COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1526-06
Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SCS for SB 299 and SS for SCS for SB 616
Subject: Alcohol; Public Safety Department; Tourism
Type: Original
Date: June 1, 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	$234,166	$281,352	$189,465
Total Estimated Net Effect on General Revenue Fund	**$234,166**	**$281,352**	**$189,465**

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 Other State Funds	**$100,000**	**$120,000**	**$120,000**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	4 FTE	4 FTE	4 FTE
Total Estimated Net Effect on FTE	**4 FTE**	**4 FTE**	**4 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	**$0**	**$0**	**$0**

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 311.178 - 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.

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.

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 311.180 - ATC assumes there would be one (and possibly up to 5) license issued to a vintage wine solicitor. With a fee of $500, this would equate to a range of $500 - $2,500. ATC assumes this amount is not a material and state the estimate provided for other parts of the bill should suffice.

ASSUMPTION (continued)

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.

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.

ASSUMPTION (continued)

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 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.

In response to a previous version of this proposal, officials from the **Office of the Attorney General** assumed 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

ASSUMPTION (continued)

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 **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

This proposal could increase Total State Revenues.

FISCAL IMPACT - State Government	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE			
Income - Alcohol & Tobacco Control Late fees allowed in Section 311.240.5	$193,700	$176,850	$91,226
Income - 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
Costs - 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)
Total Costs - ATC	($209,534)	($195,498)	($201,761)
FTE Change ATC	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**$234,166**	**$281,352**	**$189,465**
Estimated Net FTE Change for General Revenue Fund	4 FTE	4 FTE	4 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)	$100,000	$120,000	$120,000
ESTIMATED NET EFFECT TO THE MISSOURI WINE AND GRAPE FUND	**$100,000**	**$120,000**	**$120,000**

FISCAL IMPACT - Local Government	FY 2008 (10 Mo.)	FY 2009	FY 2010
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act modifies provisions relating to liquor control.

SECTION 311.015 - states that Chapter 311, RSMo, establishes vital state regulation of the sale and distribution of alcohol beverages in order to promote responsible consumption, combat illegal underage drinking, and achieve other important state policies.

SECTION 311.070 - defines "permanent point-of-sale advertising materials" to include only inside signs, mirrors, and sweepstakes/contest prizes displayed while "temporary point-of-sale advertising materials" include items designed to be used for short periods of time. Additionally,

FISCAL DESCRIPTION (continued)

the value of consumer advertising specialties shall not be considered when determining whether distillers, wholesalers, winemakers, and brewers may give or sell any permanent or temporary point-of-sale advertising materials or consumer advertising specialties to a retail business. The total value of all permanent point-of-sale advertising materials provided to a retail business shall not exceed $500 per calendar year, per brand, per outlet. All permanent point-of-sale advertising materials provided to a retailer shall be recorded and the records shall be kept for three years. The provider of permanent point-of-sale advertising materials shall own and control the use of such materials provided.

Currently, a malt beverage wholesaler or brewer may give a gift of not more than $1000 per year or sell something of such value to a temporary permit holder. Under this section, a distiller, wholesaler, winemaker, or brewer may only give a gift of not more than $1000 per year to a temporary permit holder.

Distillers, wholesalers, winemakers, brewers, and retailers may conduct sweepstakes/contests upon a licensed retail premises. The prize dollar amount shall not be limited and can be displayed in a photo, banner, or other temporary point-of-sale advertising material on such premises if: 1) no money or something of value is given to the retailer for the opportunity to conduct the contest; and 2) the prize is not displayed on the premises if its value exceeds the permanent point-of-sale advertising materials dollar limit.

Distillers, wholesalers, winemakers, and brewers participating in the activities of a retail business association may display, serve, or donate its products at or to a convention, pay reasonable dues, pay sponsorship fees, make payments or donations for training on preventative sales to minors and intoxicated persons, checking identifications, age verification devices, and liquor control laws, make contributions of up to $1,000 per year for transportation services to assist persons from retail establishments to overnight accommodations, donate or serve up to $500 per event of alcoholic products at association activities, and make reasonable payments for advertising issued by such associations regardless of whether issued at a convention or trade show. Any retail business association that receives payments or donations shall, upon written request, provide the Division of Alcohol and Tobacco Control with copies of relevant records to ensure compliance with these requirements.

This section removes certain requirements that must be met for distillers, wholesalers, winemakers, and brewers to sell their merchandise that is not intoxicating beverages to a retail business. This section allows distillers, wholesalers, winemakers, and brewers to sell or give a permanent outside sign to retailers if certain requirements are met. This section specifies what qualifies as a permanent outside sign at a business and provides that temporary banners will not

FISCAL DESCRIPTION (continued)

be construed to be permanent outdoor signs. Such temporary banners may be provided to retailers, but the total cost shall not exceed $500 per brand.

With limited exception, distillers, wholesalers, winemakers, and brewers that are also producers or vendors of nonalcoholic beverages shall not condition the sale of their alcoholic beverages on the sale of nonalcoholic beverages nor combine the sale of its alcoholic beverages with the sale of its nonalcoholic beverages. They may sell, credit, market, and promote nonalcoholic beverages in the same manner in which the nonalcoholic products are sold, credited, marketed, or promoted by a manufacturer or wholesaler not licensed by the Supervisor of Alcohol and Tobacco Control. Equipment or furnishings provided to sell nonalcoholic products shall not be used by the retailer to sell alcoholic products. Such items must be identified by the retailer as being furnished by a licensed distiller, wholesaler, winemaker, or brewer.

Distillers, wholesalers, winemakers, and brewers shall not require any retailer to purchase any intoxicating liquor to the exclusion in whole or in part of intoxicating liquor sold by other distillers, wholesalers, winemakers, or brewers. Also, distillers, wholesalers, winemakers, or brewers shall be allowed to make contributions to a licensed retail liquor dealer that is a fraternal, civic, service, or veterans' organization, in addition to charitable and religious organizations. They may make payments for advertisements of tax-exempt organizations if the total payment made for all such advertisements is the same as that paid by other vendors.

SECTION 311.071 - distillers, wholesalers, winemakers, and brewers may make contributions for special events where alcohol is sold at retail to a not-for-profit organization that does not hold a liquor license if certain qualifications are met. The contributions shall be used to pay special event infrastructure expenses unrelated to any retail alcohol sales. Records of such contributions must be made available to the Division of Alcohol and Tobacco Control.

SECTION 311.174 - allows certain tax-exempt entities in the Kansas City area located in a building designated as a National Historic Landmark may apply for a license to remain open until 6:00 a.m. of the following day.

SECTION 311.178 - repeals the expiration date of January 1, 2007, for certain provisions allowing for the issuance of special permits by the Supervisor of Alcohol and Tobacco Control for extended operating hours to resorts serving liquor to overnight guests.

SECTIONS 311.180 & 311.275 - create a $500 annual charge to sell vintage wine to wholesalers. Any vintage wine solicitor may register as the primary American source of supply for vintage wine with the division if another solicitor is not already registered as the primary American

FISCAL DESCRIPTION (continued)

source of supply for the vintage wine and the vintage wine has been approved for sale by the federal Alcohol and Tobacco Tax and Trade Bureau.

SECTION 311.185, 311.420, & 311.462 - 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.

These sections outline 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. These sections outline 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 may ship up to two cases of wine per year to any adult resident of this state.

SECTION 311.190 - authorizes certain licensed wine manufacturers who allow consumption of wine on their premises to open on Sundays at 9:00 a.m. instead of 11:00 a.m.

SECTION 311.240 - if a renewal application for a license is not timely submitted, an additional late charge shall be added. The amount of the fee shall increase the longer it is late but shall not be more than $300.

SECTION 311.297 - allows wineries, distillers, manufacturers, wholesalers, or brewers to provide or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any temporary licensed retail premises. Samples may be provided conducted off a retail licensed premises if no sales transactions take place. For the purpose of this section, "sales transaction" means an actual and immediate exchange of monetary consideration for the immediate delivery of goods at the tasting site.

FISCAL DESCRIPTION (continued)

SECTION 311.685 - any retail licensee selling liquor or nonintoxicating beer aggrieved by an action of the supervisor of the division affecting the licensee may bring a civil action against any person who is the proximate cause of such official action, if the violation occurred on or about the premises of the retail licensee. If a judgment is entered in favor of the licensee, the court shall award up to $500 and reasonable court and attorney fees. No civil action shall be brought against the supervisor or the division.

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

SOURCES OF INFORMATION

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

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