



Legislative Council Staff
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Final Fiscal Note

Drafting Number: LLS 21-0003 **Date:** July 6, 2021
Prime Sponsors: Sen. Priola; Pettersen **Bill Status:** Signed into Law
Rep. Mullica **Fiscal Analyst:** Anna Gerstle | 303-866-4375
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Bill Topic: **ALCOHOL BEVERAGE FESTIVAL FOR TASTINGS & SALES**

Summary of Fiscal Impact:

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

The bill expands the wine festival permit to make it available to beer and spirits manufacturers and certain retail licensees. The bill increases state revenue and expenditures and local government workload and revenue on an ongoing basis.

Appropriation Summary: In FY 2021-22, the bill requires and includes an appropriation of \$511,210 to the Department of Revenue.

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

Table 1
State Fiscal Impacts Under SB 21-082

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	Cash Funds	\$606,058	\$981,846
	Total Revenue	\$606,058	\$981,846
Expenditures	Cash Funds	\$511,210	\$814,496
	Centrally Appropriated	\$94,848	\$167,350
	Total Expenditures	\$606,058	\$981,846
	Total FTE	6.3 FTE	11.0 FTE
Transfers		-	-
TABOR Refund	General Fund	\$606,058	\$981,846

Summary of Legislation

Under current law, a winery may obtain a wine festival permit to hold up to nine wine festivals per year, at which tasting and retail sales are allowed and other wineries may participate. The bill modifies the festival permit to allow the following licensees to also obtain a permit:

- tavern;
- hotel and restaurant;
- beer and wine;
- brewpub;
- vintner's restaurant;
- distillery pub; and
- beer and spirits manufacturers.

Other licensees may jointly participate in a festival, although each participant may only conduct the retail operations for which they are authorized at their licensed premises. The bill also allows local licensing authorities to create a local festival permit; however, neither a winery nor a licensee that applies for both a festival and special event permit need to obtain a local festival permit.

Background

The bill applies the current provisions for a wine festival permit to the expanded festival permit for the additional license types. To hold a festival, a licensee must file a permit application with the state licensing authority and pay a \$25 fee. The permit allows up to nine festivals in the twelve months after the permit is issued, with each lasting no longer than 72 hours. At least ten days prior to a festival, the licensee must notify the state and local licensing authorities of the date and location of the festival. In addition, one licensee may hold the festival permit, but other licensees may jointly participate in it.

Assumptions

There are currently 7,345 licensees that will be newly eligible for a festival permit under the bill, each of whom may hold up to nine festivals per year. As a result, up to 66,105 new festivals may be held under the bill. The fiscal note assumes that 15 percent of the available festivals (9,916) will be utilized in FY 2021-22 and 20 percent (13,221) will be utilized in FY 2022-23, with each permittee holding an average of three festivals. The fiscal note also assumes that inspections and compliance checks will occur at 10 percent of festivals held each year.

State Revenue

The bill increases state revenue to the Liquor Enforcement Division Cash Fund by \$606,058 in FY 2021-22 and \$981,846 in FY 2022-23. Fee revenue is subject to TABOR.

Fee impact on permittees. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The fee for a festival is set in statute at \$25 per year. The remaining revenue necessary to cover the expenditures required by the bill will come from other fees charged for liquor licensure and regulation. These fees will be set administratively by the Liquor Enforcement Division based on cash fund balance, estimated program costs, and the estimated number of licensees subject to the fee. It is not known which fees will be adjusted and how many licensees will be impacted. The table below identifies the fee impact of this bill.

**Table 2
 Fee Impact on Liquor Licensees**

Fiscal Year	Type of Fee	Fee	Number Affected	Total Fee Impact
	Festival Permit Fee	\$25	3,305	\$82,625
FY 2021-22	Other Licensing Fees ¹			\$523,433
	FY 2021-22 Total			\$606,058
	Festival Permit Fee	\$25	4,407	\$110,175
FY 2022-23	Other Licensing Fees ¹			\$871,671
	FY 2022-23 Total			\$981,846

¹ It is not known which fees will be adjusted and how many licensees will be impacted.

State Expenditures

The bill increases state expenditures in the Department of Revenue by \$606,058 in FY 2021-22 and \$981,846 in FY 2022-23. Costs are from the Liquor Enforcement Division Cash Fund, are listed in Table 3 and discussed below.

**Table 3
Expenditures Under SB21-082**

	FY 2021-22	FY 2022-23
Department of Revenue		
Personal Services	\$363,038	\$644,898
Operating Expenses	\$8,370	\$14,715
Capital Outlay Costs	\$29,600	\$8,600
Legal Services	\$10,634	\$15,951
Computer Programming	\$4,500	-
Investigator Equipment	\$24,000	\$12,000
Minor Contractors	\$35,698	\$47,592
Vehicle Lease and Mileage	\$35,370	\$70,740
Centrally Appropriated Costs ¹	\$94,848	\$167,350
FTE – Personal Services	6.2 FTE	10.9 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE
Total Cost	\$606,058	\$981,846
Total FTE	6.3 FTE	11.0 FTE

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

Administration. The Liquor Enforcement Division requires 2.9 FTE in FY 2021-22 and 5.1 FTE in FY 2022-23 for Administrative Assistants to process festival applications and 3.3 FTE in FY 2021-22 and 5.8 FTE in FY 2022-23 for Criminal Investigators to complete required inspections and compliance checks. The fiscal note estimates that there will be 9,916 festivals in FY 2021-22 and 13,221 in FY 2022-23. Each requires 0.5 hours of staff time to process, with some requiring an additional two hours to support the applicant. In addition, compliance checks and inspections will be completed at 10 percent of the new festivals, requiring between four and six hours depending on the type of check and whether the festival passes the compliance check. Staff costs in the first year have been prorated for an October start date.

Enforcement costs. To complete inspections and compliance checks, the criminal investigators require standard equipment at a one-time cost of \$6,000 for 3.3 FTE in FY 2021-22 and 5.8 FTE in FY 2022-23. In addition, the criminal investigators conducting compliance checks statewide will each require a fleet vehicle, provided by the Department of Personnel and Administration, at a leased cost of \$4,630 per year and \$7,160 per year in mileage and operations. Vehicle costs have been adjusted in FY 2021-22 to account for the October start date. In addition, the division requires a minor contractor to complete a compliance check, which is estimated at \$36 per check.

Computer programming. The department's MyLo licensing system must be changed to accommodate the modified festival permit, at a one-time cost of \$4,500.

Legal services. The division will require additional legal services hours, estimated at 100 hours in FY 2021-22 and 150 hours in FY 2022-23, to handle additional violations as a result of the expanded number of festivals. Legal services are provided by the Department of Law at a rate of \$106.34 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, leased space, and supplemental employee retirement payments, are estimated to be \$94,848 in FY 2021-22 and \$167,350 in FY 2022-23.

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. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Federal ARPA funds. This bill [increases/decreases] state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Local Government

The bill increases workload for local licensing authorities to approve additional festivals and ensure compliance. It further increases workload and revenue for any local authority that decides to create a local festival permit.

Effective Date

The bill was signed into law by the Governor on May 28, 2021, and takes effect September 7, 2021, assuming no referendum petition is filed.

State Appropriations

In FY 2021-22, the bill requires and includes an appropriation of \$511,210 from the Liquor Enforcement Division Cash Fund to the Department of Revenue, and 6.2 FTE. Of this amount, \$35,370 is reappropriated to the Department of Personnel and Administration, and \$10,634 is reappropriated to Department of Law with an additional 0.1 FTE

State and Local Government Contacts

Counties Law Municipalities Revenue