

**COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION**

FISCAL NOTE

L.R. No.: 1128-10
Bill No.: HCS for SS for SCS for SB 298
Subject: Alcohol; Business and Commerce; Licenses; Crimes and Punishment; Civil
Procedure; Courts; Kansas City; Entertainment.
Type: Original
Date: April 28, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
	\$0	(\$51,500)	(\$53,045)
Total Estimated Net Effect on General Revenue Fund	\$0	(\$51,500)	(\$53,045)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
None			
Total Estimated Net Effect on Other 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 2004	FY 2005	FY 2006
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator, Office of Prosecution Services, Office of the State Public Defender, Department of Revenue** and the **Department of Elementary and Secondary Education** each assume this proposal would not fiscally impact their respective agencies

In response a previous version of the proposal, officials from the **City of Kansas City** stated the legislation will not have a significant fiscal impact on the city.

Officials from the **Attorney General's Office** assume that any costs arising from this proposal could be absorbed with existing resources.

In response to a similar proposal from this year, officials from the **Office of Secretary of State (SOS)** assumed there would be costs due to additional publishing duties related to the Division of Liquor Control's authority to promulgate rules, regulations, and forms. SOS estimated the division could

ASSUMPTION (continued)

RAS:LR:OD (12/02)

require approximately 11 new pages of regulations in the Code of State Regulations at a cost of \$27.00 per page, and 17 new pages in the Missouri Register at a cost of \$23.00 per page. Costs due to this proposal are estimated to be \$677, however, the actual fiscal impact would be dependent upon the actual rule-making authority and may be more or less. Financial impact in subsequent fiscal years would depend entirely on the number, length, and frequency of the rules filed, amended, rescinded, or withdrawn. SOS did not anticipate the need for additional staff as a result of this proposal, however, the enactment of more than one similar proposal may, in the aggregate, necessitate additional staff.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Public Safety - Liquor Control (DLS)** state this bill, among other things, requires a liquor retailer to attach a label to each keg that is sold for off premise consumption. The purchaser of the keg is required to present positive identification and the retailer must keep records regarding the identification of the keg and purchase. The purchaser must also sign a statement acknowledging that the misuse of the keg or its contents may result in civil liability, criminal prosecution, or both. The retailer must keep the registration records for three months. The retailer may not refund a keg deposit unless the label is attached to a keg when returned. The provisions of the law regarding keg registration become effective July 1, 2004.

DLS assumes that three additional Agents (each at \$36,012 annually) will be needed throughout the state for the additional work load associated with issuing registration seals and determining compliance of keg registration as required by this act. The agents will be located in Kansas City, St. Louis and Jefferson City districts. Also, one additional clerk (at \$24,492 annually) will be needed to issue forms and registration seals.

DLS states the estimate of additional employees is based on the projected sales of keg beer and work load associated with this act. Keg sales for off premise consumption is estimated to be two percent of all beer sales or 2.7 million gallons annually. This 2.7 million gallons equates to an estimated 200,000 keg sales annually that will have to be monitored by DLS.

ASSUMPTION (continued)

RAS:LR:OD (12/02)

DLS estimates this part of the proposal will cost their agency roughly \$300,000 per year, starting in FY 2005, to implement. DLS assumes the other provisions in the proposal would not fiscally impact their agency.

Oversight assumes this proposal requires liquor retailers who sell beer, wine or intoxicating liquor by the keg to keep records of keg sales and registrations and make them open to inspection by DLS. Because DLS is not required to maintain these records, Oversight assumes existing staff could be used to monitor compliance with keg registration. Oversight has utilized the Division of Liquor Control's estimate for the cost of printing the label and recycle tag that they must provide as specified in the proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
GENERAL REVENUE			
<u>Cost - Division of Liquor Control</u>			
Printing of label and recycle tags for kegs	<u>\$0</u>	<u>(\$51,500)</u>	<u>(\$53,045)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0</u>	<u>(\$51,500)</u>	<u>(\$53,045)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses that sell or serve liquor could be fiscally impacted as a result of this proposal.

DESCRIPTION

This proposal removes a provision of the liquor control law which has been found unconstitutional, a board of directors of a school or the managing board of a church may no longer grant a waiver for the sale of intoxicating liquor within one hundred feet of their respective school, church, or other building regularly used as a place of religious worship. However, this provision shall not apply to a holder of a license issued pursuant to Section 311.090, Section 311.218, Section 311.482, RSMo, or a holder of such a license issued prior to January 1, 2004.

The proposal allows the governing body of any city, town or village by ordinance to prohibit the sale of intoxicating liquor within three hundred feet of a school, church, or other building regularly used as a place of religious worship.

The proposal changes the name of the Division of Liquor Control to the Division of Alcohol and Tobacco Control and formally establishes it in statute in Section 311.615.

The proposal allows establishments having at least thirty rooms for overnight accommodations of transient guests to sell liquor by the drink.

The proposal also changes the hours which restaurant bars, amusement places, and places of entertainment may serve liquor by the drink on Sundays from 11:00 a.m. to 9:00 a.m.

The proposal also allows liquor by the drink at retail for consumption at the Jackson County Sports Complex in Kansas City to start Sundays at 8:00 a.m. instead of 11:00 a.m.

This proposal also prohibits the holder of a microbrewer's license, his agents, or affiliates from possessing more than ten licenses. Further, the proposal exempts microbrewers who hold a license to sell intoxicating liquor by the drink at retail for consumption on the premises to sell their product that was produced on site without complying with Section 311.280, RSMo. However, all other intoxicating liquor sold by the drink at retail for consumption on the premises must be obtained in compliance with Section 311.280, RSMo.

Any person licensed to sell malt liquor containing alcohol in excess of three and two-tenths percent by weight and not in excess of five percent by weight under Section 311.200(2), RSMo, may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

DESCRIPTION (continued)

RAS:LR:OD (12/02)

A fee of twenty-five dollars shall be required of all licensees who may sell malt liquor at retail by the drink for consumption on the premises where sold, pursuant to Section 311.200(3), RSMo. Such license holders may sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

The proposal adds an exemption to the limit of three liquor licenses pursuant to Section 311.260, RSMo, for establishments having at least thirty rooms for the overnight accommodation of transient guests.

The proposal adds a new subsection to Section 311.280, RSMo, which prohibits a licensed retailer from selling liquor or nonintoxicating beer with an alcohol content below five percent by weight to a customer in an original carton, if the carton has been mutilated, torn apart, or cut apart. Additionally the retailer may not repackage said substance in a misleading manner or if required labeling would be omitted or obscured.

The proposal combines the subsections of Section 311.290, RSMo, which addresses the prohibition of the sale, gift, or other disposal of intoxicating liquor between the hours of 1:30 a.m. and 6:00 a.m. by a license holder.

The proposal allows a license holder for the sale of intoxicating liquor to make such sales between the hours of 9:00 a.m. and midnight on Sundays upon receipt of a special licenses for such purpose.

The proposal changes Section 311.325 RSMo, to state that a manufacturer-sealed container describing the intoxicating liquor therein need not be opened or tested to verify said liquid is contained therein. This applies to any provision of Chapter 311 and to any rule or regulation of the Supervisor of alcohol and tobacco control.

The proposal clarifies that Section 311.328, RSMo, applies only to a valid or unexpired operator's or chauffeur's license.

The proposal removes subsection 2 of Section 311.360, RSMo, which addresses the sale of malt liquor that is manufactured at a facility other than that of the individual who's name appears on the label.

This proposal limits the definition of a "lending institution" in regards to liquor control, by removing from the definition savings and loans, credit unions, and any other person, firm, or corporation authorized to make business loans in the state and to take collateral therefore.

DESCRIPTION (continued)

The proposal changes section 311.630 RSMo, to allow peace officers designated under the director of liquor control to make arrests and searches and seizures related to violations of intoxicating liquor and nonintoxicating beer pursuant to chapters 311 and 312 RSMo. Further they may make such arrests and searches and seizures related to violations of Section 407.924 to 407.934 RSMo, which relate to tobacco products. The proposal removes the training requirements for such peace officers but requires that they hold a valid peace officer license under Chapter 590, RSMo.

The proposal, under Section 312.410, RSMo, modifies current language and prevents a license holder from selling, giving or permitting consumption of any nonintoxicating beer between the hours of one-thirty a.m., and six a.m. upon or about the license holders premises.

This proposal allows the Supervisor of Liquor Control to provide to retailers of intoxicating liquor forms and procedures that are necessary for the sale of intoxicating liquor by the keg. The supervisor is required to make rules and regulations for administering this keg registration law. The proposal does not require additional permits or licenses.

Retailers are required to register the sale of each keg and affix a registration seal on each keg at the time of sale. The registration records must be maintained by the retailer for a period of three months. Registration records must be open to inspection by the supervisor and law enforcement officers. When a purchaser obtains more than one keg for consumption at the same location and on the same date, only one keg registration must be completed. Persons who purchase and take possession of kegs may not transfer possession of the keg. The keg registration seal affixed to the keg may serve as the purchaser's receipt for the purpose of keg return. Kegs made of disposable packaging need not be returned to the retailer but must be registered.

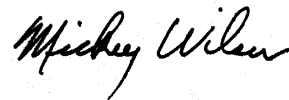
A keg is defined as any container capable of holding four gallons or more of intoxicating liquor which is designed to dispense the liquor directly from the container for consumption. Persons in possession of kegs that are not properly tagged may have the kegs seized. This part of the proposal becomes effective on January 1, 2004.

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 - Liquor Control
Office of the Attorney General
Department of Elementary and Secondary Education
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
City of Kansas City
Department of Revenue

NOT RESPONDING: City of St. Louis, Jackson County, St. Louis County.

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

MICKEY WILSON, CPA
DIRECTOR
APRIL 28, 2003