HB 21-1044

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 21-0275	**Date:**	June 25, 2021
Prime Sponsors:	Rep. Hooton; Larson Sen. Bridges	**Bill Status:**	Signed into Law
		Fiscal Analyst:	Anna Gerstle | 303-866-4375 Anna.Gerstle@state.co.us

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 two 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 and includes an appropriation of $13,247 to the Department of Revenue.

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

Table 1
State Fiscal Impacts Under HB 21-1044

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	Cash Funds	$12,375	$26,400
	Total Revenue	**$12,375**	**$26,400**
Expenditures	Cash Funds	$13,247	$15,556
	Centrally Appropriated	$2,791	$4,408
	Total Expenditures	**$16,038**	**$19,964**
	Total FTE	**0.2 FTE**	**0.3 FTE**
Transfers		-	-
TABOR Refund	General Fund	$12,375	$26,400

Summary of Legislation

This bill allows the licensed location of winery or limited winery to include up to two 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.

The bill also allows the Department of Revenue to establish application and renewal fees for the additional locations, which cannot exceed $500.

Background and Assumptions

There are currently 8 wineries and 157 limited wineries in Colorado. If each were to obtain two additional locations, there would be up to 330 new locations. The fiscal note assumes that 30 percent (99) of the allowable noncontiguous locations will be utilized in the first year and an additional 40 percent (132) in FY 2022-23.

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 $12,375 in FY 2021-22 and $26,400 in 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 estimated costs and 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	Noncontiguous Location Permit	$125	99	$12,375
		FY 2021-22 Total		**$12,375**
FY 2022-23	Noncontiguous Location Permit	$125	132	$16,500
	Noncontiguous Location Permit Renewal	$100	99	$9,900
		FY 2022-23 Total		**$26,400**

State Expenditures

The bill increases state expenditures for the Department of Revenue by $16,038 in FY 2021-22 and $19,964 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	$8,747	$15,556
Computer Programming	$4,500	-
Centrally Appropriated Costs[1]	$2,791	$4,408
Total Cost	**$16,038**	**$19,964**
Total FTE	**0.2 FTE**	**0.3 FTE**

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

Department of Revenue. The Liquor Enforcement Division requires 0.2 FTE in FY 2021-22 and 0.3 FTE in FY 2022-23 and future years 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 100 applications in the first year and 132 new applications beginning in the second year, 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 noncontiguous 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 $2,791 in FY 2021-22 and $4,408 in FY 2022-23.

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. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: https://leg.colorado.gov/node/2211881.

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 was signed into law by the Governor on May 21, 2021, and takes effect on September 7, 2021, assuming no referendum petition is filed.

State Appropriations

In FY 2021-22, the bill requires and includes an appropriation of $13,247 from the Liquor Enforcement Division Cash Fund to the Department of Revenue, and 0.2 FTE.

State and Local Government Contacts

Counties Law Municipalities Revenue