



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.

Bill Number: H. 4364 Introduced on April 25, 2023
Author: W. Newton
Subject: Alcohol Delivery and Curbside Pickup
Requestor: House Judiciary
RFA Analyst(s): Bryant and Boggs
Impact Date: January 19, 2024

Fiscal Impact Summary

This bill authorizes the Department of Revenue (DOR) to issue a license or permit allowing a retailer to offer curbside delivery or pick up of sealed containers of beer and wine or alcoholic liquors if the retailer satisfies certain conditions. The bill also authorizes DOR to issue a license allowing a retailer to deliver or hire a delivery service to deliver beer and wine or alcoholic liquors for personal consumption, provided the delivery does not occur on certain premises and satisfies certain conditions.

The bill allows DOR to impose a monetary penalty upon a retailer or the holder of a delivery service license for violations of the provisions of the bill, as well as for violations of any other regulations pertaining to beer and wine or alcoholic liquors in lieu of suspension or revocation of licenses. The amount of any penalty imposed must be no less than \$25 dollars and no more than \$1,000, and any fines collected must be credited to the General Fund.

This bill will have no expenditure impact for DOR. The department indicates that it has processes in place to update its forms, website information, and system functions, and anticipates that any expenses can be managed with existing appropriations.

The Administrative Law Court (ALC) reports that they currently hear cases from DOR regarding violations issued against retailers and anticipate that any additional cases resulting from the provisions of this bill can be managed with existing resources.

The State Law Enforcement Division (SLED) previously reported that this bill will make it more difficult for the agency to monitor and enforce laws prohibiting the purchase and possession of alcohol by underaged persons. SLED indicates the bill will increase expenses by an amount up to \$2,013,000 in FY 2024-25 for the agency to comply with its mandated alcohol enforcement duties and responsibilities. Of this amount, \$822,000 is for 8.0 additional FTEs with annual salary and fringe benefits to carry out the day-to-day enforcement functions and to perform additional monitoring and undercover operations. Of the remaining amount, \$320,000 is for recurring expenses, including fuel, maintenance, and other ongoing costs. SLED also anticipates the need for an additional \$871,000 for one-time equipment costs, including vehicles, uniforms, protective gear, weapons, computers, and academy expenses. Expenses will decrease to \$1,142,000 each year thereafter for the new FTEs and recurring equipment costs. SLED reports

that the agency will request a General Fund appropriation increase to fund the expenses. We will update this section of the impact statement if the agency provides an updated response.

The Department of Alcohol and Other Drug Abuse Services (DAODAS) anticipates that any costs to implement the provisions of the bill can be managed within existing appropriations.

The bill requires applicants for a delivery service license to provide a criminal history background check conducted by SLED. Based upon a three-year historical average, SLED was previously able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund pursuant to proviso, we anticipate that Other Funds of SLED will increase by an undetermined amount in FY 2024-25 as a result of the potential increase in background checks. There will be no increase to the General Fund for this portion of the bill.

This bill is also estimated to result in an undetermined increase in General Fund revenue due to the creation of a new delivery service license with a \$400 license fee and the ability of DOR to issue monetary penalties in lieu of suspending or revoking licenses. Additionally, the fee for a new license or permit allowing a retailer to offer curbside delivery or pick up of sealed containers of beer and wine or alcoholic liquors has not been determined. The Revenue and Fiscal Affairs Office (RFA) is unable to estimate the number of new licenses that will be issued pursuant to this bill and the amount of any monetary penalties. Therefore, the revenue impact to the General Fund is undetermined and will depend upon the fee, number of permits issued, and any monetary penalties.

RFA anticipates that this bill will have a minimal impact on beer, wine, and liquor sales and resulting sales and alcohol tax revenues. Although we anticipate the provisions of this bill may cause a shift in the manner in which consumers purchase beer, wine, or alcoholic liquors, the provisions of the bill are not expected to result in a material expansion of beer, wine, or alcoholic liquor purchases.

This bill requires an individual who delivers beer and wine or alcoholic liquors for a retail dealer or delivery service to undergo training as provided or approved by DAODAS and as administered by the retail dealer, delivery service, or a DAODAS-approved training program. DAODAS anticipates that this required training may be done under PREP, a particular curriculum used by the local alcohol and provider system, or any other approved training curricula approved by DAODAS. Local alcohol and drug abuse authorities currently collect fees ranging from \$0 to \$50 for the PREP program to support local material distribution, space rental, and FTE training expenses. Providers may see revenues increase as more individuals will be required to participate in a training program. However, DAODAS indicates that the agency is unable to estimate the number of individuals that will require training pursuant to this bill. Therefore, this bill will have an undetermined revenue impact on local authorities.

Explanation of Fiscal Impact

Introduced on April 25, 2023

State Expenditure

This bill authorizes DOR to issue a license or permit allowing a retailer to offer curbside delivery or pick up through curbside delivery of sealed containers of beer and wine or alcoholic liquors if the retailer:

- has a clearly designated curbside area near or adjacent to its business;
- requires a customer to provide a valid government-issued identification at the time of pick up;
- prohibits the use of curbside delivery or curbside pick-up service by an intoxicated person or a person under the age of twenty-one; and
- requires the employee delivering to a customer's vehicle to be eighteen years or older for beer or wine, and twenty-one years or older for alcoholic liquors.

This bill also authorizes DOR to issue a license allowing a retailer to deliver or hire a delivery service to deliver sealed packages of beer and wine or alcoholic liquors for personal consumption, provided the delivery does not occur on certain specified premises. A delivery service or retailer delivering beer and wine must apply to DOR for a biennial delivery service license, which authorizes the delivery of beer and wine that has been purchased from a retailer through the three-tier distribution chain. A delivery service or retailer delivering alcoholic liquors must apply for a separate biennial delivery service license, which authorizes the delivery of alcoholic liquors that have been purchased from a retailer that holds a retail dealers' license and has purchased the alcoholic liquors from a wholesaler. A delivery service or retailer applying for a delivery service license must:

- pay a nonrefundable \$400 license fee;
- be at least twenty-one years of age;
- provide a criminal history background check conducted by SLED; and
- maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the amount of at least \$1,000,000 for the biennial period of the license.

An individual who delivers beer and wine or alcoholic liquors for a retail dealer or delivery service must:

- be at least twenty-one years of age;
- not have a felony conviction within the last ten years, as confirmed by a background check conducted by the delivery service prior to being hired; and
- undergo training as provided or approved by the DAODAS and as administered by the retail dealer, delivery service, or a DAODAS-approved training program.

This bill also gives DOR the discretion to impose a monetary penalty upon a retailer or the holder of a delivery service license for violations of the provisions of this bill, as well as for violations of any other regulations pertaining to beer and wine or alcoholic liquors, in lieu of suspension or revocation of licenses. The amount of any penalty imposed must be no less than

\$25 dollars and no more than \$1,000, and any fines collected must be credited to the General Fund.

Department of Revenue. This bill will have no expenditure impact for DOR. The department indicates that it has processes in place to update its forms, website information, and system functions, and anticipates that any expenses can be managed with existing appropriations.

Administrative Law Court. This bill provides that a beer and wine or alcoholic liquors retailer or the holder of a delivery service license may request a contested case hearing for a fine imposed for violations of the provisions of the bill in front of the ALC, pursuant to the South Carolina Revenue Procedures Act and the Administrative Procedures Act. ALC reports that they currently hear cases from DOR regarding violations issued against retailers and anticipates that any additional cases resulting from the provisions of this bill can be managed with existing resources.

State Law Enforcement Division. SLED previously indicated that the provisions of the bill will make it more difficult for the agency to monitor and enforce laws prohibiting the purchase and possession of alcohol by underaged persons. SLED anticipates that the bill will increase expenses by an amount up to \$2,014,000 in FY 2024-25 for the agency to comply with its mandated alcohol enforcement duties and responsibilities. Of this amount, \$822,000 is for 8.0 additional FTEs with annual salary and fringe benefits to carry out the day-to-day enforcement functions and to perform additional monitoring and undercover operations. Of the remaining amount, \$320,000 is for recurring expenses including fuel, maintenance, and ongoing costs. SLED also anticipates the need for an additional \$871,000 for one-time equipment costs, including vehicles, uniforms, protective gear, weapons, computers, and academy expenses. Expenses will decrease to \$1,142,000 each year thereafter for the new FTEs and recurring equipment costs. SLED reports that the agency will request a General Fund appropriation increase to fund the expenses. We will update this section of the impact statement if the agency provides an updated response.

Department of Alcohol and Other Drug Abuse Services. This bill requires an individual who delivers beer and wine or alcoholic liquors for a retail dealer or delivery service to undergo training as provided or approved by DAODAS and as administered by the retail dealer, delivery service, or a DAODAS-approved training program. DAODAS anticipates that this required training may be done under PREP, a particular curriculum used by the local alcohol and provider system, or any other approved training curricula approved by DAODAS. Therefore, the bill will have no expenditure impact on DAODAS since any expenses can be managed within existing appropriations.

State Revenue

This bill authorizes DOR to issue a license or permit allowing a retailer to offer curbside delivery or pick up through curbside delivery of sealed containers of beer and wine or alcoholic liquors. However, the fee for this new license or permit has not been determined. The bill also provides that applicants for the new beer and wine or alcoholic liquors delivery licenses must pay a nonrefundable application fee of \$400. RFA is unable to estimate the number of new licenses

that will be issued pursuant to this bill and the amount of any monetary penalties. Therefore, the revenue impact to the General Fund is undetermined and will depend upon the fee, number of licenses issued, and any monetary penalties.

The bill also requires applicants for a delivery service license to provide a criminal history background check conducted by SLED. We anticipate that the bill may increase the number of background checks that SLED will be required to perform. SLED previously indicated that the total cost for a criminal records search is \$51.75, of which \$25 is retained by SLED. The vendor, Identogo, receives \$13.50, and the remainder of the fee, \$13.25, is remitted to the FBI. Pursuant to Section 23-3-115(A), revenue generated by criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED. Based upon a three-year historical average, SLED was previously able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund pursuant to proviso, we anticipate that Other Funds of SLED will increase by an undetermined amount in FY 2024-25 as a result of the potential increase in background checks. There will be no increase to the General Fund for this portion of the bill.

RFA anticipates that this bill will have a minimal impact on beer, wine, and liquor sales and resulting sales and alcohol tax revenues. Although we anticipate the provisions of this bill may cause a shift in the manner in which consumers purchase beer, wine, or alcoholic liquors, the provisions of the bill are not expected to result in a material expansion of beer, wine, or alcoholic liquor purchases.

Local Expenditure

N/A

Local Revenue

This bill requires an individual who delivers beer and wine, or alcoholic liquors for a retail dealer or delivery service to undergo training as provided or approved by DAODAS and as administered by the retail dealer, delivery service, or a DAODAS-approved training program. DAODAS anticipates that this required training may be done under PREP, a particular curriculum used by the local alcohol and provider system, or any other approved training curricula approved by DAODAS.

Local alcohol and drug abuse authorities currently collect fees ranging from \$0 to \$50 for the PREP program to support local material distribution, space rental, and FTE training expenses. Providers may see revenues increase as more individuals will be required to participate in a training program. DAODAS indicates that the agency is unable to estimate the number of individuals that will require training pursuant to this bill. Therefore, this bill will have an undetermined revenue impact on local authorities.



Frank A. Rainwater, Executive Director