

H.638

Direct to Consumers Liquor Sales: Considerations

House General Committee
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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- Liquor Tax

- 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.
- How does this affect the market for liquor?
 - 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, and DLL 802Spirits outlets sales would lose market share.
 - What about non-listed spirits?
 - Effect on DLL markup
 - 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.
 - If revenue is a concern, 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.



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.
- Latest draft includes a 6% tax on the gross sales of direct-to-consumer sales.
 - Where will this money go? General Fund? Enterprise Fund?

