



Legislative Council Staff

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Final Fiscal Note

Drafting Number:	LLS 21-0078	Date:	July 12, 2021
Prime Sponsors:	Rep. Larson; Roberts Sen. Bridges; Priola	Bill Status:	Signed into Law
		Fiscal Analyst:	Anna Gerstle 303-866-4375 Anna.Gerstle@state.co.us

Bill Topic: CONTINUE ALCOHOL BEVERAGE TAKEOUT & DELIVERY

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 continues the sale of alcohol as part of takeout and delivery orders and allows for communal outdoor dining areas. The bill increases state and local revenue and expenditures on an ongoing basis beginning in FY 2021-22.

Appropriation Summary: In FY 2021-22, the bill includes an appropriation of \$63,274 to the Department of Revenue.

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

**Table 1
State Fiscal Impacts Under HB 21-1027**

		Current Year FY 2020-21	Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	Cash Funds	-	\$80,520	\$80,520
	Total Revenue	-	\$80,520	\$80,520
Expenditures	Cash Funds	-	\$63,274	\$67,910
	Centrally Appropriated	-	\$11,736	\$15,100
	Total Expenditures	-	\$75,010	\$83,010
	Total FTE	-	0.8 FTE	1.0 FTE
Transfers		-	-	-
TABOR Refund	General Fund	-	\$80,520	\$80,520

Summary of Legislation

Under current law, certain liquor licensees may sell alcohol as part of takeout and delivery orders through July 1, 2021. The bill continues takeout and delivery through July 1, 2025.

Under the bill, the following licensees may offer alcohol as part of takeout orders:

- manufacturers and wholesalers with an approved sales room;
- beer and wine;
- hotel and restaurant;
- tavern;
- brewpub;
- club;
- vintner's restaurant;
- distillery pub;
- lodging and entertainment; and
- fermented malt beverage retailers.

The following licensees may offer alcohol as part of delivery orders:

- beer and wine;
- bed and breakfast;
- hotel and restaurant;
- tavern;
- optional premises;
- retail gaming tavern;
- brewpub;
- club;
- arts;
- racetrack;
- public transportation;
- vintner's restaurant;
- distillery pub; and
- lodging and entertainment.

In addition, the bill specifies that manufacturers and wholesalers operating sales rooms may only deliver through January 2, 2022, and increases the quantity limits allowed for each takeout and delivery order. It also specifies that takeout and delivery of alcohol is permitted between the hours of 7 a.m. and midnight.

Communal outdoor dining areas. The bill allows two or more eligible on-premises retail licensees to use a communal outdoor dining area that is within 1,000 feet of each licensed premises. A licensee must obtain a permit from the state licensing authority and have had modification of the licensed premises approved by state and local licensing authorities. The state licensing authority may promulgate rules and both the state and local licensing authorities may assess a fee for communal outdoor dining areas.

Background

Alcohol takeout and delivery. Senate Bill 20-213 allowed the certain liquor licensees to sell alcohol as part of takeout and delivery orders. Licensees must have a permit issued by the Department of Revenue (DOR), and must meet certain requirements, including quantity limits and the portion of revenue from takeout and delivery. However, certain restrictions, including the permit requirement, do not apply if the Governor has declared a disaster emergency. Colorado is currently in a disaster emergency pursuant to the Governor's Executive Order D 2021 045.

Communal outdoor dining areas. The state licensing authority initiated communal outdoor dining areas and associated permits during the COVID-19 pandemic; as a result, the bill codifies that practice into law and does not impact state or local revenue or expenditures.

Assumptions

The fiscal note assumes that Colorado will be under a declared disaster emergency through August 2021, and takeout and delivery permits will not be required prior to that date. Should the disaster emergency last longer or end sooner, the revenue and expenditures identified in this fiscal notes will change.

It is estimated that 8,125 licensees are likely to consider obtaining a takeout and delivery permit once the disaster emergency is lifted. The fiscal note assumes that 90 percent (about 7,320 licensees) will apply for a permit in FY 2021-22.

State Revenue

The bill increases state revenue to the Department of Revenue by \$80,520 per year starting in FY 2021-22. Permit fee revenue is deposited in the Liquor Enforcement Division Cash Fund and is subject to TABOR.

Fee impact on takeout and delivery permittees. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the Liquor Enforcement Division based on cash fund balance, estimated program costs, and the estimated number of permits. The table below identifies the fee impact of this bill.

Table 2
Fee Impact on Takeout and Delivery Permittees

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2021-22	Takeout & Delivery Permit Fee	\$11.00	7,320	\$80,520
FY 2022-23	Takeout & Delivery Permit Fee	\$11.00	7,320	\$80,520

State Expenditures

The bill increases state expenditures for the Department of Revenue by \$75,010 in FY 2021-22 and \$83,010 in FY 2022-23. Costs are paid from the Liquor Enforcement Division Cash Fund and listed in Table 3.

**Table 3
Expenditures Under HB21-1027**

	FY 2021-22	FY 2022-23
Department of Revenue		
Personal Services	\$41,294	\$56,360
Operating Expenses	\$1,080	\$1,350
Capital Outlay Costs	\$6,200	-
Computer Programming	\$4,500	-
Delivery Compliance Checks	\$10,200	\$10,200
Centrally Appropriated Costs ¹	\$11,736	\$15,100
Total Cost	\$75,010	\$83,010
Total FTE	0.8 FTE	1.0 FTE

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

Staff costs. The department requires 0.8 FTE in FY 2021-22 and 1.0 FTE in FY 2021-22 to process permit applications and conduct delivery compliance checks. It is estimated that 10 minutes is required per application, and that between one and three hours are required per compliance check. The fiscal note assumes that compliance checks related to takeout will be incorporated into currently conducted compliance checks and that checks related to delivery will occur on 5 percent of permittees per year. Staffing costs are prorated for an assumed September 1 start date.

Delivery compliance checks. The fiscal note estimates that 24 compliance operations in FY 2021-22 and 24 compliance operations in FY 2022-23 will be conducted, each checking 30 licensees and costing \$425 each, including a minor contractor, product, and delivery location. Should additional appropriations for enforcement be required in subsequent years, the department will request additional cash fund spending authority through the annual budget process.

Computer programming. The MyLo licensing system must be modified to accommodate the takeout and delivery permit, at a one-time cost of \$4,500.

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 and supplemental employee retirement payments, are estimated to be \$11,736 in FY 2021-22 and \$15,100 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 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 revenue and workload for the local licensing authorities that choose to require a permit for takeout and delivery of alcohol. Permit fee revenue and associated costs will vary by local jurisdiction.

Effective Date

The bill was signed into law by the Governor and took effect on June 22, 2021.

State Appropriations

In FY 2021-22, the bill includes an appropriation of \$63,274 from the Liquor Enforcement Division Cash Fund to the Department of Revenue, and 0.8 FTE.

State and Local Government Contacts

Revenue