



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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<b>Bill Number:</b>	S.0536	Introduced on February 9, 2021
<b>Author:</b>	Harpoottlian	
<b>Subject:</b>	Bona Fide Engaged in Food Service	
<b>Requestor:</b>	Senate Judiciary	
<b>RFA Analyst(s):</b>	Payne	
<b>Impact Date:</b>	March 15, 2021	

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### **Fiscal Impact Summary**

This bill may have an impact to the General Fund expenditures of the Department of Revenue (DOR), contingent upon the type of information DOR would require to verify compliance with the provision of this bill.

This bill may have an undetermined impact to General Fund revenues, contingent upon the number of establishments that are not compliant with the provision of this bill, and the specific actions taken by these establishments to achieve compliance.

The expenditure and revenue impacts of this bill may be updated if additional information is received.

### **Explanation of Fiscal Impact**

#### **Introduced on February 9, 2021**

#### **State Expenditure**

This bill amends the definition of “bona fide engaged primarily and substantially in the preparation and serving of meals” used in the Alcohol Beverage Control Act (ABC Act). In order to obtain a license to sell alcoholic liquors by the drink, a food establishment must be “bona fide engaged primarily and substantially in the preparation and serving of meals” among other requirements. Currently, an establishment is considered to be bona fide engaged in food service if they provide facilities for seating at least forty individuals simultaneously at tables for meal service, is equipped with a kitchen utilized for providing meal service, makes menus for meal options readily available for patrons, and prepares hot meals at least once a day for service to customers. This bill adds an additional provision that would require establishments to derive at least fifty-one percent of their revenue from the sale of food and non-alcoholic beverages in order to be considered “bona fide engaged primarily and substantially in the preparation and serving of meals.”

DOR is the agency charged with administering alcoholic beverage licenses and ensuring a license holder or applicant abides by the provisions of the ABC Act. It is anticipated DOR would be required to verify that a license holder or applicant derives at least fifty-one percent of their revenues from the sale of food or non-alcoholic beverages. DOR is unsure if they currently

collect sufficient information to make this determination, such as alcohol sales receipts and revenue data used for income tax purposes, or if they would require the collection and analysis of additional information. DOR anticipates that if they do not require additional information, the expenditure impact of this bill could be minimal. However, if DOR is unable to make this determination based on information currently collected, they indicate there may be an expenditure impact to the department, dependent upon the changes that would be necessary to collect and analyze the required information. Therefore, the expenditure impact of this bill on DOR is undetermined, contingent upon the verification process that would be required.

The expenditure impact of this bill will be updated if additional information is received from DOR.

### **State Revenue**

This bill would require a food establishment to derive at least fifty-one percent of their gross revenue from the sale of food or non-alcoholic beverages to be considered “bona fide engaged primarily and substantially in the preparation and serving of meals,” which is a requirement for food establishments to obtain a license permitting them to sell alcoholic liquors by the drink. DOR indicates this bill may impact state revenue but is unable to determine what the impact may be. At this time, DOR does not know how many licensed establishments are compliant with the legislation as proposed. To the extent establishments do not meet the requirement established in this bill, DOR anticipates non-compliant establishments would have to take steps to alter their gross revenue sources to meet the requirement. Dependent upon the steps taken, there may be an increase in food sales and resulting sales taxes, or a decrease in alcohol sales and resulting tax receipts. Therefore, the revenue impact of this bill is undetermined, contingent upon the number of establishments that are affected, and the actions taken by these establishments.

The revenue impact of this bill will be updated if additional information is received from DOR.

### **Local Expenditure**

N/A

### **Local Revenue**

N/A



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Frank A. Rainwater, Executive Director