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FISCAL NOTE

Drafting Number: LLS 20-1289 Date: June 3, 2020
Prime Sponsors: Sen. Bridges; Priola Bill Status: Senate Finance
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Bill Topic: ALCOHOL BEVERAGE RETAIL TAKEOUT AND DELIVERY

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

This bill allows the sale of alcohol as part of delivery or takeout orders through June 30, 2022. It increases state revenue and workload from the current FY 2019-20 through FY 2021-22.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

The bill allows certain liquor licensees to sell alcohol as part of takeout orders and to deliver alcohol for consumption off the licensed premises. The bill includes the following license types: beer and wine, hotel and restaurant, tavern, brew pub, club, vintner's restaurant, distillery pub, lodging and entertainment, fermented malt beverage on and off premises retailers, and manufacturers and wholesalers with an approved sales room.

If the Governor has not declared a disaster emergency, licensees must have a permit issued by the Department of Revenue (DOR) allowing the takeout and delivery of alcohol; may not exceed limits on the amount of alcohol included in each order; and may not receive more than 50 percent of gross annual revenues from food and alcohol from delivered alcohol. These restrictions do not apply if the Governor has declared an emergency.

The bill specifies parameters for who may deliver alcohol, and requires that the DOR promulgate rules for the takeout and delivery of alcohol, including the creation of a permit and permit fees. The bill is repealed July 1, 2022.

Background

The Governor's Executive Order 2020-052 allows retailers licensed for on-premises consumption to sell, deliver, and provide for takeout of sealed alcohol beverages if the customer is at least 21 years of age and purchases food. This order was initially in effect March 20, 2020, through

Executive Order 2020-011, and remains in effect until 30 days after May 29, 2020, unless further extended. The Department of Revenue Liquor Enforcement Division promulgated emergency rules under the Executive Order.

### **State Revenue**

The bill increases state revenue to the Liquor Enforcement Division from permit fees in the current FY 2019-20, FY 2020-21 and FY 2021-22. The fiscal note assumes that the permit and associated fee will not be in place initially and that any fee will be set at a level to cover any additional costs associated with implementation of the permit. For informational purposes, there are currently 8,063 eligible licensees; a fee of \$100 would generate about \$800,000. Because the timing of the fee is dependent on disaster declarations and the number of establishments that will seek the permit is unknown, fee revenue has not been estimated for this fiscal note. Fee revenue is subject to TABOR and deposited in the Liquor Enforcement Division Cash Fund.

### **State Expenditures**

The bill increases workload and potentially costs for the Liquor Enforcement Division in the Department of Revenue to promulgate rules related to the takeout and delivery sale of alcohol and to implement the changes, including the administration of a permit. Because the framework for allowing takeout and delivery sale of alcohol is already in place and the Governor has declared a disaster emergency, the fiscal note assumes that the initial workload can be accomplished within existing appropriations and that any costs incurred will be covered by permit fees. Should additional appropriations be required in subsequent years, the department will request cash fund spending authority through the annual budget process.

**TABOR refunds.** Under the May 2020 LCS Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2020-21 or FY 2021-22, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

### **Effective Date**

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

### **State and Local Government Contacts**

Revenue