

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-1060.01 Esther van Mourik x4215

HOUSE BILL 20-1306

HOUSE SPONSORSHIP

Benavidez,

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs & Labor
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE REPEAL OF THE REFUND OR CREDIT FOR THE
102 AMOUNT OF PREVIOUSLY PAID EXCISE TAX ON ALCOHOL
103 BEVERAGES THAT ARE RENDERED UNSALABLE BY REASON OF
104 DESTRUCTION OR DAMAGE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, manufacturers and distributors of alcohol beverages are allowed to receive a refund or credit for the amount of excise tax on alcohol beverages that they previously paid for alcohol

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

beverages that later became unsalable due to damage or destruction. The bill repeals this refund or credit as of January 1, 2021.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Current law allows manufacturers and distributors of alcohol
5 beverages to receive a refund or credit for the amount of excise tax on
6 alcohol beverages they previously paid for alcohol beverages that later
7 became unfit for sale due to damage or destruction.

8 (b) Only 98 taxpayers, or 19%, of the 525 alcohol beverage
9 manufacturers and distributors operating in the state claimed the refund
10 or credit in the 2017 tax year and those manufacturers received an
11 average refund or credit of \$1,561.

12 (c) In order to claim such a refund or credit the taxpayer fills out
13 a form, must submit evidence to the department of revenue showing that
14 the tax was paid, and must provide an affidavit itemizing the products
15 destroyed along with a date of destruction and an authorized signature. In
16 cases where taxpayers plan the destruction in advance, department of
17 revenue guidance directs taxpayers to notify the department of revenue
18 of their intention to destroy the unsalable beverages at least four weeks
19 in advance so that a department of revenue representative may attend to
20 witness the destruction. However, according to department of revenue
21 staff, this does not typically occur in practice. Because there is very
22 limited oversight over the damage or destruction of the alcohol beverages,
23 and because the terms "destruction" and "damage" are not further defined
24 in statute, the excise tax refund or credit for unsalable alcohol beverages
25 is open to fraud.

1 (d) The relatively small benefit that the excise tax refund or credit
2 for unsalable alcohol beverages provides means that often the
3 administrative cost of requesting the refund or credit exceeds its value.
4 For example, because the excise tax on beer is \$0.08 a gallon, the loss of
5 an entire pallet of beer would only result in a \$19.84 refund or credit.

6 (e) The excise tax refund or credit for unsalable alcohol beverages
7 can overlap with the commercial property insurance maintained by
8 businesses, which typically covers the loss of product at retail value. The
9 retail value of alcohol beverages regularly accounts for the excise tax on
10 alcohol beverages. Thus, in many cases, commercial property insurance
11 claims for the retail value of unsalable alcohol beverages will cover the
12 value of the excise tax and will make the excise tax refund or credit for
13 unsalable alcohol beverages redundant.

14 (2) Therefore, it is the intent of the general assembly to simplify
15 the collection and administration of taxes for the state of Colorado and to
16 relieve taxpayers' confusion and administrative burdens by repealing tax
17 expenditures that are rarely claimed and are open to fraud.

18 **SECTION 2.** In Colorado Revised Statutes, 44-3-503, **amend** (9)
19 as follows:

20 **44-3-503. Excise tax - records - rules - definition.** (9) PRIOR TO
21 JANUARY 1, 2021, the department shall make a refund or allow a credit to
22 the manufacturer, the wholesaler, or the holder of a winery direct
23 shipper's permit, as the case may be, of the amount of the excise tax paid
24 on alcohol beverages sold in this state when, after payment of the excise
25 tax, the alcohol beverages are rendered unsalable by reason of destruction
26 or damage upon submission of evidence satisfactory to the state licensing
27 authority that the excise tax has actually been paid. Such refund or credit

1 shall be made by the department within sixty days after the submission of
2 evidence satisfactory to the department.

3 **SECTION 3. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2020 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.