

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 241 - SB 681

April 19, 2021

**SUMMARY OF ORIGINAL BILL:** Authorizes the sales of alcohol with the purchase of food, if the alcohol provided has a lid and is not a bottle of liquor. Requires restaurants that sell alcohol as described in this proposed legislation to post a sign which states “A driver shall not consume alcoholic beverages or beer while operating a motor vehicle in this state.” Requires licensees selling alcoholic beverages to go with food to collect and remit the liquor-by-the-drink (LBD) tax. Authorizes customers to take home an unfinished bottle of wine that was partially consumed at a restaurant.

The provisions contained in the proposed legislation are terminated on July 1, 2024.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue - \$4,655,000/FY21-22  
\$2,992,500/FY22-23  
\$1,995,000/FY23-24

Increase Local Revenue - \$4,655,000/FY21-22  
\$2,992,500/FY22-23  
\$1,995,000/FY23-24

**SUMMARY OF AMENDMENTS (005605, 007264):** Amendment 005605 deletes and replaces all language after the enacting clause such that the only substantive changes are to remove any references to delivery service licenses and licensees, to limit the authorization of the proposed legislation to restaurants, limited service restaurants, or wine only restaurants, and to terminate the provisions of the legislation on July 1, 2023.

Amendment 007264 changes the effective date in the proposed legislation from July 1, 2021 to effective upon becoming law.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue - \$4,655,000/FY21-22  
\$2,992,500/FY22-23

Increase Local Revenue - \$4,655,000/FY21-22  
\$2,992,500/FY22-23

Assumptions for the bill as amended:

- Pursuant to Executive Order 17, signed by the Governor in March and extended most recently through April 28, 2021 by Executive Order 77, restaurants have been authorized to sell alcoholic beverages to go, however, the LBD tax has not been required to be applied to those sales.
- Authorization of these to go sales are estimated to continue through the remainder of FY20-21.
- Based on Fiscal Review Committee estimates the LBD tax collections in FY21-22 are estimated to be \$133,000,000.
- The provisions of this legislation are only valid for three years through FY23-24.
- Sales of alcoholic beverages to go are expected to gradually decline as restaurants and bars continue to reopen and as in-person dining continues to increase. In the absence of this legislation or after implementation of this legislation, LBD tax would be collected on in-person consumption; therefore, any impact to LBD tax from in-person consumption is estimated to be not significant.
- Based on information from the Department of Revenue (DOR), it is estimated that requiring restaurants to collect LBD taxes on these to-go drinks would increase LBD collections by 7.0 percent, or \$9,310,000 ( $\$133,000,000 \times 7.0\%$ ) in FY21-22, 4.5 percent, or \$5,985,000 ( $\$133,000,000 \times 4.5\%$ ) in FY22-23, and 3.0 percent, or \$3,990,000 ( $\$133,000,000 \times 3.0\%$ ) in FY23-24.
- Pursuant to Tenn. Code Ann. § 57-4-306(a), 50.0 percent of the 15.0 percent LBD tax is allocated to the state General Fund and 50.0 percent is distributed to the local government.
- Therefore, the increase in state revenue and corresponding increase in local revenue is \$4,655,000 ( $\$9,310,000 \times 50.0\%$ ) in FY21-22, \$2,992,500 ( $\$5,985,000 \times 50.0\%$ ) in FY22-23, and \$1,995,000 ( $\$3,990,000 \times 50.0\%$ ) in FY23-24.
- Because sales taxes are already applied to off-premises alcohol sales, and because cannibalization of alcohol sales is estimated to be higher with to-go orders than with on premises consumption, any increase in sales and use tax collections as a result of this proposed legislation is estimated to be not significant.
- Any overall change in state or local sales tax revenue is estimated to be not significant.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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