Colorado Legislative Council Staff

SB17-195

FISCAL NOTE

FISCAL IMPACT: ☒ State ☒ Local ☐ Statutory Public Entity ☐ Conditional ☐ No Fiscal Impact

Drafting Number:	LLS 17-0927	**Date:**	February 23, 2017
Prime Sponsor(s):	Sen. Neville T.; Kerr Rep. Winter; Liston	**Bill Status:**	Senate SVMA
		Fiscal Analyst:	Anna Gerstle (303-866-4375)

BILL TOPIC: RETAIL LIQUOR STORES ADDITIONAL LICENSES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	**$54,716**	**$59,457**
Cash Funds	54,716	59,457
State Expenditures	**$54,716**	**$59,457**
Cash Funds	50,921	53,765
Centrally Appropriated Costs	3,795	5,692
TABOR Impact	$54,716	$54,716
FTE Position Change	0.3 FTE	0.5 FTE
Appropriation Required: $50,921 - Department of Revenue (FY 2017-18).		
Future Year Impacts: Ongoing revenue and expenditure increase.		

Summary of Legislation

Under current law, a retail liquor store licensee that is a Colorado resident and was licensed on or before January 1, 2016, may obtain additional retail liquor store licenses based on a phased-in schedule in statute. Additional licenses may not be within 1,500 feet of another premises licensed for retail sales, or within 3,000 feet of another licensed retail premises in a municipality with a population of 10,000 or less.

Beginning July 1, 2017, under the bill, in order to obtain additional licenses, a retail liquor store licensee must apply to transfer ownership of at least two retail liquor stores that were licensed on or before July 1, 2017, and all retail liquor store licenses within the radius restriction, and merge the licenses into single retail liquor store license. The retail liquor stores that are merged must be in the same local licensing authority jurisdiction as the applicant's proposed location. If there are fewer than two licensed retail liquor stores in the jurisdiction, the applicant must apply to transfer ownership of retail liquor stores in the next nearest jurisdiction. The new licensed location must meet the radius requirement in current law.

Table 1 demonstrates the number of new retail liquor store licenses that each entity may obtain, as long as the majority of owners of the store have been Colorado residents for two years, and the above transfer and radius requirements are met.

Table 1. Phase-in Schedule for Additional Retail Alcohol Licenses Under SB17-195 Compared to Current Law		
Dates	**Maximum Retail Liquor Store Licenses - Current Law**	**Maximum Retail Liquor Store Licenses - Under SB17-195**
July 1, 2017 – December 31, 2021	2	5
January 1, 2022 – December 31, 2026	3	8
January 1, 2027 – December 31, 2031	4	13
January 1, 2032 – December 31, 2036		20
Beginning January 1, 2037		unlimited

Licensees who obtain additional licenses under the bill are ineligible for a temporary operating permit. To obtain a new retail liquor store license under the bill, or renew a retail liquor store license issued on or after July 1, 2017, an applicant must also be open to the public and provide evidence that nonalcohol sales do not account for more than 20 percent of gross annual income during the prior year.

The bill prohibits employees of a retail liquor store under the age of 21 from delivering or having any contact with alcohol offered for sale on, or sold and removed from, the licensed premises, and requires that retail liquor licensees:

- do not allow consumers to purchase alcohol at a self-checkout without assistance from an employee;
- obtain certification as a responsible alcohol vendor; and
- require customers to provide a valid identification in order to purchase alcohol.

The bill allows the state and local licensing authorities to set an application fee for the merge and transfer of retail liquor store licenses; the local application fee may not exceed $1,000.

Background

Senate Bill 16-197. Senate Bill 16-197 significantly changed the licensing of off-premises retail liquor sales, including:

- establishing radius requirements for any new off-premises retail license;
- phasing in additional retail liquor store licenses available to a single owner;
- allowing a liquor-licensed drugstore licensee to obtain additional licenses by purchasing at least two retail liquor stores and converting them to a new liquor-licensed drugstore license, subject to radius requirements;
- prohibiting employees under 21 years of age at taverns, retail liquor stores, and liquor-licensed drugstores from selling alcohol;
- requiring that 3.2 beer, retail liquor store, and liquor-licensed drugstore licensees verify consumers are over 21 years of age and that consumers present a valid identification card in order to purchase alcohol; and
- setting additional requirements for liquor-licensed drugstore licensees and allowing retail liquor stores to sell additional food and nonalcohol products.

Assumptions

For each retail liquor store licensee who obtains an additional license, there is a net decrease of at least one retail liquor store licensee. The fiscal note assumes that the number of licensed retail liquor stores will decrease by a minimal amount.

The state portion of licensing fees for a retail liquor store license is $227.50, of which $50 is deposited in the Liquor Enforcement Division (LED) Cash Fund, and $177.50 is deposited in the General Fund. Due to the minimal decrease in the number of retail liquor store licensees, the fiscal note assumes that revenue impact from licensing fees on the LED Cash Fund and General Fund is negligible.

State Revenue

The bill increases state cash fund fee revenue to the LED Cash Fund in the Department of Revenue (DOR) by $54,716 in FY 2017-18 and $59,457 in FY 2018-19.

Fee impact on retail liquor licensees. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The LED may adjust liquor license application fees to cover additional expenditures as a result of the bill. The actual fee calculations will be set administratively by the LED based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. In addition, the bill authorizes the LED to set an application fee for the merge and transfer of retail liquor store licenses, which will increase revenue; however, the number of retail liquor stores paying annual renewal fees is expected to decrease by a minimal amount. As a result, the fiscal note assumes that fee revenue to the LED will increase to cover the additional expenditures incurred as a result of the bill.

TABOR Impact

This bill increases state cash revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. TABOR refund obligations are not expected for FY 2016-17. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

The bill increases expenditures for the LED in the DOR by $54,716 and 0.3 FTE in FY 2017-18, and $59,457 and 0.5 FTE in FY 2018-19, as listed in Table 2 and discussed below.

Table 2. Expenditures Under SB17-195		
Cost Components	**FY 2017-18**	**FY 2018-19**
Personal Services	$12,714	$19,072
FTE - DOR	0.2 FTE	0.3 FTE
Computer Programming	14,920	
Legal Services	23,287	34,693
FTE - Department of Law	0.1 FTE	0.2 FTE
Centrally Appropriated Costs*	3,795	5,692
TOTAL	**$54,716**	**$59,457**

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

Enforcement. The bill increases expenditures by $12,714 and 0.2 FTE in FY 2017-18 and $19,072 and 0.3 FTE in FY 2018-19 in LED for enforcement related to trade practice violations from a single owner obtaining multiple licensed locations. The fiscal note assumes four minor investigations (40 hours each), and two moderate investigations (100 hours each) in FY 2017-18, and four minor, two moderate, and one complex (300 hour) investigation in FY 2018-19.

Computer programming. The LED requires $14,920 to modify the MyLicenseOffice licensing software to allow retail liquor store licenses to be merged. This estimate is based on information from the vendor to accommodate the new procedures.

Licensing and training. The bill increases the workload for the LED to transfer and merge retail liquor store licenses as a result of the bill, including updating materials, and providing training on the bill's changes. Allowing retail liquor stores to obtain additional licenses may increase the workload for LED; however, due to the merge and transfer requirements, the overall number of new retail liquor store licenses is expected to decrease by a minimal amount in the long term and thus, reduce the workload for the LED. The short-term increase in workload is expected to be accomplished with existing appropriations. Should the LED require additional resources, it will be requested through the annual budget process

Legal services. The LED requires 245 hours of legal services in FY 2017-18 and 365 in FY 2018-19 for rulemaking and enforcement. Calculated at the rate of $95.05 per hour, the LED requires $23,287 in FY 2017-18 and $34,693 in FY 2018-19. Legal services are provided by the Department of Law, which requires an allocation of 0.1 FTE in FY 2017-18 and 0.2 FTE in FY 2018-19 to provide those services.

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. Leased space is included to show the incremental impact of the additional FTE, and calculated at DOR's rate of 200 square feet per FTE at a rate of $27 per square foot. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under SB17-195		
Cost Components	**FY 2017-18**	**FY 2018-19**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$1,576	$2,363
Supplemental Employee Retirement Payments	1,139	1,709
Leased Space	1,080	1,620
TOTAL	**$3,795**	**$5,692**

Local Government Impact

Revenue. The bill impacts revenue to local licensing authorities. The bill authorizes a local application fee for the merge and transfer of up to $1,000, which will increase revenue; however, the number of retail liquor stores paying annual renewal fees is expected to decrease by a minimal amount. As a result, the fiscal note assumes there will be a minimal net increase in fee revenue to local licensing authorities.

Expenditures. The bill impacts the workload for local licensing authorities to transfer and merge retail liquor store licenses, and adjust enforcement procedures to accommodate new requirements for all licensed retail liquor stores. Allowing retail liquor stores to obtain additional licenses increases the workload for local licensing authorities in the short term; however, due to the merge and transfer requirements, the overall number of new retail liquor store licenses is expected to decrease by a minimal amount in the long term.

Effective Date

The bill takes effect July 1, 2017.

State Appropriations

For FY 2017-18, the bill requires an appropriation of $50,921 from the Liquor Enforcement Division Cash Fund and an allocation of 0.3 FTE to the Department of Revenue. Of this, $23,287 and an allocation of 0.1 FTE is reappropriated to the Department of Law.

State and Local Government Contacts

Counties	Information Technology	Judicial	Law
Municipalities	Public Safety	Revenue	