

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

DRAFT  
10.10.19

**BILL 2**

LLS NO. 20-0225.01 Pierce Lively x2059

**INTERIM COMMITTEE BILL**

**Tax Expenditure Evaluation Interim Study Committee**

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**BILL TOPIC: "Excise Tax Credit Unsalable Alcoholic Beverages"**

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**A BILL FOR AN ACT**

101 **CONCERNING THE REPEAL OF THE EXCISE TAX CREDIT FOR UNSALABLE**  
102 **ALCOHOLIC BEVERAGES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Tax Expenditure Evaluation Interim Study Committee.** Under current law, the excise tax credit for unsalable alcoholic beverages allows manufacturers and distributors of alcoholic beverages to receive a credit or refund for the amount of excise taxes they previously paid for alcoholic beverages that later became unfit for sale due to damage or destruction. The bill repeals this credit.

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4           (a) The excise tax credit for unsalable alcoholic beverages allows  
5 manufacturers and distributors of alcoholic beverages to receive a credit  
6 or refund for the amount of excise taxes they previously paid for alcoholic  
7 beverages that later became unfit for sale due to damage or destruction.

8           (b) Only 98 taxpayers, or 19%, of the 525 alcoholic beverage  
9 manufacturers and distributors operating in the state claimed the credit in  
10 the 2017 tax year and those manufacturers received an average credit of  
11 \$1,561.

12           (c) The excise tax credit for unsalable alcoholic beverages is open  
13 to fraud because although the Department of Revenue requires taxpayers  
14 to notify it of the taxpayers' intent to destroy unsalable beverages, so that  
15 a representative of the Department of Revenue may witness the  
16 destruction, this does not typically occur in practice.

17           (d) The relatively small benefit that the excise tax credit for  
18 unsalable alcoholic beverages provides means that often the  
19 administrative cost of requesting the credit exceeds the credit's value. For  
20 example, because the excise tax on beer is \$0.08 a gallon, the loss of an  
21 entire pallet of beer would only result in a \$19.84 credit or refund.

22           (e) The excise tax credit for unsalable alcoholic beverages can  
23 overlap with the commercial property insurance maintained by  
24 businesses, which typically covers the loss of product at retail value. The  
25 retail value of alcoholic beverages regularly accounts for the excise tax  
26 on alcoholic beverages. Thus, in many cases, commercial property

1 insurance claims for the retail value of unsalable alcoholic beverages will  
2 cover the value of the excise tax and will make the excise tax credit for  
3 unsalable alcoholic beverages redundant.

4 (2) Therefore, it is the intent of the general assembly to simplify  
5 the collection and administration of taxes for the state of Colorado and to  
6 relieve taxpayers' confusion and administrative burdens by repealing tax  
7 expenditures that are rarely claimed and are open to fraud.

8 **SECTION 2.** In Colorado Revised Statutes, 44-3-503, **amend** (9)  
9 as follows:

10 **44-3-503. Excise tax - records - rules - definition.** (9) PRIOR TO  
11 JANUARY 1, 2021, the department shall make a refund or allow a credit to  
12 the manufacturer, the wholesaler, or the holder of a winery direct  
13 shipper's permit, as the case may be, of the amount of the excise tax paid  
14 on alcohol beverages sold in this state when, after payment of the excise  
15 tax, the alcohol beverages are rendered unsalable by reason of destruction  
16 or damage upon submission of evidence satisfactory to the state licensing  
17 authority that the excise tax has actually been paid. Such refund or credit  
18 shall be made by the department within sixty days after the submission of  
19 evidence satisfactory to the department.

20 **SECTION 3. Act subject to petition - effective date.** This act  
21 takes effect at 12:01 a.m. on the day following the expiration of the  
22 ninety-day period after final adjournment of the general assembly (August  
23 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a  
24 referendum petition is filed pursuant to section 1 (3) of article V of the  
25 state constitution against this act or an item, section, or part of this act  
26 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in  
2 November 2020 and, in such case, will take effect on the date of the  
3 official declaration of the vote thereon by the governor.