

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

DRAFT  
10.10.19

**BILL 4**

LLS NO. 20-0227.01 Pierce Lively x2059

**INTERIM COMMITTEE BILL**

**Tax Expenditure Evaluation Interim Study Committee**

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**BILL TOPIC: "Occasional Auction Liquor Excise Tax Exemption"**

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**A BILL FOR AN ACT**

101 **CONCERNING THE REPEAL OF THE EXCISE TAX EXEMPTION FOR THE**  
102 **OCCASIONAL SALE OF LIQUOR BY PUBLIC AUCTION.**

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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 exemption for the occasional sale of liquor by public auction states that occasional sales of alcoholic beverages through a public auction do not require a liquor license or compliance with the reporting requirements for licensed liquor distributors or retailers, so long as:

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

- The previous owner of the alcoholic beverages has not claimed the beverages or furnished instruction for their disposition;
- The seller obtained the beverages as part of the foreclosure of a lien;
- The seller salvaged the beverages; or
- The seller operates a charitable organization and received the beverages as donations.

Taxpayers who are not liable for the excise tax on alcoholic beverages are also not liable for the excise tax on alcoholic beverages sold under this exemption. The bill repeals this exemption.

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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 exemption for the occasional sale of liquor by  
5 public auction states that occasional sales of alcoholic beverages through  
6 a public auction do not require a liquor license or compliance with the  
7 reporting requirements for licensed liquor distributors or retailers, so long  
8 as: 1) The previous owner of the alcoholic beverages has not claimed the  
9 beverages or furnished instruction for their disposition; 2) the seller  
10 obtained the beverages as part of the foreclosure of a lien; 3) the seller  
11 salvaged the beverages; or 4) the seller operates a charitable organization  
12 and received the beverages as donations. Taxpayers who are not liable for  
13 the excise tax on alcoholic beverages under the requirements of section  
14 44-3-503, Colorado Revised Statutes, are not liable for the excise tax on  
15 the alcoholic beverages sold under this exemption.

16 (b) There are no recent records of public auctions of liquor in  
17 Colorado that would qualify for the excise tax exemption for the  
18 occasional sale of liquor by public auction. Thus, the exemption is used  
19 rarely, if at all.

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

5 **SECTION 2.** In Colorado Revised Statutes, 44-3-106, **repeal** (3)  
6 as follows:

7 **44-3-106. Exemptions.** (3) ~~(a) The provisions of this article 3 or~~  
8 ~~article 4 of this title 44, with the exception of the requirements of section~~  
9 ~~44-3-503, shall not apply to the occasional sale of an alcohol beverage to~~  
10 ~~any individual twenty-one years of age or older at public auction by any~~  
11 ~~person where the auction sale is for the purpose of disposing of the~~  
12 ~~alcohol beverage as may lawfully have come into the possession of the~~  
13 ~~person in the due course of the person's regular business in the following~~  
14 ~~manner:~~

15 ~~(I) By reason of the failure of the owner of the alcohol beverage~~  
16 ~~to claim the same or to furnish instructions as to the disposition thereof;~~

17 ~~(II) By reason of the foreclosure of any lawful lien upon the~~  
18 ~~alcohol beverage by the person in accordance with lawful procedure;~~

19 ~~(III) By reason of salvage of the alcohol beverage, in the case of~~  
20 ~~carriers, from shipments damaged in transit;~~

21 ~~(IV) By reason of a lawful donation of the alcohol beverage to an~~  
22 ~~organization qualifying under section 44-5-102 for a special event permit;~~  
23 ~~except that no more than four public auctions per year shall be conducted~~  
24 ~~pursuant to this subsection (3)(a)(IV).~~

25 ~~(b) The state licensing authority shall be presented records of all~~  
26 ~~transactions referred to in subsection (3)(a) of this section.~~

27 **SECTION 3. Act subject to petition - effective date -**

1     **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
2     the expiration of the ninety-day period after final adjournment of the  
3     general assembly (August 5, 2020, if adjournment sine die is on May 6,  
4     2020); except that, if a referendum petition is filed pursuant to section 1  
5     (3) of article V of the state constitution against this act or an item, section,  
6     or part of this act within such period, then the act, item, section, or part  
7     will not take effect unless approved by the people at the general election  
8     to be held in November 2020 and, in such case, will take effect on the  
9     date of the official declaration of the vote thereon by the governor.

10           (2) This act applies to excise taxes levied on or after January 1,  
11     2021.