HB 21-1044

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 21-0275	**Date:**	February 23, 2021
Prime Sponsors:	Rep. Hooton; Larson Sen. Bridges	**Bill Status:**	House Business
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Bill Topic: **WINERY LICENSE INCLUDE NONCONTIGUOUS AREAS**

Summary of Fiscal Impact:

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

The bill allows a winery premises to include up to five noncontiguous locations within a ten-mile radius. The bill increases state revenue and expenditures and local government workload on an ongoing basis.

Appropriation Summary: In FY 2021-22, the bill requires an appropriation of $18,355 to the Department of Revenue.

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

Table 1
State Fiscal Impacts Under HB 21-1044

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	Cash Funds	$29,700	$29,700
	Total Revenue	**$29,700**	**$29,700**
Expenditures	Cash Funds	$18,355	$18,473
	Centrally Appropriated	$4,253	$4,671
	Total Expenditures	**$22,608**	**$23,144**
	Total FTE	**0.3 FTE**	**0.3 FTE**
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill allows the licensed location of winery or limited winery to be comprised of up to 5 noncontiguous locations within a ten-mile radius. The Department of Revenue must approve an application for the use of a noncontiguous location if the federal Alcohol and Tobacco Tax and Trade Bureau approves the proposed premises.

Only one of the noncontiguous locations may be used as a sales room. Any additional sales rooms on a noncontiguous location may be approved through the current sales room application process. In addition, any noncontiguous locations outside the boundaries of an entertainment district or common consumption area are excluded from the district or area.

Background and Assumptions

There are currently eight wineries and 157 limited wineries in Colorado. If each were to obtain the four additional locations (for a total of five each), there would be up to 660 new locations. The fiscal note assumes that 30 percent (198) of the allowable noncontiguous locations will be utilized in each of the first two years.

Currently, wineries may operate one sales room on their licensed premises and one sales room at an additional location. Limited wineries may operate one sales room on their licensed premises and up to five additional sales rooms. The fiscal note assumes that there will be no change in the total number of sales rooms that a winery is allowed.

State Revenue

The bill increases state fee revenue to the Liquor Enforcement Division Cash Fund by $29,700 in FY 2021-22 and FY 2022-23. Fee revenue is subject to TABOR.

Fee impact on wineries. 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, based on the current fee for a modification of licensed premises or change of location. Actual fees will be set administratively by the Department of Revenue based on cash fund balance, estimated program costs, and the estimated number of licensees subject to the fee. The table below identifies the fee impact of this bill.

Table 2
Fee Impact on Wineries

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2021-22	Additional Noncontiguous Location	$150	198	$29,700
FY 2022-23	Additional Noncontiguous Location	$150	198	$29,700

State Expenditures

The bill increases state expenditures for the Department of Revenue by $22,608 in FY 2021-22 and $23,144 in FY 2022-23 and future years. Expenditures are from the Liquor Enforcement Division Cash Fund and are listed in Table 3 and discussed below.

Table 3
Expenditures Under HB 21-1044

	FY 2021-22	FY 2022-23
Department of Revenue		
Personal Services	$13,855	$18,473
Computer Programming	$4,500	-
Centrally Appropriated Costs[1]	$4,253	$4,671
Total Cost	**$22,608**	**$23,144**
Total FTE	**0.3 FTE**	**0.3 FTE**

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

Department of Revenue. The Liquor Enforcement Division requires 0.3 FTE to process applications from wineries for additional noncontiguous locations and complete required inspections and compliance checks. The fiscal note estimates that there will be about 200 applications in each of the first two years, each requiring 90 minutes of staff time to process the application and an hour for a pre-application inspection of the new location. In addition, compliance checks will be completed at 30 percent of the new locations.

The fiscal note assumes that wineries are not allowed to have more sales rooms than is allowed under current law. To the extent that wineries obtain sales room authorizations that they would not have pursued under current law, workload for the department will increase. Should additional resources be required, they will be requested through the annual budget process.

Computer programming. The department's MyLo licensing system must be modified to allow for noncontiguous location applications, 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 $4,253 in FY 2021-22 and $4,671 in FY 2022-23.

TABOR refunds. Under the December 2020 Legislative Council Staff Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

Local Government

To the extent that wineries obtain sales room authorizations that they would not have pursued under current law, workload for local licensing authorities will increase. In addition, workload may increase to approve new winery locations, as wineries are required to submit proof of compliance with local zoning, building, fire, and occupancy, and other local codes for any new location.

Effective Date

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

State Appropriations

In FY 2021-22, the bill requires an appropriation of $18,355 from the Liquor Enforcement Division to the Department of Revenue, and 0.3 FTE.

State and Local Government Contacts

Counties	Law	Municipalities	Revenue