

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0995.02 Esther van Mourik x4215

HOUSE BILL 20-1304

HOUSE SPONSORSHIP

Benavidez and Snyder,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A CLARIFICATION THAT CERTAIN OCCASIONAL SALES OF
102 ALCOHOL BY WAY OF PUBLIC AUCTIONS ARE EXEMPT FROM
103 LICENSING REQUIREMENTS BUT NOT FROM THE EXCISE TAX ON
104 ALCOHOL BEVERAGES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law provides that the occasional sales of alcohol by way of public auctions do not require a liquor license or compliance with the reporting requirements for licensed liquor distributors or retailers, so long

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

as:

- ! The previous owner of the alcohol beverages has not claimed the beverages or furnished instruction for their disposition;
- ! The seller obtained the beverages as part of the foreclosure of a lien;
- ! The seller salvaged the beverages; or
- ! The seller operates a charitable organization and received the beverages as donations.

However, the excise tax on alcohol beverages is nonetheless applicable to those occasional sales even though the licensing and compliance requirements do not apply.

Because it is not clear that the excise tax on alcohol beverages still applies to those occasional sales, it was mistakenly identified as a tax expenditure in the department of revenue's tax expenditure report and thus mistakenly evaluated by the office of the state auditor as part of that office's evaluation of the state's tax expenditures. The bill clarifies the exemption.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Current law provides that the occasional sales of alcohol by
5 way of public auctions do not require a liquor license or compliance with
6 the reporting requirements for licensed liquor distributors or retailers, so
7 long as:

8 (I) The previous owner of the alcohol beverages has not claimed
9 the alcohol beverages or furnished instruction for their disposition;

10 (II) The seller obtained the alcohol beverages as part of the
11 foreclosure of a lien;

12 (III) The seller salvaged the alcohol beverages; or

13 (IV) The seller operates a charitable organization and received the
14 alcohol beverages as donations.

15 (b) Current law also provides that the excise tax on alcohol

1 beverages is nonetheless applicable to those particular occasional sales
2 even though the licensing and compliance requirements do not apply.

3 (c) Because the licensing and compliance exemption is not written
4 clearly, the exemption was mistakenly identified as a tax expenditure in
5 the department of revenue's tax expenditure report and mistakenly
6 evaluated by the office of the state auditor as part of that office's
7 evaluation of the state's tax expenditures.

8 (2) Therefore, it is the intent of the general assembly to clarify the
9 exemption.

10 **SECTION 2.** In Colorado Revised Statutes, 44-3-106, **amend**
11 (3)(a) introductory portion; and **add** (3)(c) as follows:

12 **44-3-106. Exemptions.** (3) (a) ~~The provisions of this~~ EXCEPT AS
13 PROVIDED IN SUBSECTION (3)(c) OF THIS SECTION, THE REQUIREMENTS SET
14 FORTH IN article 3 ~~or~~ AND article 4 of this title 44 ~~with the exception of the~~
15 ~~requirements of section 44-3-503, shall~~ DO not apply to the occasional
16 sale of an alcohol beverage to any individual twenty-one years of age or
17 older at public auction by any person where the auction sale is for the
18 purpose of disposing of the alcohol beverage as may lawfully have come
19 into the possession of the person in the due course of the person's regular
20 business in the following manner:

21 (c) THE OCCASIONAL SALE OF AN ALCOHOL BEVERAGE AS
22 DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION IS SUBJECT TO THE
23 EXCISE TAX AS SPECIFIED IN SECTION 44-3-503.

24 **SECTION 3. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2020 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.