

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 225(FIN)
 (H) Publish Date: 5/2/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Alcoholic Beverage Tax BRU Revenue Operations
 Component Tax Division
 Sponsor Representative Murkowski
 Requester House Rules Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	63.0	63.0	63.0	63.0	63.0	63.0
Travel	2.5	2.5	2.5	2.5	2.5	2.5
Contractual	3.0	3.0	3.0	3.0	3.0	3.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	5.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	74.5	69.5	69.5	69.5	69.5	69.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	2,650.0	8,700.0	15,450.0	19,500.0	20,200.0	20,200.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	74.5	69.5	69.5	69.5	69.5	69.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	74.5	69.5	69.5	69.5	69.5	69.5

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The department believes there could be an incentive for businesses to try avoiding the increased state excise tax and, because of budget constraints, the department has been unable to conduct audits of alcoholic beverage tax returns in recent years. The current tax rate is viewed by many as immaterial, but the higher rate likely would result in an increase in tax avoidance efforts. As such, the department estimates it would need one full-time Revenue Auditor III (Range 18) to provide additional enforcement to ensure that the tax is enforced and that the state does not lose revenues.

See attached pages for additional comments.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division: Department of Revenue Date/Time 5/2/02 11:01 AM
 Approved by: Larry Persily, Deputy Commissioner Date 5/2/2002
 Agency: Department of Revenue

CSHB225(FIN) - Department of Revenue - FN#2

Floor Stock or Inventory Tax

The department strongly recommends a one-time tax on all inventory held by retailers and wholesalers in the state on the effective date of the new tax. The consequences of not having such a floor stock tax could be significant. Businesses could stockpile products under the old, lower rate, and then sell the products to consumers as if it had been taxed at the new, higher rate —resulting in a sizable loss of state tax revenue.

A significant amount of stockpiling took place within the state when tobacco tax rates were increased in 1997. The department estimates \$7.1 million in revenue was lost during the first six months of the tobacco tax increase due to stockpiling. We believe the same thing could happen if the alcoholic beverage tax rate is increased.

The department proposes amending this bill to provide that all inventory held by licensed premises under AS 04.11 be subject to an inventory tax as of 12:01 a.m. of the effective date of this act. The inventory tax would require payment of the difference between the old tax rate and the new rate. As provided in AS 43.60, bonded warehouses would pay the full rate under the new tax structure when the alcoholic beverages are sold from the warehouse and would not be subject to the floor tax. The provision for bonded warehouses allows payment of the state tax when the product is sold from the warehouse, rather than when the product is first brought into the state.

Small Breweries

Section 2 of this bill provides a reduced rate for small domestic brewers. We have lowered the estimated tax revenue increase for this legislation to reflect our best guess of the fiscal impact from the reduced tax rate for small Alaska beer producers. The fiscal note assumes that the in-state brewers are the only beneficiaries of the section.

There are several other issues in Section 2:

- This incorporates provisions of the Internal Revenue Code that are applicable to domestic beer producers. The existing 35 cents per gallon tax rate would be retained for certain brewers on the first 60,000 barrels (31-gallon barrels) sold in Alaska. Because qualification under this provision is dependent on the taxpayer's qualification under the federal rules, and the federal rules are restricted to domestic producers, this provision could violate the U.S. Constitution. This problem could be resolved if the bill is amended to qualify brewers independent of federal tax status, such that qualification were independent of state or country of origin. One consequence of such change could be increased administrative costs.

CSHB225(FIN) - Department of Revenue - FN#2

- We are unable to estimate the number of out-of state brewers that could qualify for the reduced tax rate or the number that would qualify if constitutional problems were fully addressed. Neither can we estimate the volume of beer sold in Alaska by these non-Alaska brewers. However, the impact on revenue could be significant. For example, a brewer approaching the 2-million-barrel threshold that sells 60,000 barrels in Alaska would pay \$651,000 compared to an unqualified brewer paying \$2,641,200 on its 60,000 barrels.
- The document filed by a brewer with the federal Bureau of Alcohol, Tobacco and Firearms claiming the reduced federal tax rate is titled "Brewer's Notice of Intent to Pay Reduced Rate of Tax." If the state is going to rely on this document, the exact title should be referenced in this bill — Section 2 gives an incorrect title.
- This bill does not address breweries controlled by the same person. As such, a person who owns two breweries could still qualify as a small brewery under federal rules and claim the reduced tax rate on over 60,000 barrels produced each year. To correct this problem, the following language should be adopted: "The reduced rate of tax applies to the first 60,000 barrels of beer sold in Alaska during a fiscal year by a controlled group of brewers in which the same person holds, directly or indirectly, a 50 percent or more ownership interest. In this subsection, person includes an individual, corporation, partnership, association, joint venture, estate, trust or combination acting as a unit."
- Finally, the tax in current statute is on malt beverages. However, "beer" is used for the reduced rate of tax in this section. "Beer" should be defined in the bill, or "malt beverages" should be used instead of "beer" in this section.

Fiscal Note Assumptions

We estimated revenue from the excise tax increase using the following assumptions:

- The higher tax is completely passed on to consumers in increased prices.
- There would be some change in consumer behavior, and we used price elasticity ranges from the 1990 Congressional Budget Office report Federal Taxation of Tobacco, Alcoholic Beverages and Motor Fuels in estimating state revenues.
- In the first year of implementation, as a result of stockpiling, the revenue increase would be 20 percent less than expected in a normal full year (from our experience with the 1997 cigarette tax rate increase).
- We also assume that only Alaska businesses take advantage of the lower tax rate on qualifying breweries in Section 4 of the bill, although we believe out-of-state breweries also could take advantage of the section.