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LB 330

Revision: 01

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised due to adoption of amendments on General File.

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)

	FY 2015-16		FY 2016-17	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	$133,956	($6,720)	$125,445	$45,580
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	$133,956	($6,720)	$125,445	$45,580

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 330, as amended by AM113 and AM1316, amends a number of sections of the Nebraska Liquor Control Act.

New language is added to the Act to define hard cider and to include it under the definition of beer. Currently hard cider is classified as a wine. The effect of this change is to reduce the excise tax amount on hard cider from $0.95 per gallon to $0.31 per gallon.

Fiscal Impact:

The Liquor Control Commission reported 248,000 gallons of hard cider sold in 2014. This resulted in excise tax revenue of $235,600. The Commission projects a similar level of sales in 2015. The resulting impact for FY15-16 and FY16-17 would be a reduction in excise tax revenue of $158,720.

New language is added to Sections 53-130 and 53-135 regarding the renewal of a license, to allow automatic renewal by the Liquor Control Commission without formal application upon payment of the renewal fee and license fee prior to or within thirty days after the expiration of the license. The change provide a longer window of opportunity for automatic renewal.

Section 53-167.02 and Section 53-167.03 are amended to change the reference from a beer keg to an alcohol keg. Using the term alcohol keg covers beer kegs, wine kegs, and cider kegs.

Section 53-133, regarding when the Commission shall hold a license application hearing on the location of a retail establishment within 150 feet of a church, is amended to require a written request by the church for a hearing.

Section 53-1,113 is amended to require the Commission to destroy alcoholic liquor which is unfit for human consumption, when directed by court order to do so. This refers to illegally manufactured or possessed alcohol that has been seized by law enforcement.

LB 330, as amended, now includes portions of LB 486, which would allow the holder of a Class C license (all alcoholic liquor on and off sale) to obtain a limited bottling endorsement. The endorsement would allow the licensee to sell beer for consumption off sale in containers up to 32-ounces. The limited bottling endorsement could not be used in conjunction with a special designated license. Sales could only be conducted during the hours the licensee is authorized to sell beer and the beer is to be sold in sanitary containers bearing the trade name, logo, or unique identifying mark of the seller. The licensee is required to seal the container in a manner designed to make it visibly apparent if the seal has been disturbed or opened or seals the container and places the container in a bag designed so that it is visibly apparent whether the sealed container has been tampered with or opened. The licensee is also required to provide a dated receipt and attach the receipt to the container or bag. The application fee for the limited bottling endorsement would be $300, payable to the Commission.

Fiscal Impact:

We estimate the fiscal impact of this section of the bill to the General Fund as follows:

FY2015-16: $ 196,500
FY2016-17: $ 297,900

The Liquor Control Commission originally estimated a cost of $5,000 to implement, mostly for computer application expenditures, in FY2015-16 and $1,000 in FY2016-17.

We have no basis to disagree with the Commission's estimate of cost.

Section 53-131 is amended to remove the requirement that an application to operate a cigar bar be filed in triplicate.

LB 330, as amended, now includes portions of LB 204, which would provide beer manufacturers with an incentive to use beer-related crops grown in Nebraska in their manufacturing operation. Beer-related crops are defined to mean barley or hops.

The bill would create a nonrefundable credit against the excise tax imposed by Section 53-160 for any manufacturer of beer if the manufacturer used a percentage of beer-related crops that were grown in Nebraska in the production of their beer.

The credit is determined by multiplying the total amount of tax paid in the previous calendar year on the first 20,000 barrels of beer sold by the manufacturer by a percentage.

The percentage to be used in the calculation is determined by the percentage of beer-related crops grown in Nebraska used by the manufacturer in the previous calendar year, as follows:

>If percentage of beer-related crops used were at least 10% but less than 40%, percentage to be used is 15%;
>If percentage of beer-related crops used were at least 40% but less than 70%, percentage to be used is 25%;
>If percentage of beer-related crops used were at least 70%, percentage to be used is 35%.

To obtain the credit the manufacturer shall apply to the Liquor Control Commission on a form prescribed by the Commission by January 25 of each year. If the manufacturer qualifies for the credit, they may claim the credit on the reports due each month to the Commission as an offset of taxes due until the credit is fully utilized or until December 31 of that year, whichever occurs first.

Fiscal Impact:

The Liquor Control Commission originally estimated the fiscal impact of LB 204 to the General Fund as follows:

FY2015-16:	($88,229)
FY2016-17:	($88,229)

The Commission estimates expenditures of $128,956 for FY2015-16 and $122,956 for FY2016-17, for 1.0 FTE Auditor and 1.0 FTE Accountant, plus operating expenses. PSL would be $66,212 for each year of the biennium.

We disagree slightly with the Commission's estimate of cost. We estimate an expenditure of $128,956 for FY2015-16, with PSL of $66,212. For FY2016-17, we estimate an expenditure of $124,445, with PSL of $67,701.

The Department of Revenue originally estimated the fiscal impact of LB 204 to the General Fund as follows:

FY2015-16:	($ 90,000)
FY2016-17:	($ 99,000)
FY2017-18:	($ 110,000)
FY2018-19:	($ 122,000)

We disagree with both the Commission's and the Department's estimate of revenue loss, in that we believe the entirety of the revenue loss from the credit will not be felt until FY16-17. A manufacturer desiring the credit will not be able to apply for the credit until January 2016 and, in most cases, not be able to fully utilize the credit during the 2015-16 fiscal year given that the bill provides for the credit to be used in installments on the monthly reports the manufacturers are required to file. Therefore the full impact of the credit will not be seen until FY2016-17. We estimate the following fiscal impact to the General Fund:

FY2015-16:	($ 44,500)
FY2016-17:	($ 93,600)
FY2017-18:	($ 96,000)
FY2018-19:	($ 97,000)

The bill as amended (AM613 to AM113) now allows a farm winery to manufacture and sell hard cider on its licensed premises. They may not otherwise distribute the hard cider except by sale to a licensed wholesaler. The fiscal impact is minimal.

LB 330, as amended by AM113 (as amended by AM581), now provides for the regulation and licensure by the Commission of pedal-pub vehicles wishing to sell and serve alcohol. This portion of the bill was originally part of LB 460.

A pedal-pub is defined to mean a multi-passenger, human-powered vehicle.

Section 53-117 is amended to allow pedal-pub vehicles to apply for liquor license. The Liquor Control Commission may also issue a license to a person to operate a pedal-pub vehicle in the state which authorizes the holder to allow the consumption of alcohol by individuals who are 21 year of age or older while they are on or in the pedal-pub vehicle. These licenses also expire on April 30 of each year and no further license is required or tax levied by any county, city, or village.

The fee for a pedal-pub vehicle license is $50.

Fiscal Impact:

We estimate the fiscal impact and cost of implementation of this section of LB 330, as amended, to be minimal.

LB 330, as amended by AM1316, defines powdered alcohol and bans the possession, purchase, sale, offer to sell, or use of powdered alcohol in Nebraska. Any licensee who violates this prohibition is subject to having their license suspended, canceled, or revoked. Any person, other than a person licensed under the Nebraska Liquor Control Act, who sells a powdered alcohol product shall be guilty of a Class I misdemeanor.

The penalty for a Class I misdemeanor is a maximum of not more than one year imprisonment, a $1,000 fine, or both. There is no minimum penalty.

The prohibition does not apply to a research hospital, state institution, private college, private university, pharmaceutical company, or biotechnology company conducting bona fide research.

Fiscal Impact:

There is no fiscal impact as a result of this section of LB 330, as amended by AM1316.