

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 140 – SB 1341

March 6, 2015

SUMMARY OF BILL: Extends the open container law to passengers in a motor vehicle. Excludes passengers in vehicles for hire or in the living quarters of a house coach or house trailer, or passengers in a vehicle being operated by a chauffeur. Extends current Class C misdemeanor for violation of open container law to any such applicable passengers. Removes language that any Class C misdemeanor violation is punishable only by fine. Authorizes bowling centers to sell alcoholic beverages for consumption on premises if the bowling center has a license to operate a restaurant or limited service restaurant, and the restaurant or limited service restaurant is located on the premises of the bowling center.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – \$21,600

Increase Local Revenue – \$6,000

Other Fiscal Impact – Potentially a small reallocation of highway federal-aid funding, received pursuant to the National Highway Performance Program and the Surface Transportation Program, away capital improvements or planning and toward more highway safety training for the general public. The extent of any potential impact is unknown and dependent upon several unknown factors.

Assumptions relative to proposed open container law:

- A violation of the open container law is classified as a Class C misdemeanor.
- Based on information provided by the Department of Safety (DOS), the average fine for a violation of the current open container law is \$40. The average fine is assumed to remain constant and apply to passengers under the provisions of this bill.
- Based on information provided by DOS and the Tennessee Sheriffs Association, an additional 500 violations per year by passengers.
- A 75 percent collection rate; 25 percent will not be collected due to indigence.
- According to DOS, 95 percent of such fine revenue is allocated to the state General Fund; five percent is allocated to local government.
- The recurring increase in state revenue to the General Fund is estimated to be \$14,250 (500 x \$40 x 75.0% x 95%).
- The recurring increase in local revenue is estimated to be \$750 (500 x \$40 x 75% x 5%).

- Any additional cost to state and local government for enforcement of the open container law relative to passengers is estimated to be not significant.
- According to the Department of Transportation (TDOT), this bill does not meet the Federal Highway Administration requirements.
- TDOT indicates this bill could change required uses for federal funds received through the National Highway Performance Program and the Surface Transportation Program. Specifically, the department indicates that federal monies received may have to be used more for behavioral and safety projects and be used less for transportation expansion projects. The extent of any such impact is unknown and dependent upon unknown factors.

Assumptions relative to bowling centers:

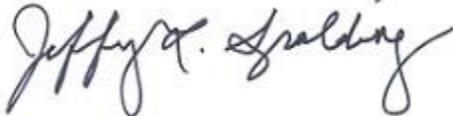
- The proposed legislation will authorize qualified bowling centers to sell and serve alcoholic beverages on the entire premises of their establishments, which is estimated to result in a recurring increase in taxable sales of alcohol of at least five percent.
- The Department of Revenue reports that there were 49 similar establishments in 2013 authorized to sell and serve alcoholic beverages. Based on the total liquor-by-the-drink (LBD) taxable base for those establishments, and assuming reasonable growth rate in LBD tax collections, the total taxable base is estimated to be approximately \$1,030,000.
- The recurring increase in taxable sales as a result of the proposed legislation is estimated to exceed \$51,500 ($\$1,030,000 \times 5\%$).
- State and local sales taxes and a 15.0 percent LBD tax will be assessed on additional alcoholic beverage sales.
- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent; the effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent.
- Pursuant to Tenn. Code Ann. § 57-4-306(a), 50.0 percent of LBD tax is allocated to the state General Fund and 50.0 percent is distributed to the local government.
- The recurring increase in state revenue to the General Fund is estimated to exceed \$7,338 [$(\$51,500 \times 7.0\%) - (\$51,500 \times 7.0\% \times 3.617\%) + (\$51,500 \times 15.0\% \times 50.0\%)$].
- The recurring increase in local revenue is estimated to exceed \$5,281 [$(\$51,500 \times 2.5\%) + (\$51,500 \times 7.0\% \times 3.617\%) + (\$51,500 \times 15.0\% \times 50.0\%)$].
- Any revenue collected from any state or local taxes imposed on manufacturers or wholesalers is estimated to be not significant.
- No additional personnel or resources will be required by the Tennessee Alcoholic Beverage Commission.

Other Assumptions:

- The total recurring increase in state revenue as a result of the bill is estimated to be \$21,588 ($\$14,250 + \$7,338$).
- The total recurring increase in local revenue as a result of this bill is estimated to be \$6,031 ($\$750 + \$5,281$).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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