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FISCAL NOTE

Drafting Number: LLS 19-0862
Prime Sponsors: Sen. Donovan

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Bill Status: Senate Business
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Bill Topic: HARD CIDER EXEMPTION WINE INDUSTRY DEVELOPMENT ACT

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

The bill exempts produce used to make hard cider from the excise tax on produce used to make wine, and exempts hard cider from the Wine Industry Development Act. The bill decreases state revenue on an ongoing basis, and increases state expenditures in FY 2019-20 only.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of \$2,000 to the Department of Revenue.

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

Table 1
State Fiscal Impacts Under SB 19-142

Table with 4 columns: Category, Fund, FY 2019-20, FY 2020-21. Rows include Revenue (Cash Funds), Expenditures (General Fund), Transfers, and TABOR Refund (General Fund).

Summary of Legislation

Under current law, an excise tax of \$10 per ton is assessed on grapes or other produce used in the production of wine. The bill exempts produce used in the production of hard cider from the excise tax, and, for the purposes of the Wine Industry Development Act, the bill exempts from hard cider from the definition of wine.

Background

The Wine Industry Development Board in the Department of Agriculture encourages wine-related research and development, markets and promotes Colorado wines and wine grapes, promotes responsible consumption of wine and integration of Colorado wine as a component of the state's tourism program, and serves as a resource for the wine industry in Colorado. The board controls the Wine Industry Development Fund, which contains revenue from the following sources:

- a wine development fee of \$0.01 per liter of all vinous liquors sold, offered for sales, or used in the state, excluding hard cider;
- an excise tax of \$0.05 per liter for the first 9,000 liters, \$0.03 per liter for the next 36,000 liters, and \$0.01 per liter for all additional amounts of vinous liquors produced by Colorado licensed wineries, and sold, offered for sales, or used in the state; and
- an excise tax of \$10 per ton of grapes or other produce used by Colorado licensed wineries in the production of wine, including hard cider.

Table 2 shows the revenue to the fund from the three sources in FY 2017-18, the most recent data available. In any fiscal year, at least one-third of the money in the fund must be used for research and development, and at least one-third must be used for promotion and marketing of the Colorado wine industry.

Table 2
Revenue to Wine Industry Development Fund

	FY 2017-18
Wine Development Fee	\$16,109
Wine Excise Tax	\$48,251
Excise Tax on Grapes/Produce Used for Wine	\$18,198
Total	\$82,558

State Revenue

Beginning in FY 2019-20, the bill decreases state excise tax revenue to the Wine Industry Development Fund by up to \$5,000 per year. Excise tax revenue is subject to TABOR. There are currently 158 licensed wineries, limited wineries, and vintner's restaurants in Colorado, of which at least 24 (15 percent) manufacture hard cider. It is estimated that these licensees typically pay up to a combined \$5,000 year in excise tax on produce used for hard cider.

State Expenditures

In FY 2019-20 only, the bill increases General Fund expenditures in the Department of Revenue by \$2,000. This cost is required to modify the department's GenTax software system to remove the hard cider line for the excise tax on grapes and produce and generate a letter to all eligible taxpayers. It is estimated that 8 hours of work will be required, at the standard rate of \$250 per hour.

Costs will also increase by a minimal amount for the department's Office of Research and Analysis to add an additional field to the annual Tax Profile and Expenditure Report. No change in appropriations is required.

Department of Agriculture. The bill decreases workload for the Wine Industry Development Board in the Department of Agriculture because the board is no longer required to promote producers of hard cider. The workload decrease is expected to be minimal.

TABOR refunds. The bill is expected to decrease state General Fund obligations for TABOR refunds by up to \$5,000 in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly reduce the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2019-20, the bill requires a General Fund appropriation of \$2,000 to the Department of Revenue.

State and Local Government Contacts

Agriculture Law Revenue