

Summary of Legislation

This bill allows qualifying retailers in the alcoholic beverages drinking places industry, the restaurant and other eating places industry, and the mobile food services industry to temporarily deduct up to \$70,000 in net taxable sales from their monthly state sales tax return and retain the resulting sales tax revenue. The monthly \$70,000 net taxable sales deduction equates to about \$2,000 in sales tax collections per retailer per site for up to five sites. This temporary deduction will be allowed for sales made in November and December 2020, and in January and February 2021. Deductions cannot be made by nonphysical sites established for reporting sales into specific tax jurisdictions or by temporary places of business or special events.

Data and Assumptions

Based on a Department of Revenue query of August 2020 retail sales collections data, there were 7,687 restaurant, bar, and mobile food vendor sites qualified to claim the deduction under this bill. About 37 percent of restaurants and bars generated enough sales in August to claim the full \$70,000 deduction. Based on available data, qualifying bars and restaurants could have deducted an estimated \$13.2 million in sales taxes in August, at which time health restrictions limited indoor dining to 50 percent capacity. However, beginning November 20, 2020, a public health order limited restaurants to outdoor dining only and required no alcohol be served after 8 p.m. in certain counties. Available data indicates that monthly sales from April to July 2020, when public health restrictions prohibited or restricted indoor dining, were approximately 52 percent to 3 percent lower than in August 2020. This fiscal note provides a range assuming that a similar number of sites are operating as in August 2020, and prorates the estimated amount of sales to reflect the average sales from April to July 2020.

State Revenue

This bill is estimated to reduce General Fund revenue by between \$39.3 million and \$52.8 million in FY 2020-21 only, based on the assumptions described above. The actual revenue impact will depend on a variety of factors, including weather, duration and changes to public health orders, and operating decisions by business. For example, after the recent public health order went into effect, some restaurants chose to temporarily close and some may have closed permanently. If this results in fewer retailer sites or lower sales, the revenue reduction could be less than this fiscal note estimate. For informational purposes, based on the August 2020 sales and restaurant, bar, and mobile food vendor sites, the sales tax deduction in the bill would reduce state revenue by up to \$52.8 million in current FY 2020-21. Using April to July 2020 data, this reduction would be approximately \$39.3 million.

State Expenditures

This bill increases the workload for the Department of Revenue to make rules associated with the requirements in this bill, as well as by fielding calls from qualifying retailers who have questions about the provisions in this bill. Audits may also be performed on some returns filed by qualifying retailers. This workload can be accomplished within existing appropriations.

No sales tax forms or tax administration software programs need to be changed to administer this bill, since there is not sufficient time to make any changes in time to implement the provisions in this bill. Because these changes will not be made, it will be difficult for the Department of Revenue to report on the exact amount of sales tax revenue retained by qualifying retailers.

TABOR refund. For FY 2020-21, the bill decreases state revenue subject to TABOR as noted in the State Revenue section of this fiscal note. The September 2020 LCS forecast anticipates that state revenue subject to TABOR will remain below the TABOR limit in FY 2020-21; therefore, the bill is not expected to affect TABOR refunds paid from the General Fund.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Information Technology

Personnel

Revenue