Fiscal Note

BILL # SB 1408 **TITLE:** luxury privilege tax; credit

SPONSOR: Gowan **STATUS:** Senate Engrossed

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Description

The bill allows a luxury tax credit for the following categories of alcoholic beverage licensees: for craft distilleries, $2 per gallon for up to 20,000 gallons per licensee, for farm wineries, $0.50 per gallon for the first 20,000 gallons per licensee, and for microbreweries, $0.10 per gallon for the first 500,000 gallons per licensee. These tax credits would begin applying to these licensees on the first day of the month following the general effective date of the bill.

Estimated Impact

We estimate that SB 1408 would reduce luxury tax revenues by $(810,000) on an annual basis. Given the luxury tax distribution formula and a provision in the bill holding certain funds harmless, this results in a $(302,000) reduction in General Fund revenues and a $(508,000) reduction in Corrections Fund revenues.

Analysis

Under current law, alcohol beverages sold in the state are subject to the following luxury tax rates: Spirituous Liquor - $3 per gallon; Vinous Liquor with Low Alcohol Content (such as wine) - $0.84 per gallon; Malt Liquor (beer and cider) - $0.16 per gallon.

Most alcoholic beverages sold in the state are processed through a "three-tier" distribution system, where products are sold from the manufacturer/producer to a wholesaler, from the wholesaler to a retailer, and then finally from retailer to consumer. Under that process, the wholesaler pays the required luxury tax.

In addition, there are several alcohol production license categories ("craft licensees"), who are subject to annual production limits that may directly sell to consumers or retailers, and the licensee directly pays luxury tax to the state. A craft licensee may also use the standard wholesaler process to sell to retailers, with the wholesaler paying the luxury tax. The credit under SB 1408 would only be allowable for craft licensees against direct sale quantities for which they owe luxury tax. Quantities sold to wholesalers would not be eligible for this credit. *(See Table 1 for a summary of licensee annual production limits and the maximum annual volume subject to the SB 1408 tax credit).*

Table 1

Craft Licensee Limits (Gallons)

	License Production Limit	Production Subject to SB 1408 Credit
Craft Distiller	20,000	20,000
Farm Winery	40,000	20,000
Microbrewery	6,200,000	500,000

(Continued)

Due to these statutory production limits, craft licensees report data to the Department of Liquor Licenses and Control (DLLC) each year on annual production amounts. This analysis uses 2021 production data provided by DLLC, and accounts only for production volumes under the credit limit. While the DLLC data delineates between direct craft sales (which may use the credit) and wholesaler craft sales (which may not use the credit), given certain data interpretation issues this analysis uses 2021 production volumes regardless of sales method. Applying this production data to the proposed per gallon tax credit from the bill results in the following luxury tax revenue impacts by craft licensee category:

- Craft distilleries: 36,000 gallons statewide X $2 per gallon credit = $(72,000)
- Farm wineries: 466,000 gallons statewide X $0.50 per gallon credit = $(233,000)
- Microbreweries: 5,050,000 gallons statewide X $.10 per gallon credit = $(505,000)

Therefore, we estimate that the total luxury tax revenue reduction from SB 1408 would be $(810,000) annually.

SB 1408 includes a provision which stipulates that the tax credit may not impact the Drug Treatment and Education Fund or the Corrections Revolving Fund, which receive funding allocations from luxury tax on all 3 categories of alcoholic beverages. After accounting for this provision, the tax credit impact will be allocated as follows: for spirituous liquor, 77.8% to the General Fund and 22.2% to the Corrections Fund; for vinous and malt beverages, 33.3% to the General Fund and 66.7% to the Corrections Fund.

Therefore, the impact of the $(810,000) overall luxury tax revenue reduction would be as follows:

- $(302,000) in General Fund revenues
- $(508,000) in Corrections Fund revenues

Local Government Impact

None.

3/4/22