HB 24-1373

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 24-1045	**Date:**	May 28, 2024
Prime Sponsors:	Rep. Amabile; Ricks Sen. Roberts; Will	**Bill Status:**	Postponed Indefinitely
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Bill Topic: **ALCOHOL BEVERAGE RETAIL LICENSEES**

Summary of Fiscal Impact:

☒ State Revenue ☐ State Transfer ☒ Local Government
☒ State Expenditure ☒ TABOR Refund ☐ Statutory Public Entity

The bill would have eliminated the liquor-licensed drugstore license, converted most current holders of that license to other liquor license types, established new requirements for wholesalers, and allowed certain retail licensees to purchase additional product from retail liquor stores. Beginning in FY 2024-25, the bill would have increased state revenues and expenditures and may have impacted local government revenue and expenditures.

Appropriation Summary: For FY 2024-25, the bill would have required and included an appropriation of $190,086 to the Department of Revenue.

Fiscal Note Status: The final fiscal note reflects the reengrossed bill. The bill was postponed indefinitely by the Senate Finance Committee on May 7, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 24-1373

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	Cash Funds	$201,723	$168,491
	Total Revenue	**$201,723**	**$168,491**
Expenditures	Cash Funds	$190,086	$156,584
	Centrally Appropriated	$11,637	$11,907
	Total Expenditures	**$201,723**	**$168,491**
	Total FTE	**1.1 FTE**	**1.0 FTE**
Transfers		-	-
Other Budget Impacts	TABOR Refund	$201,723	$168,491

Summary of Legislation

Liquor-licensed drugstore licenses. The bill prohibits any new liquor-licensed drugstore licenses (LLDS) from being issued after January 1, 2025. LLDSs may not be renewed unless the licensee is also an independent pharmacy. All other LLDS licensees convert to a Fermented Malt Beverage and Wine (FMBW) retailer license. License conversions do not affect disciplinary actions, renewal deadlines, or investigations for a licensee.

Fermented malt beverage and wine licenses. The bill prohibits FMBW licensees from placing temporary displays of alcoholic beverages next to non-alcoholic beverages, candy, toys, or near an entry or exit of the premises. Additionally, customers must not be able to access any single bottles of alcohol less than 250 milliliters on the shopping floor; these items must be placed behind a counter or in a locked case. FMBW licensees must ensure that handling, sales and delivery of products are performed by their own employees. These licensees are also prohibited from selling fermented malt beverages above 17 percent alcohol-by-volume or wine above 21 percent alcohol-by-volume.

Wholesalers. Wholesalers are prohibited from offering more favorable treatment to retailers that are not also available to retail liquor store licenses, and prohibits a wholesaler from aggregating the purchases of multiple locations owned by the same entity over single location retailers. Wholesalers who violate these provisions may be fined to cover the cost of enforcement. These funds are deposited into the Liquor Enforcement Division (LED) Cash Fund.

On-premises retailers. Currently, most on-premises retail licensees may purchase up to $2,000 per year in alcohol from a retail liquor store, provided they abide by current regulations. The bill increases the limit for the following license types to $5,000 per year, except that kegs may only be purchased from a wholesaler:

- beer and wine license;
- hotel and restaurant license;
- tavern license;
- retail gaming tavern license;
- brew pub license;
- club license;
- arts license;
- racetrack license;
- vintner's restaurant license;
- distillery pub license; and,
- lodging and entertainment license.

The LED will adjust the $5,000 limit described above by inflation annually, beginning in 2025, and publish the inflation-adjusted rate on its website.

Access to ATMs. Under current law, those on public assistance may access their benefits from ATMs in liquor-licensed drugstores. The bill allows these individuals to access benefits from ATMS in FMBW retailers.

Background

Liquor-licensed drugstore licenses allow a limited number of pharmacies licensed by the State Board of Pharmacy to sell alcohol. Most holders of these licenses are large grocery stores that have a pharmacy on the premises. As of 2023, 33 liquor-licensed drugstore licenses were issued by the LED in the Department of Revenue (DOR).

FMBW licenses are currently held by grocery and convenience stores that are permitted to sell beer and wine. There are currently 1,900 FMBW licensees in the state.

State Revenue

The bill will increase state revenue from fines and fees by $201,723 in FY 2024-25 and by $168,491 in FY 2025-26 and ongoing, deposited in the LED Cash Fund. It will also minimally impact revenue to the Old Age Pension Fund.

Increased fees to cover costs. The LED within the DOR will adjust its fee structures across certain license types to account for increased enforcement and rulemaking, as outlined in the State Expenditures section. License fees are subject to TABOR.

Fee differences. LLDS licensees current pay higher annual fees that FMBW licensees; these fees are set in statute. The resulting revenue loss from converting these licenses is estimated to reduce General Fund revenue by $425 in FY 2024-25 and by $850 in FY 2025-26. Additionally, the conversion of these licenses will reduce revenue to the Old Age Pension Fund by $1,934 in FY 2024-25 and by $3,868 in FY 2025-26.

Fines. The bill minimally increase revenue to the LED Cash Fund in DOR. Revenue will increase from fines against wholesalers found to be in violation of the bill's discrimination requirements. The fiscal note assumes wholesalers will comply with the bill.

State Expenditures

The bill will increase expenditures to the Department of Revenue by $202,000 in FY 2024-25 and by $168,000 in FY 2025-26, paid from the LED Cash Fund. Costs may be partially offset by fine revenue collected for violations by wholesalers. Costs are detailed in Table 2 and explained below.

Table 2
Expenditures Under HB 24-1373

		FY 2024-25	FY 2025-26
Department of Revenue			
Personal Services		$50,519	$53,400
Operating Expenses		$768	$768
Capital Outlay Costs		$13,340	-
Legal Services		$125,460	$102,416
Centrally Appropriated Costs[1]		$11,636	$11,907
FTE – Personal Services		0.6 FTE	0.6 FTE
FTE – Legal Services		0.5 FTE	0.4 FTE
	Total Cost	**$201,723**	**$168,491**
	Total FTE	**1.1 FTE**	**1.0 FTE**

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

Staff. The DOR requires 0.5 FTE criminal investigator beginning in January 2025 and ongoing, and 0.5 FTE legal assistant from September 2025 through January 2025, reducing to 0.1 FTE beginning January 2025. The criminal investigator will conduct investigations against wholesalers and converted licensees to enforce the bill's requirements. The legal assistant will assist with the necessary rulemaking to implement the conversion of licenses and enforcement related to the requirements for FMBW licensees. Costs are prorated to assume a September 2024 start date and standard capital outlay and operating costs are included.

Legal services. The LED requires 980 hours in legal services provided by the Department of Law in FY 2024-25, which equates to 0.5 FTE, and 800 hours in FY 2025-26 and ongoing, which equates to 0.4 FTE. Legal services are required to address rulemaking, enforcement actions related to license conversions and legal actions against wholesalers who violate the bill's anti-discrimination provisions. If additional litigation costs are necessary, these resources will be requested through the annual budget process. Legal services are provided at a rate of $128.02 per hour.

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 shown in Table 2.

Other Budget Impacts

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. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Local Government

The bill will result in administrative costs for local licensing authorities in counties and municipalities to convert the liquor-licensed drugstore licenses to fermented malt beverage and wine retailer licenses. It may be slightly offset by a minimal workload reduction from no longer having to handle conversions of retail liquor store licenses to liquor-licensed drugstore licenses.

Additionally, the bill may reduce revenue to local licensing authorities where liquor-licensed drugstores are located. Fees for an FMBW license are lower than that of a liquor-licensed drugstore, so fee revenue will be lower if liquor-licensed drugstores convert to an FMBW. Fee revenue will not change if liquor-licensed drugstores are converted to retail liquor stores.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires and includes an appropriation of $190,086 from the Liquor Enforcement Division and State Licensing Authority Cash Fund to the Department of Revenue, and 0.6 FTE. Of this amount, $125,460 is reappropriated to the Department of Law for legal services, with an additional 0.5 FTE.

Departmental Difference

The Department of Revenue estimates that an additional $392,805 and 4.4 FTE will be required in FY 2025-26 to conduct investigations annually and handle consumer complaints as a result of the bill. These additional FTE include an additional 2.3 FTE criminal investigators, 1.0 FTE analyst, 1.0 FTE compliance investigator, and 0.1 FTE legal assistant. Investigation workload assumes an estimated 120 investigations, resulting from an additional 10 investigations per month from retail liquor stores alleging discrimination from a wholesaler who has offered more favorable treatment to another store. The fiscal note differs from the DOR's estimate by assuming that the number of additional investigations required by the bill will be closer to 5 investigations per year, and that if additional resources are required, these will be requested through the annual budget process.

State and Local Government Contacts

Counties	Information Technology	Judicial
Law	Municipalities	Public Safety
Revenue		

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the General Assembly website.