

FISCAL ESTIMATE FORM

2023 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB #

INTRODUCTION #

Admin. Rule # to be assigned

Subject

2023 Wisconsin Act 73 is a complex and detailed changes to alcohol beverage regulations. The Act touches on all tiers of the alcohol beverage industry.

The Wisconsin Department of Revenue proposes an order to repeal and recreate Tax 7 and Tax 8 relating to alcohol beverage regulation and taxation. Several provisions of Tax 7 and 8 were removed because they were outdated, superseded by 2023 Act 73, or redundant to rules or statute. Tax 7 and Tax 8 were recreated to add new provisions. The recreated Chapter Tax 7 in this emergency rule primarily relates to the regulation of alcohol beverages under ch. 125, Stats. and is promulgated and enforced by the Division of Alcohol Beverages. The recreated Chapter Tax 8 in this emergency rule primarily relates to the taxation of alcohol beverages and is promulgated and enforced by the Division of Income, Sales, and Excise Taxes within the Department of Revenue. Both recreated chapters generally follow the structure and flow of information found in chapters 125 and 139 of the Wisconsin Statutes.

Fiscal Effect

- State:** No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation
- | | | |
|--|---|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues | <input type="checkbox"/> Increase Costs - May be Possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues | |
| <input type="checkbox"/> Create New Appropriation | | |
- Decrease Costs

Local: No Local Government Costs

- | | | |
|--|---|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
| 2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

New rules relating to alcohol beverage regulation in Tax 7 and Tax 8: -

Background check fees describes the purpose for background checks for alcohol beverage permit applicants and which members of the applicant business are subject to criminal history checks. Authority for the Division of Alcohol Beverages to charge these fees was granted in s. 125.04(8m), Stats. The fees are paid by the applicant to the division upon application for the permit. The department estimates no fiscal effect.

Permits and fees outlines expiration dates and amounts of permit fees for all alcohol beverage permits issued by the Division of Alcohol Beverages and when an application fee may be refunded. Unless the department established a different permit fee before January 1, 2025, and except as provided in statutes, the division shall charge an annual fee of \$500 for each permit issued by the division under this chapter. The department estimated the new permit fees for 1 year in SB268 of about \$2,096,000.

Responsible beverage server training course standards establishes requirements that alcohol beverage server training courses must meet to be approved. This codifies the department's long-standing guidance into administrative code. The department anticipates this provision will have no fiscal effect.

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Operators' permits (bartender's license) establishes the expiration date and application process for operator's permits issued by the Division of Alcohol Beverages. The department anticipates this provision will have no fiscal effect.

Alcohol beverage warehouse standards establishes long-standing department practice for regulation of alcohol beverage warehouse permittees including who may hold the permit, authorized activities under the permit, and requirements of the premises. The department estimates this provision will have no fiscal effect.

Permissible interests provide definitions and processes necessary to administer s. 125.20, Stats, created in 2023 Wisconsin Act 73. The department anticipates this provision will have no fiscal effect.

Production agreements provides clarification for producers engaging in production agreements under s. 125.21, Stats., including requirements for disclosure of agreements to the Division of Alcohol Beverages and examples for tax payment and reporting requirements specifically relating to contract production agreements with out-of-state recipe suppliers. The department estimates no tangible impact on the overall level of taxable production or shipment of alcohol into the state.

Common carrier permit: shipments into the state clarifies that common carrier permits may be issued to one entity for multiple locations and requires that the monthly report be filed electronically. The department estimates this will result in a minimal increase in permit revenues. This amount was estimated at \$5,000 in SB268.

Fulfillment houses provides the expiration for fulfillment house permits, requires that monthly reports be filed electronically, and that a permit is required for each location where wine will be shipped into Wisconsin. The department estimates that this will result in an insignificant increase in permit revenues.

Full-service retail sales by producers creates a requirement for producers to apply for on-and off-premises sales approval from the Division of Alcohol Beverages, requires that applications be made 15 days prior to desired commencement of full-service retail sales, explains how production volumes will be calculated and verified, provides guidance on when during the year a producer may apply for full-service retail sales, and provides several examples of how cumulative production volume is calculated if a legal business entity is merged, acquired, reorganized, or restructured. The section also creates a revocation, suspension, and refusal to renew process for these privileges, and creates invoice and recordkeeping requirements. The department anticipates this provision will have no fiscal effect. Alcohol is taxed at the production/wholesale level.

Returns of alcohol beverages codifies long-standing department guidance allowing retailers to make refunds to consumers, but not returns of the alcohol beverages. The rule also prohibits retailers from returning alcohol beverages from producers, distributors, and out-of-state shippers. The rule allows producers, distributors, and out-of-state shippers to replace alcohol beverages sold to retailers that were expired, spoiled, or recalled with identical brand, flavor, quantity, and size as long as the transaction is documented. The department estimates this provision will have no fiscal effect.

Retail premises codifies long-standing department guidance that specifies that a premises is fixed location describing land and buildings, that the licensee must have complete control over that premises, and that two premises separated by floor-to-ceiling walls, each with separate entrances, are not connecting premises. The department estimates this provision will have no fiscal effect. Alcohol is taxed at the production/wholesale level.

Contract production explains when an out-of-state recipe supplier is responsible for reporting and paying Wisconsin excise tax as a party to a contract production agreement. The department estimates no tangible impact on the overall level of taxable production or shipment of alcohol into the state.

Transfers of alcohol beverages between production premises and full-service retail outlet confirms that alcohol beverages removed from the production premises for transfer to a full-service retail outlet is a removal for

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consumption or sale and Wisconsin excise tax is imposed. The department estimates minimal but indeterminate increase in sales tax revenue.

The above provisions mostly provide clarification and guidance to alcohol beverage industry members following the passage of 2023 Act 73. The rule order ensures tax compliance and regulatory fairness in the marketplace, consistent enforcement, and the protection of public health and safety.

The provisions are consistent with similar procedures and practices that existed prior to the adoption of 2023 Wisconsin Act 73. There are no policy changes except for those that were estimated under SB268.

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FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

2021 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB #

Admin. Rule #
to be assigned

INTRODUCTION #

Subject

This rule repeals and recreates Tax 11.97 relating to sales and use tax provisions for out-of-state retailers.

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations – Salaries and Fringe	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations-Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S	\$	-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

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08/29/2024