Liquor and Spirits Taxation: RTDs/Fortified Wine

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How does the State get money from RTDs/FF Wines?

- 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
    - DLL's markup on these products is 45-50% depending on the product.
    - 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?

- In FY2021:
  - Direct App was $22.74 million
  - Liquor Tax was $4.8 million
  - Sales Tax: Estimated $5.75 million but true number unknown.
- Note, Act 73 of 2019 changed this system
  - Liquor tax used to be 25% (for DLL), so revenue from that stream was was significantly larger and direct app was smaller.

Revenue/Tax Consequences of Moving to Retail Model

- Proposal in this committee is the following:
  - Ready-to-Drink (RTD) beverages with less than 12% and less than 24 fl oz packaging would be eligible for distribution/retail model.
  - Fortified wines would be eligible for retail distribution model.
- Tax consequences:
  - Both would change from the 5% liquor tax to the vinous beverage tax
    - The vinous beverage tax is a 55 cent per gallon tax paid at the wholesale level.
  - The profit on these categories would go to retailers, not DLL.
  - Sales tax stays the same

Liquor Tax vs Gallonage Tax

- In general, the liquor tax is a higher tax rate than the gallonage tax.
- Example:
  - RTD cocktail with 4 cans, 335ml each. Retails for $27.
  - 4/355ml is 0.375 gallons of beverage.
  - We would collect approximately $1.29 on this sale for the liquor tax.
  - We would collect $0.21 for the liquor tax.
- Takeaway: Decrease in revenues from these categories by switching taxes.
- How much from these categories? **Preliminary JFO estimates:**
  - -$80,000 in FY2023
  - -$96,000 in FY2024
- Subject to some uncertainty
  - Moving to retail model is likely to boost overall sales relative to the control model.
    - JFO's model assumes this growth, but if that is underestimated, the revenue loss would to be less.
    - JFO believes it would still be a revenue loss because of the difference in taxes

The Loss in DLL Profit

- By moving to retail model, DLL no longer earns the 45-50% profits on these categories.
- On these categories of beverage, JFO preliminary estimates combined losses of:
  - -$1.159 million in FY2023
  - -$1.650 million in FY2024
- This estimate is subject to some uncertainty.
  - The growth of the two categories, especially RTD, is unpredictable.
    - JFO's model assumes rapid growth in RTD market, even without changing to a retail model.
  - If moving to retail model boosts FF wine sales growth significantly, the revenue loss could be less.

Where will the revenue loss be felt?

- The FY2023 Governor's recommended direct app is $19.431 million
  - DLL's direct app and budget does not assume this revenue loss.
  - For FY23, the Enterprise Fund is expected to have some retained earnings/profit.
- Two scenarios for FY23:
  - If this proposal passes, but the direct app does not change, the revenue loss will be to the Enterprise Fund.
  - If this proposal passes, but the Legislature wants to maintain the same level of retained earnings in the Enterprise Fund, the direct app would need to be reduced and the General Fund would have less resources.
- Beyond FY23, if this bill passes, in theory, the reduced revenues are likely to reflected in the direct app in some way, and therefore a reduction in available General Fund revenue.

Sales and Use Tax

- JFO estimates that this bill will boost sales tax revenue, benefitting the Education Fund.
- The move to the retail model is expected to boost sales.
- JFO preliminary estimates:
  - +$40,000 in FY2023
  - +$136,000 in FY2024

Overall Revenue Impacts: Preliminary JFO Estimates

- General Fund (Liquor Tax/Gallonage Swap)
  - -$80,000 in FY2023
  - -$96,000 in FY2024
- Enterprise Fund/General Fund (DLL Profit Loss)
  - -$1.159 million in FY2023
  - -$1.650 million in FY2024
- Sales Tax (Increased market sales to retail model)
  - +$40,000 in FY2023
  - +$136,000 in FY2024