

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1526-05
Bill No.: HCS for SCS for SB 299 and SS for SCS for SB 616
Subject: Alcohol; Public Safety Department; Tourism
Type: Original
Date: May 4, 2007

Bill Summary: This proposal changes laws relating to liquor regulation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	\$97,304	\$190,673	\$93,365
Total Estimated Net Effect on General Revenue Fund	\$97,304	\$190,673	\$93,365

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Missouri Wine and Grape	\$100,000	\$120,000	\$120,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$100,000	\$120,000	\$120,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	7 FTE	7 FTE	7 FTE
Total Estimated Net Effect on FTE	7 FTE	7 FTE	7 FTE

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$187,500	\$225,000	\$225,000

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Division of Alcohol and Tobacco Control (ATC)** assume the proposal would have the following fiscal impact:

Section 311.489 would allow for a new license type for promotional associations within a festival district. The festival district must include three or more alcohol licensed businesses and a common area and must be closed to traffic. The promotional association would be required to submit a plan to the city with details about the event, and would upon approval be permitted to sell liquor for consumption within the district common including on Sunday. Customers would be permitted to leave the licensed establishment with an alcoholic beverage and consume it within the festival district. Minors allowed at the event must be easily distinguished from persons of legal age. The Division would need an additional Agent in each of the three Districts Statewide to conduct party patrols and walk-throughs during festival events to assure that alcohol is not being provided to underage patrons outside the licensed establishments in the festival district, and that sales are not made to intoxicated persons. Any new type of license that increases the availability of alcohol would require additional enforcement staff.

There would be less safeguards in place to prevent sales to persons less than twenty-one years of age or intoxicated person in a festival district as opposed to a licensed establishment. Three additional Agents would be needed to monitor festival events across the State to assure that sales are made in compliance with liquor control laws.

ATC states cities may charge 150% of state liquor license fees (Section 311.220). ATC estimates there will be approximately 300 licenses of this type issued across the State. Therefore, 300 licenses issued at \$450 (\$300 state license fee X 150%) will generate \$135,000 annually. In FY'08, the licenses aren't issued until August 28, 2007; therefore the licenses would be prorated for ten months generating \$112,500.

ATC states counties may charge a fee equal to state liquor license fees (Section 311.220). Therefore, 300 licenses issued at \$300 will generate \$90,000 annually. In FY'08, the licenses aren't issued until August 28, 2007; therefore the licenses would be prorated for ten months generating \$75,000.

Section 311.240.5 would allow the Division to collect penalties from licensees who habitually renew late each year. There is currently no provisions for penalties to licensees who annually renew their liquor license late.

ASSUMPTION (continued)

Using FY 2006 as a basis the following estimate of revenue can be assumed:

- \$193,700 collections from late fees for the 1st year. This is an estimate based on the FY 2006 late renewals in June (for May) of 1,937 @ \$100 each.
- \$176,850 collections from late fees for the 2nd year. This is an estimate based on July late renewals of 400 X \$200 and half of the previous year estimate. It is estimated that the second year, the late renewals will drop by half.
- \$ 91,226 collections from late fees for the 3rd year. This includes July late renewals of half of the initial year, and a third of the initial year for June late renewals.

Section 311.178 - In response to a similar proposal from this year (HB 530), officials from the ATC assumed Section 311.178 would not fiscally impact their agency. ATC stated the revenue generated from the \$300 per resort fee for the ability to stay open from 1:30 a.m. to 3:00 a.m. is deposited into the General Revenue Fund. ATC also stated there was just one such resort license issued in fiscal year 2006.

Without this proposal the General Revenue Fund would receive \$300 less in revenue annually; however, **Oversight** assumes \$300 in revenue to the General Revenue Fund is immaterial, and therefore will not reflect this additional income in the fiscal note.

Sections 311.185, 311.420 & 311.462 - ATC states this part of the proposal would allow Missouri wine manufacturers to ship wine within the State, and allow out-state wine manufacturers to ship wine into the State, addressing two of the four main complaints in a current lawsuit against the Division. It would require both instate and out state wine manufacturers to register as direct wine shippers, and sets out standards to assure product integrity and provides for the collection of excise taxes on direct wine shipments by wine manufacturers. This proposal also requires carriers/shippers to apply for an alcohol carrier license in order to transport and deliver shipments of wine directly to consumers. Revisions are made to the reciprocity law to assure shipments are made in accordance with the liquor control laws and will continue to allow Missouri retailers to ship to Missouri consumers and consumers in reciprocal states. The changes in Section 311.462 will also continue to allow retailers from reciprocal states to ship wine directly to Missouri consumers.

ASSUMPTION (continued)

This legislative proposal also:

- Prevents further legal action from wineries against the State of Missouri saving Missouri taxpayers tens of thousands of dollars in legal fees.
- Brings Missouri into compliance with the Supreme Court decision on wine shipments from out-of-state wineries.
- Changes amount of wine allowed to be shipped to Missouri consumers from 2 cases per year to 2 cases per month.
- Changes existing law to allow instate and out state wineries and reciprocal state retailers to solicit sales over the internet.
- Changes Missouri from a reciprocal state to a permit state for wineries, and remains a reciprocal state for retailers shipping wine.
- Ensures state collection of excise tax on wine shipped to Missouri residents.
- Has requirements for common carriers to ensure deliveries are not made to any person under 21 years of age.
- Does not change current shipping practices of state retailers making shipments to Missouri residents.

There are approximately 61 wine manufacturers in the state of Missouri. The Division estimates that with out-of-state wine manufacturers included, the number of wine manufacturers will go up to 600 who will require registration and will be shipping to consumers in the state of Missouri. In addition, the Division will also have to permit carriers who want to be allowed to ship alcoholic beverages. These carriers will number from 60 to 100. The Division believes the number of retailers shipping into the state of Missouri from the six reciprocal states could range from 3,000 to 10,000 retailers that would require registration and would ship wine into the state.

ATC states the additional paperwork anticipated by this amount of new permitting and reporting would require two additional clerical employees (each at \$23,160 per year). Also, periodic review and audits of records of wine manufacturers and out-state retailers would require two additional Auditor II's (each at \$35,148 annually) who would work under the supervision of the current Senior Auditor. The Auditors would have to work in coordination with other State

ASSUMPTION (continued)

Alcohol Beverage Control agencies to assure proper reporting and disciplinary procedures against wine manufacturers, retailers and/or carriers who violate the liquor laws. Also, the Auditor would need to train all carriers on the proper ID validation and verification techniques.

In summary, the ATC assumes the cost for the four FTE would total roughly \$200,000 annually, and be offset by roughly \$300,000 in additional revenues to the General Revenue Fund.

This proposal is similar to HB 944 (2158-02) from this year. In that proposal, the ATC assumed the need for two additional FTE and estimated collecting excise tax on an additional 500,000 gallons of wine. **Oversight** inquired about the difference between this bill and HB 944. ATC noted that the difference is that SB 644 allows out-state retailers in reciprocal states in addition to out-state wine manufacturers to ship wine into the state of Missouri and pay excise tax on those shipments. Missouri alone has approximately 12,000 to 13,000 retailers, so in the six reciprocal states, retailers will be able to obtain a direct wine shippers license and ship wine into the State of Missouri to consumers.

Officials from the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$2,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Public Safety - Director's Office** assume the proposal would not fiscally impact their agency.

This proposal could increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE			
<u>Income</u> - Alcohol & Tobacco Control			
Late fees allowed in Section 311.240.5	\$193,700	\$176,850	\$91,226
<u>Income</u> - Alcohol & Tobacco Control			
Liquor license revenue from festival district permits (Section 311.489)	\$75,000	\$90,000	\$90,000
<u>Income</u> - Alcohol & Tobacco Control			
Estimate of excise tax collected on wine shipped into Missouri (30 cents per gallon as provided in Section 311.550)	\$250,000	\$300,000	\$300,000
<u>Costs</u> - ATC - Section 311.489			
Personal Service (3 FTE)	(\$87,262)	(\$107,855)	(\$111,091)
Fringe Benefits	(\$39,495)	(\$48,815)	(\$50,280)
Expense and Equipment	(\$85,105)	(\$24,009)	(\$24,729)
<u>Total Costs</u> - ATC	(\$211,862)	(\$180,679)	(\$186,100)
FTE Change ATC	3 FTE	3 FTE	3 FTE
<u>Costs</u> - ATC - Section 311.185			
Personal Service (4 FTE)	(\$100,095)	(\$123,718)	(\$127,429)
Fringe Benefits	(\$45,303)	(\$55,995)	(\$57,674)
Expense and Equipment	(\$64,136)	(\$15,785)	(\$16,658)
<u>Total Costs</u> - ATC	(\$209,534)	(\$195,498)	(\$201,761)
FTE Change ATC	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND			
	<u>\$97,304</u>	<u>\$190,673</u>	<u>\$93,365</u>
Estimated Net FTE Change for General Revenue Fund	7 FTE	7 FTE	7 FTE

**MISSOURI WINE AND GRAPE
 FUND**

Income - Department of Public Safety

Estimate of excise taxes collected on wine shipped into Missouri (two six cents per gallon taxes provided in 311.554)	<u>\$100,000</u>	<u>\$120,000</u>	<u>\$120,000</u>
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**ESTIMATED NET EFFECT TO THE
 MISSOURI WINE AND GRAPE
 FUND**

	<u>\$100,000</u>	<u>\$120,000</u>	<u>\$120,000</u>
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FISCAL IMPACT - Local Government

	FY 2008 (10 Mo.)	FY 2009	FY 2010
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LOCAL POLITICAL SUBDIVISIONS

<u>Cities</u> - Increase liquor license revenue from festival district permits (311.489)	\$112,500	\$135,000	\$135,000
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<u>Counties</u> - Increase liquor license revenue from festival district permits (311.489)	<u>\$75,000</u>	<u>\$90,000</u>	<u>\$90,000</u>
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**ESTIMATED NET EFFECT TO
 LOCAL POLITICAL SUBDIVISIONS**

	<u>\$187,500</u>	<u>\$225,000</u>	<u>\$225,000</u>
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FISCAL IMPACT - Small Business

Small liquor-by-the-drink businesses could be fiscally impacted as a result of this proposal.

FISCAL DESCRIPTION

This proposal allows a festival district promotional association to obtain a license to sell intoxicating liquor and nonintoxicating beer for consumption at the businesses and common areas within the festival district.

FISCAL DESCRIPTION (continued)

The proposal also allows the Division of Alcohol and Tobacco Control to add a late charge for renewal fees.

Licensed wine manufacturers may apply for a "wine direct shipper license" from the Supervisor of Alcohol and Tobacco Control (Supervisor). Such license allows a wine manufacturer to ship up to two cases of wine per month directly to a Missouri resident who is at least twenty-one years of age for personal use. The license may be renewed annually.

This act outlines the requirements that must be met by wine direct shipper licensees, including limiting the amount of wine to the permitted amount, using licensed carriers, shipping properly registered wine, having a warning that package contains alcohol, submitting to the Division's jurisdiction, and meeting other requirements based on whether the winery is located within or outside of Missouri.

Carriers may apply for a "alcohol carrier license" from the Supervisor. Such license allows a carrier to transport alcohol directly to Missouri residents who are at least twenty-one years of age. The act outlines the requirements that must be met by alcohol carrier licensees, including delivering only to adults who are not intoxicated, requiring proof of age and identity, obtaining an adult signature, and keeping proper records.

The holder of a retailer alcoholic beverage license that has entered into a reciprocal shipping agreement with the Supervisor may apply for a "retail wine direct shipper license". Such license allows the holder to ship up to two cases of wine per month directly to a Missouri resident who is at least twenty-one years of age for personal use. The license may be renewed annually.

The act outlines the requirements that must be met by retail wine direct shipper licensees, including limiting the amount of wine to the permitted amount, using licensed carriers, shipping properly registered wine, having a warning that the package contains alcohol, submitting to the Division's jurisdiction, and meeting other requirements based on whether the winery is located within or outside of Missouri.

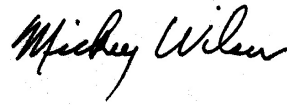
Any person who sells intoxicating liquor without procuring the proper license shall be guilty of a felony. Retail wine direct shippers who violate the liquor control laws or regulations are subject to disciplinary administrative actions or criminal penalties as provided by law.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

L.R. No. 1526-05
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SOURCES OF INFORMATION

Department of Public Safety
Office of the Attorney General
Office of the Secretary of State

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large, prominent 'M' and 'W'.

Mickey Wilson, CPA
Director
May 4, 2007