

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 347
 (S) Publish Date: 3/15/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Alcoholic Beverage Tax BRU Revenue Operations
 Component Tax Division
 Sponsor Senate Finance Committee
 Requester Senate Finance 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						
CHANGE IN REVENUES* ()	22,238-23,878	27,873-29,921	27,873-29,921	27,873-29,921	27,873-29,921	27,873-29,921

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: *Please see attached bill analysis.*

- * Because we do not know which municipalities, if any, will levy sales taxes on alcoholic beverages as a result of this bill, we have not included any adjustments for municipal sales tax rate changes. We estimated revenue using the following assumptions:
- (1) We assume that the tax is completely passed on to the consumer in the form of higher prices.
 - (2) Price elasticity ranges from 1990 Congressional Budget Office report Federal Taxation of Tobacco, Alcoholic Beverages and Motor Fuels.
 - (3) Alcoholic beverage prices are from the 1999 American Chamber of Commerce Research Association survey for Anchorage.
 - (4) We assume that in the first year of implementation, as a result of stockpiling, the revenue increase would be 20 percent less (from our experience with the 1997 cigarette tax rate increase).
 - (5) We assume that the decrease in consumption occurs as one-time effect and then does not change in subsequent years.
 - (6) We assume the tax becomes effective on July 1, 2002.
 - (7) We assume that only Alaska businesses take advantage of the lower tax rate on qualifying breweries.

The operating budget increment is to pay for a revenue auditor for additional enforcement of the state's alcohol tax laws. See Page 2.

Prepared by: Johanna Bales and Brett Fried
 Division: Tax Division
 Approved by: Larry Persily, Deputy Commissioner
 Agency: Department of Revenue

Phone: 907-269-6628 or 465-3682
 Date/Time: 03/10/2002 1 p.m.
 Date: 03/10/2002 1 p.m.

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STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 347 #1

ANALYSIS CONTINUATION

Section 1 and 2. Allows a municipality to impose a sales tax on alcoholic beverages even if it does not have a sales tax on other goods.

Section 3. Increases the alcoholic beverage state tax rate.

1. The bill creates a new tax rate category for "hard" cider. We recommend that cider be added to the listing of taxable beverages under (a) as well.

2. Based on our experience with the 1997 increase in the tax rate on cigarettes and tobacco products, the department would like to point out the following:

-There is no provision in this bill to tax existing wholesale and retail inventory in the state at the time of the tax increase. When the cigarette and tobacco products tax rates were increased, a significant amount of stockpiling took place within the state. The department estimates that approximately \$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. If it is the intent of the legislature to tax existing inventory at the new rate, there should be transitional language in the bill requiring a "floor stock tax." A floor stock tax is a one-time tax paid by all retailers and wholesalers in the state on existing alcoholic beverage inventory. However, we believe that there would still be some stockpiling by individuals.

-There is no explicit provision for a person to pay the tax if they import product from outside the state for personal consumption. If it is the intent of the legislature to put the tax burden on the consumer, a provision should be made to make a person primarily liable for the tax if they are the first importer of the product into the state for personal consumption.

Section 4. Reduced rate for small domestic brewers

1. 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.

2. This incorporates provisions of the Internal Revenue Code that are applicable to domestic (U.S.) 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 United States 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.

3. 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 \$2,641,2000 on its 60,000 barrels.

4. 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.

5. This bill does not address breweries controlled by the same person. As such, an individual who owns two breweries could still qualify as a small brewery under federal rules, but claim the reduced tax rate on over 60,000 barrels produced each year. To correct this problem, the following language should be considered: "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."

6. 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.

Operating budget increment

The department believes there would be an incentive to try to avoid the increased state excise tax. The current tax rate is viewed by many as immaterial, but the higher rate likely would result in an increase in tax avoidance efforts by some individuals. 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.