

- ensure that employees serving alcohol complete the responsible vendor training program;
- serve only the alcohol furnished by the licensee and purchased from a licensed wholesaler;
- maintain records of the event for at least three years;
- promptly remove all open and unconsumed alcohol from the premises after the event; and
- verify that individuals are at least 21 years of age by checking a valid identification prior to serving them alcohol.

The annual state licensing fee for an off-site service permit is \$25 and the Department of Revenue (DOR) may establish application fees for the permit.

The bill specifies that it is not illegal for adults to consume alcohol at a private event held at an unlicensed location as long as it occurs within the limitations of the off-site service permit. In addition, it is unlawful for a person holding an off-site service permit to knowingly permit the removal of alcohol from the unlicensed location where the event is held. The permittee cannot be charged when he or she has met signage requirements; however, the permittee may be charged if signage requirements are met, but he or she shows reckless disregard for, or repeatedly violates, the prohibition against alcohol being removed from the unlicensed premises where the event is held.

Background and Assumptions

Licensees. There are currently 6,436 liquor licensees that would be eligible to obtain an off-site service permit. Of those, 1,592 are retail liquor stores, 16 are liquor-licensed drugstores, and 4,828 are hotel and restaurant licensees.

Assumptions. Of the 6,436 licensees eligible for an off-site service permit, the fiscal note assumes that 1,609 (25 percent) will obtain a permit in FY 2018-19. In FY 2019-20, it is assumed that 1,448 (90 percent of permittees) will renew their permit, and 64 (1 percent of eligible licensees) will apply for a new permit.

Comparable Crime

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. The bill specifies that it is unlawful for a person holding an off-site service permit to knowingly permit the removal of alcohol from the unlicensed location where the event is held. The same provision currently applies to all locations licensed for on-premises consumption, including hotel and restaurant licensees. There have been no convictions for that charge over the last three years. As a result, and because any

increase in cases of permitted retail liquor stores or liquor-licensed drugstores knowingly allowing the removal of alcohol from the premises is expected to be minimal, the fiscal note assumes that there will be no tangible impact to the court system.

State Revenue

In FY 2018-19, the bill increases state revenue to the Liquor Enforcement Division (LED) Cash Fund by \$172,968 and revenue to the General Fund by \$20,113. In FY 2019-20, the bill increases state revenue to the LED Cash Fund by \$24,980 and revenue to the General Fund by \$18,900.

Fee impact on certain liquor licensees. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The annual licensing fee for the off-site service permit is \$25 and is established by the bill. Revenue from licensing fees is split between the LED Cash Fund and the General Fund. The application fee, which the fiscal note assumes is only assessed on new permit applications, is an estimate only; actual application fees will be set administratively by DOR based on cash fund balance, estimated program costs, and the estimated number of permits subject to the fee. Application fees are deposited in the LED Cash Fund. Table 2 below identifies the fee impact of this bill.

**Table 2
Fee Impact on Certain Liquor Licensees**

| Fiscal Year | Type of Fee | Proposed Fee | Number Affected | Total Fee Impact |
|-------------------------|--------------------|---------------------|------------------------|--------------------------------|
| FY 2018-19 | Application Fee | \$95 | 1,609 | \$152,855 |
| | Licensing Fee | \$25 | 1,609 | \$40,225 |
| FY 2018-19 Total | | | | \$193,080 |
| | | | | <i>LED Cash Fund</i> \$172,968 |
| | | | | <i>General Fund</i> \$20,113 |
| FY 2019-20 | Application Fee | \$95 | 64 | \$6,080 |
| | Licensing Fee | \$25 | 1,512 | \$37,800 |
| FY 2019-20 Total | | | | \$43,880 |
| | | | | <i>LED Cash Fund</i> \$24,980 |
| | | | | <i>General Fund</i> \$18,900 |

TABOR Refund

On net, this bill increases state revenue subject to TABOR, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20.

For FY 2018-19, the bill increases the TABOR refund obligation by \$193,080 while increasing General Fund revenue by \$20,113, resulting in a net decrease of \$172,968 in the amount available for the General Fund budget.

For FY 2019-20, the bill increases the TABOR refund obligation by \$43,880 while increasing General Fund revenue by \$18,900, resulting in a net decrease of \$24,980 in the amount available for the General Fund budget. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

The bill increases state cash fund expenditures by \$135,513 and 2.0 FTE in FY 2018-19 and \$121,257 and 2.0 FTE in FY 2019-20 from the LED Cash Fund. Specific costs are listed in Table 3 and discussed below.

**Table 3
Expenditures Under SB 18-217**

| | FY 2018-19 | FY 2019-20 |
|---|-------------------|-------------------|
| Department of Revenue | | |
| Personal Services | \$74,134 | \$80,874 |
| Operating Expenses and Capital Outlay Costs | \$16,495 | \$2,394 |
| Computer Modifications | \$3,500 | - |
| Legal Services | \$9,590 | \$4,262 |
| Centrally Appropriated Costs* | \$31,794 | \$33,727 |
| FTE – Personal Services | 1.9 FTE | 2.0 FTE |
| FTE – Legal Services | 0.1 FTE | - |
| Total Cost | \$135,513 | \$121,257 |
| Total FTE | 2.0 FTE | 2.0 FTE |

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

Personal services. DOR requires 1.9 FTE in FY 2018-19 and 2.0 FTE in FY 2019-20 to process permit applications and renewals and enforce permit requirements. To process applications, renewals, and event registration, the fiscal note assumes 2 hours per permit for 1,609 permits in FY 2018-19 and 1,512 in FY 2019-20. For enforcement, the fiscal note assumes 3 hours per compliance check or complaint investigation for 322 checks or investigations (10 percent of events held). Capital and operating expenses include law enforcement equipment for criminal investigators. In FY 2018-19, FTE amounts are prorated for the bill's effective date.

Computer modifications. In FY 2018-19 only, the LED requires \$3,500 to create the new permit in the MyLicense Office licensing system. Workload will also increase to provide an online form to allow for registration of events.

Legal services. The bill increases costs for LED to conduct rulemaking and handle any additional administrative actions as a result of the bill. Legal services are provided by the Department of Law at a rate of \$106.56 per hour. It is expected that approximately 90 hours will be required in FY 2018-19, for which the Department of Law requires 0.1 FTE, and 40 hours in FY 2019-20.

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. These costs, which include employee insurance, supplemental employee retirement payments, and leased space, are estimated to be \$31,794 in FY 2018-19 and \$33,727 in FY 2019-20.

Effective Date

The bill was postponed indefinitely by the Senate Business, Labor, and Technology Committee on April 23, 2018.

State Appropriations

For FY 2018-19, the bill requires an appropriation of \$103,719 from the LED Cash Fund to the Department of Revenue, and an allocation of 1.9 FTE. Of that amount, \$9,590 is reappropriated to the Department of Law, with an allocation of 0.1 FTE.

State and Local Government Contacts

| | | |
|----------------|----------|-----|
| Counties | Judicial | Law |
| Municipalities | Revenue | |