



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FINAL FISCAL NOTE

Drafting Number: LLS 18-0436 Date: June 18, 2018
Prime Sponsors: Sen. Zenzinger; Priola Bill Status: Signed into Law
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Bill Topic: AUCTION ALCOHOL IN SEALED CONTAINER SPECIAL EVENTS

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

The bill changes state law related to auctioning alcohol at permitted special events. The bill impacts state revenue and workload by a minimal amount on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under SB 18-067

Table with 5 columns: Category, Sub-category, FY 2017-18 (current year), FY 2018-19, FY 2019-20. Rows include Revenue, Expenditures, Transfers, and TABOR Refund.

## **Summary of Legislation**

Under the bill, organizations holding a special event permit for an event held on either licensed or unlicensed premises may auction sealed containers of alcohol for off-premises consumption, for fundraising purposes. The permit holder, and licensee or person on whose premises the event is held must ensure that auctioned alcohol remains sealed at all times while on the premises.

A licensed retailer who donates alcohol for the special event is not liable for any violation involving the donated alcohol or committed at the event, as long as the retailer was not involved. The state and local licensing authorities must consider mitigating factors in determining whether to hold a licensee on whose premises the event was held responsible for violations that were committed by the organization hosting event on the licensee premises.

In addition, the licensee or person on whose premises the event is held may not require any compensation related to the auction, and the value of donated alcohol does not count against the licensee's annual limit on purchases from the donating retailers.

## **Background**

Special event permits allow beer, wine, and spirits to be sold by the drink at permitted events, and may be issued by state or local licensing authorities. Organizations that may apply for a permit include social, fraternal, patriotic, political, athletic, religious or nonprofit organizations, as well as institutions of higher education, political candidates, municipalities that own arts facilities, and state or local government agencies that promote Colorado-made alcohol or tourism in an area in the state where alcohol is manufactured. Permittees may hold up to 15 events per year.

## **Comparable Crime**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. The bill creates a limited exception to three unlawful acts: selling alcohol in sealed containers at retail without holding an adequate license (class 2 misdemeanor), removing alcohol from a licensed premises when the licensed premises only permits on-premises consumption (class 2 petty offense), and having on the licensed premises an alcohol beverage that the licensee is not permitted to sell (class 2 petty offense). Over the last three years, there have been 12 convictions for those offenses. As a result, the fiscal note assumes that the decrease in cases related to the specified unlawful acts will be minimal.

## **State Revenue**

Beginning in FY 2017-18, this bill decreases state revenue by less than \$5,000 per year, as discussed below.

**Criminal fines.** The bill is anticipated to decrease state revenue to the Fines Collection Cash Fund in the Judicial Department by less than \$5,000 per year. The fine penalty for a class 2 petty offense is \$250, and for a class 2 misdemeanor ranges from \$250 to \$1,000.

Because the courts have the discretion of incarceration, imposing a fine, or both, for misdemeanors, the precise impact to state revenue cannot be determined. However, based on the low number of recent convictions, the fiscal note assumes that any revenue decrease is likely to be less than \$5,000.

**Court and administrative fees.** The bill will also decrease state General Fund and cash fund fee revenue by a minimal amount. Fees are imposed for a variety of court-related costs, which vary based on the offense but may include probation supervision, drug or sex offender surcharges, victim compensation, and late fees, among others. Some fee revenue is shared with local governments; refer to the Local Government Impact section for additional information.

### **State Expenditures**

The bill increases workload for the Department of Revenue in FY 2017-18 only, and decreases workload for the Judicial Department beginning in FY 2017-18.

**Department of Revenue.** The bill increases workload for the Department of Revenue to conduct one-time rulemaking to update rules associated with special events. Legal services to support rulemaking are provided by the Department of Law. The increase in workload and legal services hours can be accomplished within existing appropriations.

**Judicial Department.** The bill decreases workload in the trial courts and probation division by a minimal amount beginning in FY 2017-18. No change in appropriation is required.

### **Local Government Impact**

The bill impacts local government workload by a minimal amount, as discussed below.

**Local licensing authorities.** To the extent that local licensing authorities have rules or policies specifically related to special events, workload will increase to update them. Any increase is expected to be minimal.

**Local court workload.** By creating a limited exception to three unlawful acts, the bill decreases class 2 petty and class 2 misdemeanor offenses by a minimal amount. As a result, revenue from criminal fines and court fees, and trial workload in Denver County Court, managed and funded by the City and County of Denver, will decrease. In addition, workload will decrease for district attorneys, as they prosecute fewer misdemeanor cases.

**County jails.** To the extent that the bill decreases misdemeanor convictions and fewer offenders are sentenced to jail, costs will decrease. Under current law, a court may sentence an offender to jail for a class 2 misdemeanor for a period of between 3 and 12 months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. Estimated costs to house an offender in a county jail vary from \$53 to \$114 per day.

### **Effective Date**

The bill was signed into law by the Governor and took effect on March 1, 2018.

**State and Local Government Contacts**

Counties  
Municipalities

Judicial  
Revenue

Law