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FISCAL IMPACT STATEMENT

LS 7359

BILL NUMBER: HB 1479

NOTE PREPARED: Jan 10, 2007

BILL AMENDED:

SUBJECT: Various Alcoholic Beverage Matters.

FIRST AUTHOR: Rep. Kuzman

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Group Purchasing:* This bill prohibits the Alcohol and Tobacco Commission (ATC) from adopting rules allowing retailers and dealers to enter into a formal group purchasing agreement for the purpose of purchasing beer from permittees authorized to sell to them.

Brewery Sales to Consumers: The bill also allows a brewer of a small brewery to sell and deliver beer to a consumer. The bill also removes a provision that allows a brewer of a large brewery to sell and deliver beer to a consumer.

Beer Wholesaler Sales to Consumers: The bill prohibits a beer wholesaler from selling beer to a consumer other than an employee of the wholesaler.

Alcohol Samples: This bill allows liquor retailers and liquor dealers to provide samples: (1) of flavored malt beverages and hard cider that do not exceed six ounces; and (2) of beer that do not exceed 12 ounces. (Current law provides that a sample size of beer may not exceed six ounces.)

Wine Purchased at an Estate Sale: This bill establishes requirements that a wine wholesaler must meet to resell wine purchased at an estate sale. The bill also provides a wholesaler with immunity from civil liability for product liability or negligence regarding wine the wholesaler purchased at an estate auction and resold. The bill makes it a Class D felony for a wholesaler to sell a brand of alcoholic beverages that the permittee has not been authorized to sell by the brand's primary source of supply and allows an injured permittee to bring a civil action against the wholesaler.

Penalty for Sales to Minors: The bill also increases the penalty for furnishing an alcoholic beverage to a

minor to a Class B misdemeanor if the person is an adult.

Permittee Agreement Coercion: This bill prohibits a permittee from coercing another permittee to enter into an agreement or take an action that violates the alcoholic beverage statutes and rules. (Current law prohibits only a primary source of supply or a beer wholesaler from coercing a beer wholesaler.)

Effective Date: July 1, 2007.

Explanation of State Expenditures: This bill will cause an increase in administrative costs for the ATC. The ATC will have to amend rules and enforcement procedures of the state Excise Police to implement the provisions of this bill. It is estimated that these changes could be made through the use of existing staff and resources available to the ATC.

Penalty Provisions: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: The provisions listed below will only impact state revenues to the extent that the sales alcohol are affected. (See the *Background:* section below for a more detailed explanation).

Group Purchasing: This bill prohibits the ATC from adopting rules allowing retailers and dealers to enter into a formal group purchasing agreement for the purpose of purchasing beer. This provision will only impact state revenues to the extent that the sales price of beer is affected. The higher the sales price, the more Sales Tax collected per sale. (See the *Background:* section below for a more detailed explanation).

Brewery Sales to Consumers: The bill allows any holder of a brewer's permit to sell and deliver beer to a consumer. Under current law, only large brewery's are permitted to make sales directly to consumers.

Beer Wholesaler Sales to Consumers: The bill prohibits a beer wholesaler from selling beer to a consumer other than an employee of the wholesaler.

Alcohol Samples: This bill allows liquor retailers and liquor dealers to provide samples: (1) of flavored malt beverages and hard cider that do not exceed 6 ounces; and (2) of beer that do not exceed 12 ounces. (Current law provides that a sample size of beer may not exceed 6 ounces.)

Permittee Agreement Coercion: This bill prohibits a permittee from coercing another permittee to enter into an agreement or take an action that violates the alcoholic beverage statutes and rules. (Current law prohibits only a primary source of supply or a beer wholesaler from coercing a beer wholesaler.)

Background on Alcohol Sales: To the extent that any of the provisions of this bill affect alcoholic beverage sales, state revenues will be impacted. Sales changes will affect collections of both alcoholic beverage excise taxes and the Sales Tax. The alcoholic beverage excise taxes are distributed in varying amounts to the

following funds: state General Fund, the Post War Construction Fund , the ATC Enforcement and Administration Fund , the Addiction Services Fund , and the Wine Grape Market Development Fund. The state retains 50% of the General Fund distribution of beer and wine excise tax revenue. The remainder is distributed to cities and towns based on population. Sales Tax revenue is deposited in the: Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Penalty Provisions: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenues would likely be small.

The following provisions will impact state revenues to the extent they affect alcohol sales, as well as to the extent that these provisions add new or change existing penalties.

Wine Purchased at an Estate Sale: The bill provides that if a wine wholesale who purchases wine from an estate sale, the wholesale must get the authorization of the winery that made the wine before reselling the wine. The bill makes it a Class D felony for a wholesaler to sell a brand of alcoholic beverages that the permittee has not been authorized to sell by the brand's primary source of supply and allows an injured permittee to bring a civil action against the wholesaler.

Penalty for Sales to Minors: The bill increases from a Class C misdemeanor to a Class B misdemeanor, the penalty for furnishing an alcoholic beverage to a minor if the person furnishing the alcoholic beverage is over 21 years old.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small. A Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Alcohol and Tobacco Commission; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies. Trial courts, local law enforcement agencies.

Information Sources:

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