Colorado Legislative Council Staff

SB17-199

REVISED FISCAL NOTE

(replaces fiscal note dated March 9, 2017)

FISCAL IMPACT: ☒ State ☒ Local ☐ Statutory Public Entity ☐ Conditional ☐ No Fiscal Impact

Drafting Number:	LLS 17-1034	**Date:**	April 4, 2017
Prime Sponsor(s):	Sen. Neville T.; Kerr Rep. Winter; Liston	**Bill Status:**	Senate Appropriations
		Fiscal Analyst:	Anna Gerstle (303-866-4375)

BILL TOPIC: RETAIL LIQUOR STORES ADDITIONAL LICENSES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	**<u>$28,725</u>**	**<u>$17,607</u>**
General Fund	973	973
Cash Funds	27,752	16,634
State Expenditures	**<u>$27,752</u>**	**<u>$16,634</u>**
Cash Funds	27,752	16,634
TABOR Impact	$28,725	$17,607
FTE Position Change	0.1 FTE	0.1 FTE
Appropriation Required: $27,752 - Department of Revenue (FY 2017-18).		
Future Year Impacts: Ongoing revenue and expenditure increase.		

Summary of Legislation

Under current law, a retail liquor store licensee that is a Colorado resident and was licensed on or before January 1, 2016, may obtain additional retail liquor store licenses based on a phased-in schedule in statute, as listed in Table 1. Additional licenses may not be within 1,500 feet of another premises licensed for retail sales, or within 3,000 feet of another licensed retail premises in a municipality with a population of 10,000 or less. The bill, ***as amended by the Senate Business, Labor, and Technology Committee,*** makes several changes to current law.

Table 1. Phase-in Schedule for Maximum Retail Liquor Store Licenses Under Current Law

	Licensed before Jan. 1, 2016	Licensed after Jan. 1, 2016
Jan. 1, 2017 – Dec. 31, 2021	2	
Jan. 1, 2022 – Dec. 31, 2026	3	1
Beginning Jan. 1, 2027	4	

Additional retail liquor store licenses. Under the bill, certain retail liquor store licensees may obtain additional retail liquor store licenses, as demonstrated in Table 2 and discussed below.

<table>
<tr><th colspan="4">Table 2. Phase-in Schedule for Maximum Retail Alcohol Licenses Under SB17-199</th></tr>
<tr><th>Dates**</th><th>Licensed before Jan. 1, 2016*</th><th>Licensed Jan. 1, 2016 - Jan. 1, 2017*</th><th>Licensed after Jan. 1, 2017</th></tr>
<tr><td>Jan. – June 30, 2017</td><td>2</td><td rowspan="2">1</td><td rowspan="6">1</td></tr>
<tr><td>July 1, 2017 – Dec. 31, 2021</td><td>5</td></tr>
<tr><td>Jan. 1, 2022 – Dec. 31, 2026</td><td colspan="2">8</td></tr>
<tr><td>Jan. 1, 2027 – Dec. 31, 2031</td><td colspan="2">13</td></tr>
<tr><td>Jan. 1, 2032 – Dec. 31, 2036</td><td colspan="2">20</td></tr>
<tr><td>Beginning Jan. 1, 2037</td><td colspan="2">unlimited</td></tr>
</table>

* *Licensees must meet certain requirements in order to obtain additional licenses, as discussed below.*
** *Beginning January 1, 2022, licensees must buy two retail liquor store licenses and merge them into a new retail liquor store license.*

From July 1, 2017, through December 31, 2021, a retail liquor store licensee that was licensed on or before January 1, 2016, and is a Colorado resident may obtain four additional retail liquor store licenses, for a total of five. New locations must abide by the radius requirements in current law.

Beginning January 1, 2022, a retail liquor store licensee that was licensed on or before January 1, 2017, and has a majority of owners who have either resided in Colorado for at least two years or operated a business in Colorado for at least ten years, may obtain additional liquor licenses based on the bill's requirements. In order to obtain these additional licenses, eligible retail liquor stores must apply to transfer ownership of at least two retail liquor stores that were licensed or applied for a license on or before January 1, 2017, and all retail liquor store licenses within the radius restriction, and merge the licenses into single retail liquor store license. The retail liquor stores that are merged must be in the same local licensing authority jurisdiction as the applicant's proposed location. If there are fewer than two licensed retail liquor stores in the jurisdiction, the applicant must apply to transfer ownership of retail liquor stores in the next nearest jurisdiction. The new licensed location must meet the radius requirement in current law.

Licensees who obtain additional licenses under the bill are ineligible for a temporary operating permit. The bill also allows the state and local licensing authorities to set an application fee for the merger and transfer of retail liquor store licenses; the local application fee may not exceed $1,000.

Sales of nonalcohol products. Under current law, retail liquor stores may not receive more than 20 percent of annual gross revenue from nonalcohol products. The bill requires that retail liquor store licensees generate at least 50 percent of gross annual sales from alcohol products and no more than 20 percent from nonalcohol products. The following products are excluded from the 20 percent limit on gross annual sales from nonalcohol products: lottery, cigarettes, tobacco, nicotine products, soft drinks, mixers, and non-food items related to alcohol beverages.

Beginning January 1, 2022, to obtain a new retail liquor store license or renew a retail liquor store license, a retail liquor store must be open to the public and provide evidence to state and local licensing authorities that nonalcohol sales do not account for more than 20 percent of gross annual income during the prior year.

Additional provisions. The bill prohibits employees of a retail liquor store under the age of 21 from delivering or having any contact with alcohol offered for sale on, or sold and removed from, the licensed premises, and requires that retail liquor licensees:

- do not allow consumers to purchase alcohol at a self-checkout without assistance from an employee;
- obtain certification as a responsible alcohol vendor; and
- require customers to provide a valid identification card in order to purchase alcohol.

In addition, state and local licensing authorities may not grant permission for retail liquor store licensees licensed before January 1, 2016, to move to a new location if the new location violates the radius restrictions in current law. Licensed wholesalers must make all deliveries to a retail liquor store through a common carrier, contract carrier, or with a vehicle owned by the wholesaler.

Background, Assumptions, and Comparable Crime

As of March, 2017, there are 1,630 retail liquor stores licensed in Colorado.

Senate Bill 16-197. Senate Bill 16-197 significantly changed the licensing of off-premises retail liquor sales, including:

- establishing radius requirements for any new off-premises retail license;
- phasing in additional retail liquor store licenses available to a single owner;
- allowing a liquor-licensed drugstore licensee to obtain additional licenses by purchasing at least two retail liquor stores and converting them to a new liquor-licensed drugstore license, subject to radius requirements;
- prohibiting employees under 21 years of age at taverns, retail liquor stores, and liquor-licensed drugstores from selling alcohol;
- requiring that 3.2 beer, retail liquor store, and liquor-licensed drugstore licensees verify consumers are over 21 years of age and that consumers present a valid identification card in order to purchase alcohol; and
- setting additional requirements for liquor-licensed drugstore licensees and allowing retail liquor stores to sell additional food and nonalcohol products.

Assumptions. The fiscal note assumes that there will be five additional retail liquor store applications in FY 2017-18 and FY 2018-19, of which four will be issued in the jurisdiction of a city and one in a county. Beginning in FY 2022-23, the fiscal note assumes that there will be a minimal decrease in the number of retail liquor stores, as there is a net decrease of one retail liquor store for every retail liquor store licensee who buys two others and converts them into a new license.

State Revenue

The bill increases state revenue by $28,725 in FY 2017-18 and $17,607 in FY 2018-19. Of those amounts, $27,752 in FY 2017-18 and $16,634 in FY 2018-19 goes to the Liquor Enforcement Division (LED) Cash Fund in the Department of Revenue (DOR), and $973 in both FY 2017-18 and FY 2018-19 goes to the General Fund.

Fee impact on retail liquor licensees. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The bill increases fee revenue from retail liquor store licensees who obtain additional licenses. The state application fee is $1,950 and the state portion of licensing fees for a retail liquor store license is $227.50 in a city and $312.50 in a county. Of the state portion of licensing fees, $50 is deposited in the LED Cash Fund, and the remainder ($177.50 in a city, $262.50 in a county) is deposited in the General Fund.

In addition, the LED may adjust liquor license application fees to cover additional expenditures as a result of the bill. The actual fee calculations will be set administratively by the LED based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. As a result, the fiscal note assumes that fee revenue to the LED will increase to cover the additional expenditures incurred as a result of the bill. Table 3 lists the fee revenue as a result of the bill the bill.

Table 3. Fee Impact on Retail Liquor Stores Under SB17-199.

Fiscal Year	License Type	Fee	Number Affected	Total Fee Impact
FY 2017-18	Retail Liquor Store - Application Fee	$1,950	5	$9,750
	Retail Liquor Store (city) - Licensing Fee	227.50	4	910
	Retail Liquor Store (county) - Licensing Fee	312.50	1	313
	Fee Adjustment to Cover Costs	-	-	17,752
			FY 2017-18 Total	**$28,725**
			General Fund	*$973*
			Cash Fund	*$27,752*
FY 2018-19	Retail Liquor Store - Application Fee	$1,950	5	$9,750
	Retail Liquor Store (city) - Licensing Fee	227.50	4	910
	Retail Liquor Store (county) - Licensing Fee	312.50	1	313
	Fee Adjustment to Cover Costs	-	-	6,634
			FY 2018-19 Total	**$17,607**
			General Fund	*$973*
			Cash Fund	*$16,634*

Future year impact. The bill authorizes the LED to set an application fee for the merger and transfer of retail liquor store licenses beginning in FY 2022-23. While increased revenue from that fee beginning in FY 2022-23 has not been estimated, the fiscal note assumes that a majority of the new retail liquor store licenses will be issued by then.

TABOR Impact

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. In years when the state collects revenue above the TABOR limit, the increase in General Fund revenue has no net impact on the amount of money available in the General Fund for the budget, as both revenue to the General Fund and the refund obligation increase by equal amounts. However, the increase in cash fund revenue increases the TABOR refund obligation, decreasing the amount of money available in the General Fund for the budget on a dollar-for-dollar basis. In future years when the state does not collect revenue above the TABOR limit, the bill's impact on General Fund revenue will increase money available for the General Fund budget.

State Expenditures

The bill increases expenditures for the LED in the DOR by $27,752 and 0.1 FTE in FY 2017-18, and $16,634 and 0.1 FTE in FY 2018-19, as listed in Table 4 and discussed below.

Table 4. Expenditures Under SB17-199

Cost Components	FY 2017-18	FY 2018-19
Computer Programming	14,920	
Legal Services	12,832	16,634
FTE - Department of Law	0.1 FTE	0.1 FTE
TOTAL	**$27,752**	**$16,634**

Licensing. The bill increases the workload for the LED to process new retail liquor store licenses as a result of the bill and to update materials. Based on five new retail liquor store applications in FY 2017-18 and FY 2018-19, the fiscal note assumes that the workload increase can be accomplished within existing appropriations.

Computer programming. The LED requires $14,920 to modify the MyLicenseOffice licensing software to accommodate the new procedures, based on information from the vendor.

Legal services. The LED requires 135 hours of legal services in FY 2017-18 and 175 in FY 2018-19 for rulemaking and enforcement. Calculated at the rate of $95.05 per hour, the LED requires $12,832 in FY 2017-18 and $16,634 in FY 2018-19. Legal services are provided by the Department of Law, which requires an allocation of 0.1 FTE in FY 2017-18 and FY 2018-19 to provide those services.

Future year impact. Beginning in FY 2022-23, the bill increases the workload for LED to establish merger and transfer processes for retail liquor stores, provide training, process additional applications, and conduct additional enforcement. The resources required for this change will be addressed through the annual budget process, and are expected to include enforcement costs.

Local Government Impact

Revenue. Beginning in FY 2017-18, the bill increases revenue to local licensing authorities from new retail liquor store applications. The amount of the increase will vary among local licensing authorities. Beginning in FY 2022-23, the bill authorizes a local application fee for the merger and transfer of up to $1,000, which will increase revenue; however, the number of retail liquor stores paying annual license renewal fees is expected to decrease by a minimal amount.

Expenditures. Beginning in FY 2017-18, the bill increases the workload for local licensing authorities to process additional applications and adjust enforcement procedures to accommodate new requirements for all licensed retail liquor stores. Beginning in FY 2022-23, the bill increases the workload for local licensing authorities to transfer and merger retail liquor store licenses in the short term; however, the overall number of new retail liquor store licenses is expected to decrease by a minimal amount in the long term.

Effective Date

The bill takes effect July 1, 2017.

State Appropriations

For FY 2017-18, the bill requires an appropriation of $27,752 from the Liquor Enforcement Division Cash Fund. Of this, $12,832 and an allocation of 0.1 FTE is reappropriated to the Department of Law.

State and Local Government Contacts

Counties	Information Technology	Judicial
Law	Municipalities	Public Safety
Revenue		

Research Note Available

An LCS Research Note for SB17-199 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.