

Department of Planning and Budget

2016 Fiscal Impact Statement

1. Bill Number: HB173

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Albo

3. Committee: House Committee on General Laws

4. Title: Alcoholic beverage control (ABC); prohibited practices by mixed beverage licensees, exception.

5. Summary: Allows a mixed beverage licensee to transfer spirits from the original larger bottle or container that was purchased by the licensee to a smaller one, provided that (i) the smaller bottle is the same brand and type as the spirits contained in the larger bottle or container that was purchased by the licensee and (ii) the larger bottle or container is kept in the same serving area. Currently, a mixed beverage licensee must keep alcoholic beverages in the bottle or container in which they were purchased. The bill contains a technical amendment.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Preliminary (see Item #8)

8. Fiscal Implications: This legislation would permit mixed beverage licensees to transfer spirits from a larger bottle or container to a smaller bottle as long as the smaller bottle is the same brand and type of spirit and both bottles are kept in the same serving area. Due to the lower cost per volume and lower ABC markup for larger sizes, mixed beverage licensees may change their purchase patterns and purchase more of the larger bottle sizes (1.75 liter) thus realizing cost and operational savings. Part of the cost savings calculation may be determinate on the definition of “same serving area”. Since this term is not currently defined, ABC will have to promulgate regulations defining the term.

The potential cost savings to mixed beverage licensees provided by this legislation would be realized when the larger 1.75 liter bottles are purchased. So when calculating the fiscal impact, the analysis centers around the sales of products which offer the 1.75 liter bottle size in addition to their respective bottle size. There are 238 750mL products that offer a 1.75 liter bottle size and 186 1 liter products that offer a 1.75 liter bottle size. According to ABC, sales to mixed beverage licensees amounted to approximately \$152 million in FY2015. Of that \$152 million, approximately \$90 million is attributable to 1 liter bottle sales and \$50 million to 750mL bottle sales. Further analysis of FY2015 sales to licensees indicate the Top

50 selling 750mL products equate to roughly \$21 million in sales and the Top 66 selling 1 liter products equate to approximately \$72 million in sales.

Using FY2015 sales, if 25 percent of mixed beverage licensees would have purchased 1.75 liter bottles instead of 750mL, the result would have been a loss of about \$300,000 in sales which equates to an approximate \$100,000 loss in profit. If 25 percent of mixed beverage licensees would have purchased 1.75 liter bottles instead of 1 liter bottles, the result would have been a loss of about \$1.4 million in sales which equates to an approximate \$466,000 loss in profit. Assuming no change in the adoption rate, it is reasonable to assume that the sales and profit loss would grow each year at the mixed beverage sales growth rate. The average mixed beverage sales growth is 3.1 percent per year. Based on these assumptions and the likely change in mixed beverage licensee purchase patterns, the probable result is a reduction in total sales and a reduction in total profits for ABC.

The bill will likely have a moderate impact on the Department's enforcement operations. Currently, mixed beverage stamps are used to trace purchases and ensure adherence to purchases being made through the Virginia Department of Alcoholic Beverage Control. The stamps are also used to help prevent licensees from refilling bottles with inferior product, thus ensuring product integrity. Introducing the practice of refilling smaller bottles as outlined in this bill will likely create a challenge for ABC in its ability to enforce regulations.

9. Specific Agency or Political Subdivisions Affected: ABC

10. Technical Amendment Necessary: Yes, the term "same serving area" will need to be clearly defined.

11. Other Comments: None