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Fiscal Note

Drafting Number: LLS 24-1045 Date: April 2, 2024
Prime Sponsors: Rep. Amabile; Ricks Bill Status: House Business & Labor
Sen. Roberts; Will Fiscal Analyst: John Armstrong | 303-866-6289 john.armstrong@coleg.gov

Bill Topic: ALCOHOL BEVERAGE RETAIL LICENSEES

Summary of Fiscal Impact: [X] State Revenue [] State Transfer [X] Local Government
[X] State Expenditure [X] TABOR Refund [] Statutory Public Entity

The bill eliminates the liquor-licensed drugstore license, converts all current holders of that license to other liquor license types, establishes new requirements for wholesalers, and allows certain retail licensees to purchase from wholesalers. Beginning in FY 2024-25, the bill will increase state revenues and expenditures and may impact local government revenue and expenditures.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$311,961 to the Department of Revenue from the Liquor Enforcement Division Cash Fund.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1 State Fiscal Impacts Under HB 24-1373

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund).

Summary of Legislation

Liquor-licensed drugstore licenses. The bill repeals the liquor-licensed drugstore license (LLDS) on January 1, 2025 and converts all current licenses of this type to a fermented malt beverage and wine (FMBW) retailer license. If the drugstore licensee only possessed one license for a single location, that licensee may instead convert to a retail liquor store license or fermented malt beverage off-premises license. License conversions do not affect disciplinary actions, renewal deadlines, or investigations for a licensee.

Fermented malt beverage and wine licenses. The bill requires FMBW licensees to display all alcoholic beverages in a single location, without stacking on the floor or displaying alcoholic beverages in endcaps. These licensees are also prohibited from selling alcohol above 14 percent alcohol-by-volume.

Wholesalers. Wholesalers are prohibited from offering more favorable treatment to retailers that are not also available to FMBW or retail liquor store licenses, and prohibits a wholesaler from aggregating the purchases of multiple locations owned by the same entity over single location retailers. Wholesalers who violate these provisions may be fined to cover the cost of enforcement. These funds are deposited into the Liquor Enforcement Division and State Licensing Authority Cash Fund.

Currently, most retail licensees must purchase products from a wholesaler. Beginning January 1, 2025, the bill allows businesses who possess the following license types to also purchase up to \$2,000 per year in alcohol from a retail liquor store, provided they abide by current regulations:

- beer and wine license;
- hotel and restaurant license;
- tavern license;
- retail gaming tavern license;
- brew pub license;
- club license;
- arts license;
- racetrack license;
- vintner's restaurant license;
- distillery pub license; and,
- lodging and entertainment license

Access to ATMs. Under current law, those on public assistance may access their benefits from ATMs in liquor-licensed drugstores. The bill allows these individuals to access benefits from ATMS in FMBW retailers once licenses are converted.

Background

Liquor-licensed drugstore licenses allow a limited number of pharmacies licensed by the State Board of Pharmacy to sell alcohol. Most holders of these licenses are large grocery stores that have a pharmacy on the premises. As of [2023](#), 33 liquor-licensed drugstore licenses were issued by the Department of Revenue (DOR).

FMBW licenses are currently held by grocery and convenience stores that are permitted to sell beer and wine. There are currently 1,900 FMBW licensees in the state.

State Revenue

The bill will increase state revenue from fines and fees by \$324,000 in FY 2024-25 and by \$266,000 in FY 2025-26, deposited in the Liquor Enforcement Division Cash Fund. It will also minimally impact revenue to the Old Age Pension Fund.

Increased fees to cover costs. The Liquor Enforcement Division (LED) within the DOR will adjust its fee structures across certain license types to account for increased enforcement and rulemaking, as outlined in the State Expenditures section. License fees are subject to TABOR.

Fee differences. LLDS licensees current pay higher annual fees that FMBW licensees; these fees are set in statute. The resulting revenue loss from converting these licenses is estimated to reduce General Fund revenue by \$425 in FY 2024-25 and by \$850 in FY 2025-26. Additionally, the conversion of these licenses will reduce revenue to the Old Age Pension Fund by \$1,934 in FY 2024-25 and by \$3,868 in FY 2025-26. If a liquor licensed drugstore converts to a Retail Liquor License, there will be no change in fees. The fiscal note assumes all LLDS licenses will convert to a FMBW license.

Fines. The bill minimally increase revenue to the Liquor Enforcement Division Cash Fund in DOR. Revenue will increase from fines against wholesalers found to be in violation of the bill’s discrimination requirements. The fiscal note assumes wholesalers will comply with the bill.

State Expenditures

The bill will increase expenditures to the Department of Revenue by \$324,000 in FY 2024-25 and by \$266,000 in FY 2025-26, paid from the Liquor Enforcement Division Cash Fund. Costs may be partially offset by fine revenue collected for violations by wholesalers. Costs are detailed in Table 2 and explained below.

**Table 2
 Expenditures Under HB 24-1373**

	FY 2024-25	FY 2025-26
Department of Revenue		
Personal Services	\$50,519	\$53,400
Operating Expenses	\$768	\$768
Capital Outlay Costs	\$13,340	-
Legal Services	\$247,335	\$199,967
Centrally Appropriated Costs ¹	\$11,636	\$11,907
FTE – Personal Services	0.6 FTE	0.6 FTE
FTE – Legal Services	1.1 FTE	0.9 FTE
Total Cost	\$323,598	\$266,042
Total FTE	1.7 FTE	1.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Staff. The DOR will require 0.5 FTE for a Criminal Investigator, beginning in January 2025 and ongoing, and 0.5 FTE for a Legal Assistant from September 2025 through January 2025, reducing to 0.1 FTE beginning January 2025. The criminal investigator will conduct investigations against wholesalers and converted licensees to enforce the bill's requirements. The legal assistant will assist with the necessary rulemaking to implement the conversion of licenses and enforcement related to the requirements for FMBW licensees. Costs are prorated to assume a September 2024 start date and standard capital outlay and operating costs are included.

Legal services. The LED requires 1,932 hours in legal services provided by the Department of Law in FY 2024-25, which equates to 1.1 FTE, and 1,562 hours in FY 2025-26 and ongoing, which equates to 0.9 FTE. Legal services are required to address rulemaking, enforcement actions related to license conversions, and FMBW requirements, assumed at 500 hours in FY 2024-25 and 130 hours ongoing. Another 432 hours per year are estimated for license-related enforcement actions. Finally, the fiscal note assumes 1,000 hours will be required in initial implementation years related to legal actions from wholesalers who violate the bill's anti-discrimination provisions. If additional litigation costs are necessary, these resources will be requested through the annual budget process. Legal services are provided at a rate of \$128.02 per hour.

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 and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Local Government

The bill will result in administrative costs for local licensing authorities in counties and municipalities to convert the liquor-licensed drugstore licenses to fermented malt beverage and wine retailer licenses. It may be slightly offset by a minimal workload reduction from no longer having to handle conversions of retail liquor store licenses to liquor-licensed drugstore licenses.

Additionally, the bill may reduce revenue to local licensing authorities where liquor-licensed drugstores are located. Fees for an FMBW license are lower than that of a liquor-licensed drugstore, so fee revenue will be lower if liquor-licensed drugstores convert to an FMBW. Fee revenue will not change if liquor-licensed drugstores are converted to retail liquor stores.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires an appropriation of \$311,961 from the Liquor Enforcement Division Cash Fund to the Department of Revenue, and 0.4 FTE. Of this amount, \$247,335 is reappropriated to the Department of Law for legal services.

State and Local Government Contacts

Counties	Information Technology	Judicial
Law	Municipalities	Public Safety
Revenue		

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).