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Fiscal Note

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H.730: An act relating to alcoholic beverages and the Department of Liquor and Lottery:

As Amended by the House Committee on Ways and Means

URL for bill:
https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Ways%20and%20Means/Bills/H.730/H.730~Committee~As%20Introduced~3-18-2022.pdf

Bill Summary

This bill makes changes to Vermont's liquor laws. It amends the definitions of two types of alcoholic beverage: ready-to-drink (RTD) beverages and fortified wines. It creates a new RTD beverage definition and makes it subject to the vinous beverage tax of 55 cents per gallon. It redefines fortified wines under 16% alcohol by volume as vinous beverages and makes them subject to the vinous beverage tax.

It also makes several technical changes including:

- It clarifies the authority for criminal background checks by the Department of Liquor and Lottery
- It eliminates a deputy commissioner position within the Department and consolidates those roles into a single Deputy Commissioner of Liquor and Lottery. Since the consolidation of the Departments of Liquor and Lottery, and extra deputy commissioner position was left open.
- It authorizes third-class licensees to purchase tickets for the Department's rare and unusual products raffle.
- It authorizes the Department to extend the expiration dates and stagger the issuance or renewal of permits, licenses, and certificates set to expire in the years 2022 and 2023.

Fiscal Impact

JFO estimates that this bill will reduce State revenues on net by $10,000 in FY 2023 and $90,000 million in FY 2024. This fiscal impact will affect three different funds: The General Fund, the Enterprise Fund within the Department of Liquor and Lottery (DLL), and the Education Fund. See Table 1.

Table 1: Fiscal Impacts of H.730 (in millions of dollars)		
Fund	**FY2023**	**FY2024**
Overall	**$0.01**	**$0.09**
General Fund	-$0.07	-$0.1
Enterprise Fund	$0.05	$0.05
Education Fund	$0.04	$0.14

While the bill could result in a decrease in profit for DLL as a result of moving these beverages out its portfolio, the fiscal impact on the General Fund is expected to be neutral relative to current law. This is because Section 44a of the bill requires a minimum direct application[1] from DLL to the General Fund in FY2023 and FY2024 of $20.4 million and $21.2 million respectively. Although there is no official forecast for the direct application from the Enterprise Fund to the General Fund in future years, these minimum amounts typically reflect the growth of liquor revenues in the state according to the January 2022 Consensus Revenue Forecast.

Details and Analysis

The fiscal impact of this bill is primarily due to the new definitions of RTD beverages and fortified wines.

Under current law, both types of beverages are considered spirits. As such, their sale is controlled by the Department of Liquor and Lottery and sold exclusively in 802Spirits outlets. The sales of both beverages are subject to the 5% liquor tax and the 6% sales tax. The profit on these beverages (and all spirits sold by the Department) flows to the Department's Enterprise Fund. Most or all this profit is directed to the General Fund each year via a direct application in the budget.

The bill creates a new definition for RTD beverages and redefines fortified wines. RTD beverages would be defined as cocktails under 12% alcohol by volume (ABV) and come in containers under 24 fluid ounces. RTD beverages would not be considered as spirits. Fortified wines under 16% ABV and would also not be considered spirits.

Because they would no longer be a spirit, both beverages would no longer be subject to the 5% liquor tax. The bill proposes they be subject to the 55 cent per gallon vinous beverage tax. They would also not be sold exclusively by the Department of Liquor and Lottery outlets. Instead, they would be sold under a traditional retail and distribution model.

The revenue impact of this proposal stems from four different areas:

a) Liquor tax to vinous beverage tax: The proposal would shift the tax on these beverages from the 5% liquor tax on gross sales to the 55 cents per gallon liquor tax. JFO expects this shift will reduce revenues by $77,000 in FY 2023 and $96,000 in FY 2024. This reduction in revenues affects the General Fund.

b) Change in Department of Liquor and Lottery profit: Because these products would no longer be sold under a control model, the Department will no longer collect the profit on their sales. This profit accrues in the Department's Enterprise Fund. In each year's State budget, the Department typically sends a large portion of its profits to the General Fund via a direct application.

The removal of these products from the DLL's portfolio could result in less profit accruing to the Enterprise

[1] A direct application is a transfer from a special fund to the General Fund that usually occurs in the budget bill. Each year, the Department of Liquor and Lottery generates a profit from its liquor sales in 802Spirits outlets. This profit is typically sent to the General Fund via a direct application.

Fund, and therefore, reduce the amount of money directed to the General Fund in FY 2023 and future years. However, Section 44 of the bill requires a minimum direct application of $20.4 million in FY2023 and $21.2 million in FY2024.

Because of this minimum required direct application, JFO expects change in distribution model to have a revenue neutral impact on the General Fund relative to current law. The growth in the minimum applications set in Section 44 corresponds roughly to the growth in liquor revenues to the State in the January 2022 Consensus Revenue Forecast.

c) Sales tax revenues: Even though this proposal makes no changes to the sales and use tax, JFO expects the distribution model change in the bill will increase retail sales of these two beverage types, beyond the growth in the categories that would occur absent a change in distribution model. Under the current control model, these products are available exclusively in DLL outlets, which is about 80 stores. If this bill was enacted, they could be available in several hundred stores. JFO believes expanding access will increase sales, and therefore, sales tax revenues. This increase in sales tax revenues is forecast to be $40,000 in FY 2023 and $140,000 in FY 2024.

d) Fee revenue: This bill creates a new certificate of approval fee for manufacturers and distributors of fortified wines and RTD beverages of $985 per year. JFO estimates this will raise $50,000 per year. This revenue is expected to accrue to the Enterprise Fund within the DLL.

Appendix: Resources

- Data from the Department of Liquor and Lottery on cocktail and fortified wine sales.
- January 2022 Consensus Revenue Forecast: https://ljfo.vermont.gov/assets/Uploads/7d2ac79b4a/January-2022-Economic-Review-and-Revenue-Forecast-Update-Revised-January-15-2022.pdf