

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0531-03
Bill No.: SS for HB 132
Subject: Licenses - Liquor and Beer; Alcohol
Type: Original
Date: April 29, 2008

Bill Summary: This proposal modifies various provisions relating to liquor control.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(\$83,812) to (\$339,747)	(\$61,486) to (\$251,345)	(\$10,565) to (\$43,158)
Total Estimated Net Effect on General Revenue Fund	(\$83,812) to (\$339,747)	(\$61,486) to (\$251,345)	(\$10,565) to (\$43,158)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	1 - 4 FTE	1 - 4 FTE	1 - 4 FTE
Total Estimated Net Effect on FTE	1 - 4	1 - 4	1 - 4

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 2010	FY 2011	FY 2012
Local Government	\$3,750	\$4,500	\$750

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue** and the **City of Kansas City** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Public Safety - Division of Alcohol and Tobacco Control (ATC)** state this bill 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 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 are not allowed at the event, by this legislation. The ATC would need four additional Agents to conduct party patrols and walk throughs during festival events to assure that minors are not being allowed into the festival districts, retailers are buying alcohol from duly licensed wholesalers, closing times are adhered to, that sales are not made to intoxicated persons and other liquor law violations.

Any new license type that increases the availability of alcohol would require additional enforcement staff and past experience with festival licenses has provided us with experience as to precisely what type of issues occur at these type of events and this type of environment.

ATC states there are less safeguards in place at these type of festival events to prevent minors from being able to attend and drink at the event and from licensees making sales to persons less than twenty-one years of age or intoxicated person as opposed to a licensed establishment. Section 311.489.5 specifically prohibits minors from being allowed to enter the festival districts during festival events that serve liquor and the city already has an ordinance that prohibits minors in bars. However, ATC gets reports of violations all the time. The problem would be worse in a big open area like a festival district. Just because there is a provision in the bill that prohibits minors doesn't mean that minors will not attempt to attend and/or attempt to consume alcohol at a festival event. It will be ATC's job to make sure that the provisions are adhered to. There are state laws that also set closing times, but past experience with the festival licensees has shown that it is violated quite frequently. There's a state law that prohibits retailers from buying alcohol from other retailers, but again, it is violated quite frequently. Agents would be needed to monitor festival districts to assure that sales are made in compliance with liquor control laws.

ASSUMPTION (continued)

The ATC needs four additional Agents and all necessary equipment to adequately monitor liquor licensees in a festival district. Agents salary range starts at \$35,952 and goes to \$47,184. ATC would request a salary range at \$40,212, Step M to provide the necessary funds to maintain a qualified FTE.

State Revenue will increase by the amount of license fees generated from this new license type. Limiting this festival license to Kansas City means that there would be a limited amount of licensees that would want this license. It is estimated that six licenses would be issued generating \$1,800 in license fees each year. In FY'10, the licenses aren't issued until August 28, 2009. Therefore, the licenses would be prorated for ten months generating \$1,500.

Cities may charge 150% of state liquor license fees (Section 311.220). We believe there will be approximately 6 licenses of this type issued in Kansas City. Therefore, 6 licenses issued at \$450 (\$300 state license fee X 150%) will generate \$2,700 annually. In FY'09, the licenses aren't issued until August 28, 2009. Therefore, the licenses would be prorated for ten months generating \$2,250.

Counties may charge a fee equal to state liquor license fees (Section 311.220). Therefore, 6 licenses issued at \$300 will generate \$1,800 annually. In FY'09, the licenses aren't issued until August 28, 2009. Therefore, the licenses would be prorated for ten months generating \$1,500.

In response to similar proposals in 2008 (HB 2424 & SB 1001), the ATC assumed the need for one additional FTE from the proposal. **Oversight** is unsure if there will be enough festival districts licensed and active to warrant the need for four additional Agents. Therefore, Oversight will range the fiscal impact of this part of the proposal from one additional Agent to four additional Agents.

The provisions of this new section shall expire two years after the effective date of the section. Therefore, Oversight will assume 10 months of impact in FY 2010 (assumed effective date of August 28, 2009) and 2 months of impact in FY 2012 (assumed sunset date of August 27, 2011). **Oversight** has also reduced ATC's license fee revenue estimate for FY 2012 to reflect two months of impact, or two complete years of impact during the period of FY 2010 through FY 2012.

Oversight has, for fiscal note purposes only, changed the starting salary for ATC's Agent(s) to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** states many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS 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 the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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.

This proposal may increase Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE			
<u>Income - Alcohol & Tobacco Control</u>			
Revenue from festival district permits	\$1,500	\$1,800	\$300
<u>Costs - Alcohol and Tobacco Control</u>			
Personal Service (1 - 4 FTE)	(\$30,859) to (\$123,436)	(\$38,141) to (\$152,564)	(\$6,548) to (\$26,192)
Fringe Benefits	(\$15,007) to (\$60,028)	(\$18,548) to (\$74,192)	(\$3,184) to (\$12,736)
Expense and Equipment	(\$39,446) to <u>(\$157,783)</u>	(\$6,597) to <u>(\$26,389)</u>	(\$1,133) to <u>(\$4,530)</u>
<u>Total Costs - ATC</u>	(\$85,312) to <u>(\$341,247)</u>	(\$63,286) to <u>(\$253,145)</u>	(\$10,865) to <u>(\$43,458)</u>
FTE Change ATC	1 - 4 FTE	1 - 4 FTE	1 - 4 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$83,812) to</u> <u>(\$339,747)</u>	<u>(\$61,486) to</u> <u>(\$251,345)</u>	<u>(\$10,565) to</u> <u>(\$43,158)</u>
Estimated Net FTE Change for General Revenue Fund	1 - 4 FTE	1 - 4 FTE	1 - 4 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
LOCAL POLITICAL SUBDIVISIONS			
<u>Cities</u> - Increase liquor license revenue from festival district permits (Section 311.489)	\$2,250	\$2,700	\$450
<u>Counties</u> - Increase liquor license revenue from festival district permits (Section 311.489)	<u>\$1,500</u>	<u>\$1,800</u>	<u>\$300</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$3,750</u>	<u>\$4,500</u>	<u>\$750</u>

FISCAL IMPACT - Small Business

Small liquor businesses could be positively impacted as a result of this proposal.

FISCAL DESCRIPTION

SECTION 311.489

A Kansas City festival district's promotional association shall obtain a permit from the division of alcohol and tobacco control to sell alcohol and to conduct festival events at the businesses and common areas within the district upon approval by the city. The festival district must be within a community improvement district in the city. The association must provide certain information in their plan to the city, including a legal description of the district and its common areas, information about participating businesses, the specific calendar of events, and description of the festival activities, proof of adequate insurance, and a detailed security plan. There shall be no more than 24 events per year and two events per month. The events shall last no more than forty-eight hours.

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FISCAL DESCRIPTION (continued)

Prior to approving the plan, the city shall notify all property owners in the proposed district and within 500 feet of such district's boundaries. The city shall also hold a public hearing at least 30 days after providing the notice to obtain public comment. The city shall not approve any plan unless the promotional association has obtained written approval from at least 50% of the property owners within the district and within 185 feet of its borders.

For no more than ten twenty-four hour periods in a year, such promotional association may permit customers to leave an establishment within the district after purchasing alcohol and consume the beverage in the district common areas or another establishment, but no person shall be allowed to take a alcoholic beverage outside the festival district boundaries.

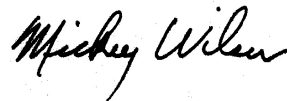
Minors shall not be allowed to enter the district during a festival event that serves liquor. The permit holder is solely responsible for any alcohol violations occurring within the common areas. The promotional association may be assessed a civil fine of not more than \$5,000 for a violation. If the association is found to be responsible for violations at three separate events, its permit shall be revoked and not reissued.

The provisions of this section (311.489) shall expire two years after the effective date.

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
Department of Revenue
Kansas City
Office of the Secretary of State



Mickey Wilson, CPA
Director

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