

H.638

Direct to Consumers Liquor Sales: Considerations

House General Committee
Graham Campbell, JFO
March 31, 2022



Reminder: how does the State get money liquor?

- Under current law, the State receives money from the sale of these products in three ways:
 - 5% tax on the gross sales of liquor (Liquor Tax)
 - Spirit is defined in statute based upon ABV, but the tax is applied to the entire sale price
 - All tax revenue goes to the General Fund
 - “Profit” from the Department of Liquor and Lottery
 - Every year there is a direct app from DLL Enterprise Fund to the General Fund
 - This profit is included in that direct app.
 - Sometimes the direct app exceeds DLL’s profits for a year. In other years it does not, so there are some retained earnings
 - The size of the direct app is a function of profits, but also DLL needs in a given year
 - Sales Tax, which goes to the Education Fund



How much do we receive from Liquor?

State Tax Revenues from Liquor					
	FY2018	FY2019	FY2020	FY2021	FY2022
Liquor Tax	\$19.8	\$21.4	\$3.6	\$4.8	\$5.0
Direct App	\$1.0	\$1.8	\$23.0	\$22.7	\$22.7
Sales Tax (estimated)	\$5.9	\$6.4	\$4.3	\$5.8	\$6.0
Total	\$26.7	\$29.6	\$30.9	\$33.3	\$33.7

Grey indicates Act 73 of 2019 changes

- Note: Act 73 of 2019:
 - Liquor tax used to be 25% (for DLL) and direct app was much smaller
 - Act 73 of 2019 changed the tax to a flat 5%, and DLL was required to send a certain amount to the General Fund as a direct app based upon the forecast:
 - \$18.37 million in FY20
 - \$18.74 million in FY21



Revenue Considerations for H.638

- Direct to consumer shipped liquor sales are currently illegal, but are apparently still happening:
 - State is unlikely collecting 5% liquor tax on these sales, so bringing this out of the illegal market could generate some liquor tax revenue.
- Effect on the liquor tax:
 - If direct shipped liquor is required to have same prices as DLL outlets, liquor tax on any given bottle of spirit is the same regardless of how it is sold.
 - If direct shipped liquor is not required to have same price, manufacturers could undercut DLL prices and we would receive less liquor tax on a given bottle of spirits.
 - What about non-listed spirits?



Market Share Considerations

- How will allowing DTC affect DLL's bottom line (aka the Direct App)?
- Cannibalization of sales: if a consumer can get their liquor delivered, it could reduce DLL's sales and therefore lead to a lower direct app to the General Fund each year.
- Legislature could consider limiting products eligible for direct shipment to items not available at 802Spirits outlets.
 - This would help mitigate some of the potential business loss to DLL, but not all because of potential cannibalization.
- Assuming no impact on DLL sales would imply that some part of spirits demand is not being met by DLL.
 - According to NIH, Vermont has per capita spirits consumption modestly above the national average, and about the New England average.
 - Brief JFO survey of information on DTC
 - DTC is about 5-10% of wine market
 - DTC is about 1-5% of total alcohol market



Additional Revenue Considerations

- Out of state sales: currently, liquor tax does not apply when an out-of-state consumer purchases liquor remotely from a Vermont manufacturer.
- Fee revenue from a new direct to consumer shipment permit will go to Enterprise Fund.
- Recent draft included a 6% tax on the gross sales of direct-to-consumer sales.
 - Where will this money go? General Fund? Enterprise Fund?

