

HF2767 - 2A - Liquor Regulation

Chief Author: **Zack Stephenson**
 Committee: **Commerce Finance and Policy**
 Date Completed: **4/6/2022 9:14:03 AM**
 Lead Agency: **Public Safety Dept**
 Other Agencies:
 Revenue Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue	X	
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Public Safety Dept						
General Fund	-	-	568	441	441	
Restrict Misc. Special Revenue	-	-	(59)	(59)	(59)	
Revenue Dept						
General Fund	-	-	166	130	130	
State Total						
General Fund	-	-	734	571	571	
Restrict Misc. Special Revenue	-	-	(59)	(59)	(59)	
Total	-	-	675	512	512	
Biennial Total			675			1,024

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Public Safety Dept					
General Fund	-	-	4	4	4
Restrict Misc. Special Revenue	-	-	-	-	-
Revenue Dept					
General Fund	-	-	1.05	1.01	1.01
Total	-	-	5.05	5.01	5.01

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Laura Cecko **Date:** 4/6/2022 9:14:03 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Public Safety Dept						
General Fund	-	-	568	441	441	
Restrict Misc. Special Revenue	-	-	(59)	(59)	(59)	
Revenue Dept						
General Fund	-	-	166	130	130	
	Total	-	-	675	512	512
	Biennial Total			675		1,024
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Public Safety Dept						
General Fund	-	-	568	441	441	
Restrict Misc. Special Revenue	-	-	-	-	-	
Revenue Dept						
General Fund	-	-	166	130	130	
	Total	-	-	734	571	571
	Biennial Total			734		1,142
2 - Revenues, Transfers In*						
Public Safety Dept						
General Fund	-	-	-	-	-	
Restrict Misc. Special Revenue	-	-	59	59	59	
Revenue Dept						
General Fund	-	-	-	-	-	
	Total	-	-	59	59	59
	Biennial Total			59		118

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 Agency: **Public Safety Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue	X	
Information Technology		X
Local Fiscal Impact		
		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024
General Fund	-	-	568	441	441
Restrict Misc. Special Revenue	-	-	(59)	(59)	(59)
Total	-	-	509	382	382
Biennial Total			509		764

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	4	4	4
Restrict Misc. Special Revenue	-	-	-	-	-
Total	-	-	4	4	4

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Laura Cecko **Date:** 4/6/2022 9:13:27 AM
Phone: 651-284-6543 **Email:** laura.cecko@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	568	441	441
Restrict Misc. Special Revenue	-	-	(59)	(59)	(59)
Total	-	-	509	382	382
Biennial Total			509		764
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	568	441	441
Restrict Misc. Special Revenue	-	-	-	-	-
Total	-	-	568	441	441
Biennial Total			568		882
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	59	59	59
Total	-	-	59	59	59
Biennial Total			59		118

Bill Description

HF2767-2A is the 2022 Liquor Omnibus.

Article 1 Sections 1 through 7 propose revisions to Chapter 340A that relate to: definitions, annual production totals, allowable alcoholic beverage container sizes, packaging and off-sale rights for micro-distilleries, micro-breweries, and wineries. Section 8, 9 and 10 adds alcoholic beverage manufacturers to the existing nondiscriminatory sales and prohibited practices provisions. Sections 1 through 7 are effective the day following final enactment.

Article 1 Section 11 proposes to allow a municipality to issue an on-sale wine and an on sale malt liquor license to a baseball team competing in a league established by the Minnesota Baseball Association for the purpose of summer town ball games and is effective the day following final enactment.

Article 1 Section 12 and 13 allows a county agricultural society to issue a 7 day temporary liquor license for alcoholic beverages at a county fair and is effective the day following final enactment.

Article 1 Section 14 adds citrus fruit and glassware as items which may be sold at an exclusive liquor store, and is effective the day following final enactment.

Article 1 Section 15 proposes a permit for extended hours for on sale liquor licensees (bars and restaurants) during the FIFA Women’s World cup competition or FIFA World Cup and is effective the day following final enactment.

Article 1 Section 16 proposes the creation of Liquor Regulation Advisory Council and is effective after June 30, 2022.

Article 1 Section 17 clarifies taxes levied for sake production is consistent with that of a brew pub production of a fermented malt beverage, advises that tax refunds prior to the date of enactment are not allowable, and is effective the day following final enactment.

Article 1 Section 18 proposes a person who is 17 years of age may sell and serve alcoholic beverages and is effective the day following final enactment.

Article 1 Section 19 appropriates \$250,000 in FY23 to the commissioner of public safety for the purposes of hiring two additional FTE in the Alcohol and Gambling Enforcement Division (AGE).

Article 2 in its entirety creates language to allow for the direct shipment of wine to consumers. It provides for the licensing, regulation, taxation, reporting requirements, data classification, and a \$50 licensing fee for applicants. Article 2 is effective July 1, 2022.

Article 3 in its entirety provides for the allowance of special liquor laws that are specific to request made by local authorities, but require statutory inclusion in Chapter 340A. These allowances are effective upon approval by the issuing authority and in compliance with MN 645.021.

Assumptions

Article 1 in its entirety has no fiscal impact, including the Liquor Regulation Advisory Council.

Article 3 in its entirety has no fiscal impact.

Article 2 Direct Shipped Wine:

Minnesota Statute 340A.550 is added to license and regulate out of state wineries and 3rd party providers as shippers of alcohol into Minnesota, direct to the consumer. Minnesota Statute 340A.555 is added to regulate common carriers for direct shipments of wine.

The bill would require DPS-AGED to implement a new direct shipper license type, receive and review applications, process the licensing fees, confirm the associated federal permits and state taxes are current, perform regulatory oversight of licensed wineries and common carriers, investigate consumer complaints, and investigate shipments which have entered Minnesota illegally.

AGED estimates that there will be 1170 wineries who will be subject to the direct shipper license requirement. This number was calculated based on the average number of direct shipper licensees in 7 surrounding states (IA, WI, ND, SD, MI, IL and NE).

AGE calculated 4 FTE's to complete the tasks associated with bill proposal (2 Office & Administrative Specialist Intermediate [OASI], 1 Liquor Control Investigative Specialist [LCIS], 1 Special Agent). Absent a specified, alternative source, it is assumed costs above the permitted revenue from the proposed \$50 direct shippers licensing fee would be from the general fund.

Duties to be completed by the 4 FTEs required by the proposed legislation include: OASI - Review liquor applications, data entry & license fees, confirm sales and tax licenses with the Department of Revenue, license issuance, process renewals, correspondence with licensees, receive and reconcile monthly reporting requirements, and update information in database. LCIS - Conduct direct ship purchaser investigations, direct ship winery regulatory compliance, common carrier regulatory compliance & investigations, and verify shipments against state statute limits. Special Agent - Conduct direct ship purchaser investigations and common carrier regulatory compliance & investigations shipments of wine.

Article 1 Sec 19 appropriates \$250,000 from the general fund FY23 to the commissioner of public safety for the purpose of hiring two additional full time employees at AGED.

Expenditure and/or Revenue Formula

Expenditure:

AGED contacted the licensing divisions in IA, WI, ND, SD, MI, IL and NE. These states have existing statutes which require that direct shippers of wine to consumers be licensed. AGED obtained the total number of licensed direct shippers in each state and the average was obtained.

State	# Direct Wine Shippers Licensed
Illinois	1,742
Iowa	1,134

Michigan	1,639
Nebraska	748
North Dakota	847
South Dakota	557
Wisconsin	1,521
Total	8,188
	8,188/7 = 1,169 = 1,700 average licenses

AGED assumes that MN will receive an average number of direct shipper license applications and the work associated with this bill proposal was calculated based on 1,170 direct wine shipper applicants.

AGED has not hired a Special Agent at or below midrange salary recently. Instead, all Special Agents have been salaried at steps towards the highest brackets available to them, due to experience. Because of this, it is necessary to account for actual possible costs via the maximum salary and fringe benefit request.

	FTE	FY23	FY24	FY25
Office Admin. Spec. Intermediate	2	\$163,507.78	\$166,361.65	\$166,361.65
1 Liquor Control Investigation Specialist	1	\$95,666.55	\$97,441.30	\$97,441.30
1 Special Agent	1	\$161,025.68	\$164,434.42	\$164,434.42
Salary & Fringe sub total		\$420,200.01	\$428,237.37	\$428,237.37
Non Salary sub total		\$147,428.32	\$12,342.00	\$12,342.00
TOTAL EXPEDITURES	4 FTE	\$567,628.33	\$440,579.37	\$440,579.37

*Non-salary items are one-time and ongoing costs per FTE including: office space, monthly parking, clothing allowance, enterprise costs, cellular phone & service, cameras, furniture, vehicle lease, law enforcement equipment, iPad, and physical & psychological exam.

Revenue:

Article 2 Sec 8 Subd. 2 (c) set the direct ship winery application fee and license fee at \$50. The commissioner is directed to deposit the application fee and license fee in the special revenue alcohol enforcement special revenue fund established under 299A.706. AGED calculated revenue totaling \$58,500.00 which would be deposited into a special revenue account and utilized to offset the expenditures. This was calculated at the proposed \$50 licensing fee at the assumed number of 1,170 direct wine shipper applications $\$50 \times 1170 = \$58,500.00$.

Long-Term Fiscal Considerations

The licensing process for winery direct shipper to consumers is new to the MN industry and there is no historical data to draw from. There is potential for significant growth in this industry that could have long term fiscal impact to AGED, both in expenditures and revenue.

Local Fiscal Impact

References/Sources

Iowa Alcoholic Beverages Division; Wisconsin Alcohol and Tobacco Enforcement Department of Revenue; North Dakota Office of the State Tax Commissioner Alcohol Tax Section; South Dakota Department of Revenue Division of Special Taxes and Licensing; Michigan Liquor Control Division, Illinois Liquor Control Commission; and the Nebraska Liquor Control Commission.

Agency Contact: Carla Cincotta 651-201-7534

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Chief Author: **Zack Stephenson**
 Committee: **Commerce Finance and Policy**
 Date Completed: **4/6/2022 9:14:03 AM**
 Agency: **Revenue Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue	X	
Information Technology	X	
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	166	130	130	
Total	-	-	166	130	130	
Biennial Total			166			260

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	1.05	1.01	1.01
Total	-	-	1.05	1.01	1.01

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Joel Enders **Date:** 3/31/2022 9:55:56 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	166	130	130
Total		-	-	166	130	130
Biennial Total				166		260
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	-	166	130	130
Total		-	-	166	130	130
Biennial Total				166		260
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

The bill would allow wineries to ship up to 12 cases per year into the state of Minnesota and would require out of state wineries to get a license to ship wine into the state.

Currently there is liquor tax exemption for up to 2 cases of direct ship wine and this bill would eliminate that exemption.

The wineries that ship wine (up to 12 cases) into the state of Minnesota must: collect and remit the liquor gross receipts tax, collect, and remit sales and use tax, and remit the liquor tax.

The bill also establishes reporting requirements on direct ship wineries and common carriers that contract with wineries.

The bill also classify sake as a fermented malt beverage for tax purposes under chapter 297G.

Effective date for this bill is July 1, 2022.

Assumptions

DOR will need to update the Integrated Tax System (GenTax) and other computer systems, which includes analysis, gathering requirements, and system testing. This work would be done by MNIT at DOR. Systems development costs are estimated at \$34,500 and would be done in FY23. Ongoing system support beginning in FY24 is estimated at \$4,650 each year.

Additional MAPE staff would be needed for systems analysis and testing. DOR assumes approximately 0.02 MAPE FTEs will be needed in FY23.

DOR will need additional return processing staff for increased number of returns and early audit activity. DOR assumes approximately 0.01 MAPE FTEs annually beginning in FY23 and on an ongoing basis.

DOR will need additional administration, compliance, and enforcement staff. This would include providing customer assistance for taxpayers, processing returns and reports, and auditing activities, creating/updating fact sheets, informational bulletins, web content, and employee instructional and training materials to reflect the changes in this bill. DOR assumes approximately 1.0 MAPE FTE beginning in FY23 and on an ongoing basis.

DOR will need 0.2 MAPE FTEs in FY23 to engage in outreach and communication to inform taxpayers, businesses, tax preparers, tax software companies and DOR employees about the changes in this bill. For example, DOR may issue email and social media bulletins, and include information about the changes in press releases, conference calls, and other materials about new tax law changes.

Expenditure and/or Revenue Formula

This bill may have an impact on state tax revenues. An estimate of revenue impact is not included in this fiscal note. The Department of Revenue prioritizes revenue estimate requests for bills before Tax Committee and will provide one for this bill

DOR determines “Employee” and “Systems Analysis & Testing” costs by bargaining unit, using a formula that incorporates the average employee salaries, fringe benefits, and overhead at the agency. Costs for this fiscal note are determined for the MAPE, AFSCME, MMA and Attorney (under Commissioner’s Plan) bargaining units.

Administrative Impact (whole dollars)

Administrative Costs (Savings)	FY 2022	FY 2023	FY 2024	FY 2025
Employees		127,759	124,916	124,916
Systems Analysis & Testing		2,186		
Systems Development		34,500		
Systems Support			4,650	4,650
Forms/Media/Communications		1,458		
Total Administrative Costs (Savings)		165,903	129,566	129,566

FTE Impact

FTE's	FY 2022	FY 2023	FY 2024	FY 2025
Systems Analysis & Testing Staff		0.02		
Special Tax Staff		1.00	1.00	1.00
Communications Staff		0.02		
Tax Operations / Processing Staff		0.01	0.01	0.01
Total FTE Impact		1.05	1.01	1.01

Long-Term Fiscal Considerations

Ongoing and annual system support is necessary to accommodate future maintenance of new code, storage, and support. System support is calculated at up to 20% of original development costs.

Staff will be needed on an ongoing basis for taxpayer assistance, return processing, compliance, and enforcement activities.

Local Fiscal Impact

This bill will have no local tax impact.

References/Sources

I have reviewed the content of this fiscal note and believe it is a reasonable estimate of the expenditures and revenues associated with this proposed legislation.

If Information Technology costs are included, my agency's Chief Information Officer has reviewed the estimate.

Agency Contact: Penny Demko 651-556-4025

Agency Fiscal Note Coordinator Signature: Lisa Knops

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