

Multiple Agency Fiscal Note Summary

Bill Number: 5375 S SB	Title: Low-proof beverages/tax
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Revenue	(10,346,000)	(10,346,000)	(10,042,000)	(14,963,000)	(14,963,000)	(14,157,000)	(15,173,000)	(15,173,000)	(13,764,000)
Liquor and Cannabis Board	0	0	2,745,118	0	0	2,745,118	0	0	2,745,118
Total \$	(10,346,000)	(10,346,000)	(7,296,882)	(14,963,000)	(14,963,000)	(11,411,882)	(15,173,000)	(15,173,000)	(11,018,882)

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Revenue	.5	217,900	217,900	217,900	.0	0	0	0	.0	0	0	0
Liquor and Cannabis Board	.5	0	0	448,678	.0	0	0	0	.0	0	0	0
Total \$	1.0	217,900	217,900	666,578	0.0	0	0	0	0.0	0	0	0

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

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Prepared by: Amy Hatfield, OFM	Phone: (360) 280-7584	Date Published: Final 3/ 4/2023
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Department of Revenue Fiscal Note

Bill Number: 5375 S SB	Title: Low-proof beverages/tax	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax	600,000	1,600,000	2,200,000	4,100,000	5,400,000
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	12,000	42,000	54,000	137,000	227,000
GF-STATE-State 01 - Taxes 18 - Liter Tax-Liquor	(3,800,000)	(9,700,000)	(13,500,000)	(21,600,000)	(24,800,000)
GF-STATE-State 01 - Taxes 20 - Liquor Sales Tax	200,000	700,000	900,000	2,400,000	4,000,000
Liquor Excise Tax Account-State 01 - Taxes 20 - Liquor Sales Tax	100,000	200,000	300,000	800,000	1,400,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	1,000	3,000	4,000	6,000	9,000
Total \$	(2,887,000)	(7,155,000)	(10,042,000)	(14,157,000)	(13,764,000)

Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.9		0.5		
GF-STATE-State 001-1	217,900		217,900		
Total \$	217,900		217,900		

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Alia Kennedy	Phone: 60-786-7405	Date: 02/16/2023
Agency Preparation:	Anna Yamada	Phone: 60-534-1519	Date: 03/03/2023
Agency Approval:	Valerie Torres	Phone: 60-534-1521	Date: 03/03/2023
OFM Review:	Cheri Keller	Phone: (360) 584-2207	Date: 03/03/2023

Request # 5375-2-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Note: This fiscal note reflects language in SSB 5375, 2023 Legislative Session.

This fiscal note only addresses sections 1 and 3 of the bill, which impact the Department of Revenue (department).

COMPARISON OF THE SUBSTITUTE BILL WITH THE ORIGINAL:

The original bill exempted low proof beverages from the spirits taxes (spirits liter tax and spirits sales tax) and imposed sales tax on retail sales of low proof beverages.

The substitute bill:

- Exempts low proof beverages from the spirits liter tax.
- Makes low proof beverages subject to spirits sales tax and retail sales tax.

CURRENT LAW:

"Spirits" means any beverage containing alcohol obtained by distillation, including wines with more than 24% alcohol by volume.

Retail sales tax does not apply to sales of spirits in an unopened original container. However, retail sales tax applies to drinks containing spirits sold by restaurants, bars, or other establishments with an on-premises license.

Washington has two types of spirits taxes: a spirits liter tax and a spirits sales tax.

The spirits liter tax is a tax on the sales of spirits in the original container and is based on the volume sold. Consumers pay taxes of \$3.7708 per liter. On-premises retailers such as restaurants and bars pay taxes of \$2.4408 per liter.

The spirits sales tax is a tax on the selling price of spirits in their original container. Consumers pay a tax of 20.5%. On-premises retailers pay a tax of 13.7%.

PROPOSAL:

This bill:

- Creates a new category of alcoholic beverages, "low proof beverages," defined as any beverage 16 ounces or less, containing more than 0.5% and less than 7% alcohol by volume, excluding wine, malt beverages, or malt liquor.
- Exempts low proof beverages from the spirits liter tax.
- Extends sales tax to all retail sales of low proof beverages.
- Creates a new tax on low proof beverages at a rate of \$2.50 per gallon, and the new tax is administered by the Liquor and Cannabis Board (LCB).

Low proof beverages will continue to be subject to:

- Business & occupation taxes which apply to the manufacturing and/or selling of low proof beverages.
- Retail sales tax for on-premises sales.
- Spirits sales tax for both on- and off-premises sales.

EFFECTIVE DATE:

The bill takes effect 90 days after final adjournment of the session. However, due to the time it will take to program these rate and threshold system changes, the department is unable to implement the bill until January 1, 2024.

Request # 5375-2-1

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:

Retail and Wholesale Pricing

- A markup of 30% exists between the wholesale price for off-premises and on-premises sales and the retail price.
- For on-premises sales, the retail price at bars and restaurants have an additional markup of 21% for the pour cost.
- This proposal imposes a new excise tax, administered by LCB, on a distributor at a rate of \$2.50 per gallon. The tax will be passed onto the wholesaler, increasing the wholesale price by \$2.50 per gallon, or \$0.66 per liter. Distributor's wholesale price for off-premises and on-premises establishments will be the same.
- On-premises retailers, such as bars and restaurants, pay spirits taxes to distributors on the wholesale price of the products; however, the taxes are passed onto their consumers via higher retail prices.
- When the bill becomes effective, the spirits liter tax will go away. On-premises retailers will keep the existing pricing and the amount of liter tax savings will result in higher profit margins.

Demand for Spirits and Low Proof Beverages

- In fiscal year 2022, low proof beverages accounted for a 4% of the total spirits volume sales at off-premises locations in Washington. The 4% volume share would also apply to the on-premises sales.
- When low proof beverages become a new category, as proposed by the bill, the existing demand for the remaining 96% of the products with higher alcohol-by-volume will not change.
- Average price of low proof beverages grows annually by the change in the consumer price index (CPI).

Growth of Low Proof Beverages

- Low proof beverage sales volume will grow at the average growth rate of ready-to-drink (RTD) cocktails, RTD long drinks, non-alcoholic spirits, and other RTD products, forecasted by International Wine & Spirits Research (IWSR).
- Price elasticity of demand (lower price effect) for spirits products in Washington is negative 0.49.
- When the bill becomes effective in fiscal year 2024, an average of per liter price low proof beverages (including applicable taxes) at cash register paid by a consumer at off-premises locations will decrease by 12.8%. Due to the lower price effect, the sales volume at off-premises will increase by an additional 6% above the IWSR forecasted growth rate since the U.S. growth rate would mostly account for the components due the cultural preference trend toward the products with lower alcohol-by-volume.
- The projected growth due to the lower price is 6% from fiscal year 2024 through fiscal year 2028, and 5% in fiscal year 2029.
- The department implements this proposal by January 1, 2024, impacting five months of collections in fiscal year 2024.

DATA SOURCES:

- Liquor and Cannabis Board
- International Wine and Spirits Research
- Economic and Revenue Forecast Council, Consumer Price Index, November 2022 Forecast
- Department of Revenue, Excise Tax Return Data
- Overproof.com, margin vs. Markup: Calculating both for your alcohol brand

<https://overproof.com/2021/08/30/margin-vs-markup-calculating-both-for-your-alcohol-brand/#:~:text=ABC%20or%20State%20Stores,markup%20is%2025%2D45%25>.

- On the Line, "What is the average bar profit margin?"

<https://pos.toasttab.com/blog/on-the-line/bar-profit-margin#:~:text=Bar%20Profit%20Margin%3F-,The%20average%20pour>

%20cost%20varies%20by%20bar%20type%2C%20drinks%20served,is%20therefore%2078%2D80%20percent.

- Total Wine and More

REVENUE ESTIMATES:

This bill decreases state revenues by an estimated \$2.9 million in the five months of impacted collections in fiscal year 2024, and by \$7.2 million in fiscal year 2025, the first full year of impacted collections.

This bill also increases local revenues by an estimated \$300,000 in the five months of impacted collections in fiscal year 2024, and by \$700,000 in fiscal year 2025, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

- FY 2024 - \$ (2,887)
- FY 2025 - \$ (7,115)
- FY 2026 - \$ (7,138)
- FY 2027 - \$ (7,019)
- FY 2028 - \$ (6,996)
- FY 2029 - \$ (6,768)

Local Government, if applicable (cash basis, \$000):

- FY 2024 - \$ 300
- FY 2025 - \$ 700
- FY 2026 - \$ 900
- FY 2027 - \$ 1,000
- FY 2028 - \$ 1,100
- FY 2029 - \$ 1,300

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:

This estimate affects 800 taxpayers.

FIRST YEAR COSTS:

The department will incur total costs of \$217,900 in fiscal year 2024. These costs include:

- Labor Costs - Time and effort equate to 0.9 FTE.
 - Create special notice and update relevant information on the department’s website.
 - Update procedures and conduct audit case reviews.
 - Attend implementation meetings, conduct system testing, and monitor reports.
 - Set up, program, and test computer system changes.

Object Costs - \$105,600

- Contract computer system programming.

ONGOING COSTS:

There are no ongoing costs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.9		0.5		
A-Salaries and Wages	69,100		69,100		
B-Employee Benefits	22,800		22,800		
C-Professional Service Contracts	105,600		105,600		
E-Goods and Other Services	14,100		14,100		
J-Capital Outlays	6,300		6,300		
Total \$	\$217,900		\$217,900		

III. B - Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EXCISE TAX EX 3	61,632	0.1		0.1		
IT SYS ADM-JOURNEY	92,844	0.2		0.1		
MGMT ANALYST4	73,260	0.4		0.2		
TAX POLICY SP 2	75,120	0.2		0.1		
Total FTEs		0.9		0.5		

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 5375 S SB	Title: Low-proof beverages/tax	Agency: 195-Liquor and Cannabis Board
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Liquor Revolving Account-State 501-1	1,372,559	1,372,559	2,745,118	2,745,118	2,745,118
Total \$	1,372,559	1,372,559	2,745,118	2,745,118	2,745,118

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.9	0.0	0.5	0.0	0.0
Account					
Liquor Revolving Account-State 501-1	448,678	0	448,678	0	0
Total \$	448,678	0	448,678	0	0

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Alia Kennedy	Phone: 360-786-7405	Date: 02/16/2023
Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 02/23/2023
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 02/23/2023
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 02/23/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 1(26) defines “low-proof beverage” as any beverage that is 16oz or less and that contains more than 0.5% alcohol by volume and less than 7% alcohol by volume, but does not include wine, malt beverages, or malt liquor.

Section 2 adds a tax on the sale of low-proof beverages equal to \$2.50/gallon, payable by a spirits distributor, distillery, craft distillery, and spirits COA with direct ship endorsement.

Section 3(10d): For the purposes of subsections (3), (5), (6)(c), (7), and (8) of this section, the term "spirits" does not include low-proof beverages as defined in RCW 66.04.010.” This has the effect of exempting low proof beverages from the spirit liter taxes, BUT spirit sales tax still applies. Retail sales taxes DO apply to sales by retailers to consumers (subsection 8).

Changes made by the substitute:

- Old Section 2 (66.24.630 – Spirits retail license) – DELETED
- Old Section 3 – renumbered as Section 2
- Old Section 4 (66.24.055 – Spirits distributor license) – DELETED
- Old Section 5 – renumbered as Section 3
- Effect of the changes above: Low Proof beverages are now subject to the spirit retailer license issuance fee and spirit distributor license issuance fee (current law).

Section 3(10c): RCW 82.08.150

- language changed from:
 - “For the purposes of this section, the term "spirits" does not include low-proof beverages as defined in RCW 66.04.010” TO
 - “For the purposes of subsections (3), (5), (6)(c), (7), and (8) of this section, the term "spirits" does not include low-proof beverages as defined in RCW 66.04.010.”
- Effect of language change: low-proof beverages are exempted from the spirit liter taxes, BUT spirit sales tax still applies. Retail sales taxes DO apply to sales by retailers to consumers (subsection 8).

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

BACKGROUND:

Section 1(26) defines “low-proof beverage” (LPB) as any beverage that is 16oz or less and that contains more than 0.5% alcohol by volume and less than 7% alcohol by volume (ABV), but does not include wine, malt beverages, or malt liquor. Section 2 levies a new tax on the sale of LPB equal to \$2.50/gallon, payable by a spirits distributor, distillery, craft distillery, and spirits COA with direct ship endorsement.

Sales of LPB would now be exempt from spirit liter taxes, BUT spirit sales tax still applies. Retail sales taxes would now apply to sales of LPB by retailers to consumers.

TABLE ASSUMPTIONS:

Industry data on retail sales of spirits that are categorized as “premixed cocktails” and “spirits seltzer centric” and also fall into the 0.5%-7% ABV range shows that these made up approximately 4% of the total spirits volume in Washington state

in FY 2022.

Using spirit sales tax and liter tax collections data from DOR for FY2021 for retail sales to consumers, it is calculated that the \$2.50/gallon tax on LPB could bring in \$1,214,849 in annual revenue.

The FY2022 industry data does not include sales by licensees (restaurants, bars, etc). However, if it is assumed that the market share of the licensee spirit purchases is also 4%, then the \$2.50/gallon tax on LPB could bring in an additional \$157,711 in annual revenue.

Total revenue from the \$2.50/gallon tax is therefore anticipated to be \$1,372,559/yr.

Please see the attached “5375 SSB Low proof beverages - LPB calculations.pdf” for the calculations used.

FURTHER ANALYSIS:

Another spirits industry report shows that between FY2020 and FY2021, that the cocktail category of spirits (as opposed to gin, vodka, rum, etc) grew 87.4%. This would include those above 7% ABV as well. However, this shows that the LPB market is growing rapidly.

If that 87.4% growth rate were applied to the 4% market share referenced above, then it is not unreasonable to predict that the LPB market share of spirits could grow to 7.5% or higher ($187.4\% \times 4\% = 7.5\%$). In this scenario, the \$2.50/gallon tax could bring in \$2,276,626 from retail sales and \$295,550 from licensee sales - \$2,572,176 per year.

However, this is not the full picture of the revenue impact of this legislation. The Department of Revenue collects spirit sales and liter taxes, retail sales taxes, and B&O taxes. As noted earlier, sales of LPB would be exempt from spirit liter taxes, but be subject to retail sales taxes (on sales to consumers).

Please refer to DOR’s fiscal note for the impact that this legislation would have on the other taxes.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

INFORMATION TECHNOLOGY DIVISION:

The division will have onetime staff costs to implement this bill, due to needing to modify the agency's internal spirits reporting system, and oversight by OCIO quality assurance.

0.9 FTE IT App Development - Senior/Specialist - \$139,753 (\$138,790 salary/benefits, \$963 in associated costs, \$1,725 for equipment purchases).

IT Investments – Approval and Oversight. The Office of the Chief Information Officer (OCIO) defines a major technology investment as one having a total cost that includes a combined level of effort of more than \$500,000 OR has a duration longer than 4-months.

If the agency fiscal note analysis anticipates one or both of these criteria being met, the agency is required under OCIO Policy #121 to submit an online self-assessment via OCIO’s Information Technology Assessment Tool (ITPA) speaking to effort size, risk and expected impact on citizens and state operations. If the agency assumes that OCIO’s formal decision is to place the project/effort under formal OCIO oversight, the agency would be required under OCIO Policy #132 to have external Quality Assurance (QA) services present at all stages of the project, from feasibility through implementation.

The agency currently estimates that cost at \$160/hr over the estimated lifetime of the project/effort.

OCIO QA Oversight: 1,920 hours x \$160/hr = \$307,200.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
501-1	Liquor Revolving Account	State	448,678	0	448,678	0	0
Total \$			448,678	0	448,678	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.9		0.5		
A-Salaries and Wages	106,845		106,845		
B-Employee Benefits	31,945		31,945		
C-Professional Service Contracts	307,200		307,200		
E-Goods and Other Services	988		988		
G-Travel					
J-Capital Outlays	1,700		1,700		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	448,678	0	448,678	0	0

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
IT App Development - Senior/Specialist	118,716	0.9		0.5		
Total FTEs		0.9		0.5		0.0

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
INFORMATION TECHNOLOGY DIVISION (070)	448,678		448,678		
Total \$	448,678		448,678		

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

5375 SSB "Low proof beverages" - LPB Calculations

Sales to Consumers	WA FY22 data - Spirits Ready-To-Drink	Growth rate 87.4% 2020- 2021
Low Proof Beverages	138,767	260,049
Spirits Total	3,406,302	6,383,410
LPB Pct of Total	4.00%	7.50%
Number of Taxed Liters Sold to Consumers*	45,987,000	45,987,000
Prorated LPB liters	1,839,480	3,447,186
Convert LPB Liters to Gallons**	485,939	910,651
\$2.50/gallon LPB tax revenue (retail sales)	\$ 1,214,849	\$ 2,276,626

Sales to Licensees	WA FY22 data - Spirits Ready-To-Drink	Growth rate 87.4% 2020- 2021
Low Proof Beverages	138,767	260,049
Spirits Total	3,406,302	6,383,410
LPB Pct of Total	4.00%	7.50%
Number of Taxed Liters Sold to Licensees*	5,970,000	5,970,000
Prorated LPB liters	238,800	447,511
Convert LPB Liters to Gallons**	63,084	118,220
\$2.50/gallon LPB tax revenue (sales to licensees)	\$ 157,711	\$ 295,550

Total \$2.50/gallon LPB tax revenue \$ 1,372,559 \$ 2,572,176

*Collections data from DOR (Spirit Sales to Consumers and Licensees) - FY2021

**using 3.78541 liters/gallon



Multiple Agency Ten-Year Analysis Summary

Bill Number 5375 S SB	Title Low-proof beverages/tax
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This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimated Cash Receipts

	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Department of Revenue	609,000	1,523,000	1,625,000	1,827,000	1,928,000	2,130,000	2,333,000	2,535,000	2,737,000	3,041,000	20,288,000
Liquor and Cannabis Board	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	13,725,590
Total	1,981,559	2,895,559	2,997,559	3,199,559	3,300,559	3,502,559	3,705,559	3,907,559	4,109,559	4,413,559	34,013,590



Ten-Year Analysis

Bill Number 5375 S SB	Title Low-proof beverages/tax	Agency 140 Department of Revenue
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Business and occupation tax	001	8,000	21,000	22,000	24,000	25,000	27,000	29,000	31,000	33,000	36,000	256,000
Retail sales tax	001	600,000	1,500,000	1,600,000	1,800,000	1,900,000	2,100,000	2,300,000	2,500,000	2,700,000	3,000,000	20,000,000
Retail sales tax	553	1,000	2,000	3,000	3,000	3,000	3,000	4,000	4,000	4,000	5,000	32,000
Total Retail sales tax		601,000	1,502,000	1,603,000	1,803,000	1,903,000	2,103,000	2,304,000	2,504,000	2,704,000	3,005,000	20,032,000
Total		609,000	1,523,000	1,625,000	1,827,000	1,928,000	2,130,000	2,333,000	2,535,000	2,737,000	3,041,000	20,288,000
Biennial Totals		2,132,000	3,452,000	4,058,000	4,868,000	5,778,000	20,288,000					

Narrative Explanation (Required for Indeterminate Cash Receipts)

Note: This fiscal note reflects language in SSB 5375, 2023 Legislative Session.

This fiscal note only addresses sections 1 and 3 of the bill, which impact the Department of Revenue (department).

COMPARISON OF THE SUBSTITUTE BILL WITH THE ORIGINAL:
 The original bill exempted low proof beverages from the spirits taxes (spirits liter tax and spirits sales tax) and imposed sales tax on retail sales of low proof beverages.

The substitute bill:

- Exempts low proof beverages from the spirits liter tax.
- Makes low proof beverages subject to spirits sales tax and retail sales tax.



Ten-Year Analysis

Bill Number 5375 S SB	Title Low-proof beverages/tax	Agency 140 Department of Revenue
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

CURRENT LAW:

"Spirits" means any beverage containing alcohol obtained by distillation, including wines with more than 24% alcohol by volume.

Retail sales tax does not apply to sales of spirits in an unopened original container. However, retail sales tax applies to drinks containing spirits sold by restaurants, bars, other establishments with an on-premises license.

Washington has two types of spirits taxes: a spirits liter tax and a spirits sales tax.

The spirits liter tax is a tax on the sales of spirits in the original container and is based on the volume sold. Consumers pay taxes of \$3.7708 per liter. On-premises retailers such as restaurants and bars pay taxes of \$2.4408 per liter.

The spirits sales tax is a tax on the selling price of spirits in their original container. Consumers pay a tax of 20.5%. On-premises retailers pay a tax of 13.7%.

PROPOSAL:

This bill:

- Creates a new category of alcoholic beverages, "low proof beverages," defined as any beverage 16 ounces or less, containing more than 0.5% and less than 7% alcohol volume, excluding wine, malt beverages, or malt liquor.
- Exempts low proof beverages from the spirits liter tax.
- Extends sales tax to all retail sales of low proof beverages.
- Creates a new tax on low proof beverages at a rate of \$2.50 per gallon, and the new tax is administered by the Liquor and Cannabis Board (LCB).

Low proof beverages will continue to be subject to:

- Business & occupation taxes which apply to the manufacturing and/or selling of low proof beverages.
- Retail sales tax for on-premises sales.
- Spirits sales tax for both on- and off-premises sales.

EFFECTIVE DATE:

The bill takes effect 90 days after final adjournment of the session. However, due to the time it will take to program these rate and threshold system changes, the department is unable to implement the bill until January 1, 2024.



Ten-Year Analysis

Bill Number 5375 S SB	Title Low-proof beverages/tax	Agency 140 Department of Revenue
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

ASSUMPTIONS:

Retail and Wholesale Pricing

- A markup of 30% exists between the wholesale price for off-premises and on-premises sales and the retail price.
- For on-premises sales, the retail price at bars and restaurants have an additional markup of 21% for the pour cost.
- This proposal imposes a new excise tax, administered by LCB, on a distributor at a rate of \$2.50 per gallon. The tax will be passed onto the wholesaler, increasing the wholesale price by \$2.50 per gallon, or \$0.66 per liter. Distributor's wholesale price for off-premises and on-premises establishments will be the same.
- On-premises retailers, such as bars and restaurants, pay spirits taxes to distributors on the wholesale price of the products; however, the taxes are passed onto their consumers via higher retail prices.
- When the bill becomes effective, the spirits liter tax will go away. On-premises retailers will keep the existing pricing and the amount of liter tax savings will result in high profit margins.

Demand for Spirits and Low Proof Beverages

- In fiscal year 2022, low proof beverages accounted for a 4% of the total spirits volume sales at off-premises locations in Washington. The 4% volume share would also apply to the on-premises sales.
- When low proof beverages become a new category, as proposed by the bill, the existing demand for the remaining 96% of the products with higher alcohol-by-volume will not change.
- Average price of low proof beverages grows annually by the change in the consumer price index (CPI).

Growth of Low Proof Beverages

- Low proof beverage sales volume will grow at the average growth rate of ready-to-drink (RTD) cocktails, RTD long drinks, non-alcoholic spirits, and other RTD products, forecasted by International Wine & Spirits Research (IWSR).
- When the bill becomes effective in fiscal year 2024, an average of per liter price low proof beverages (including applicable taxes) at cash register paid by a consumer at off-premises locations will decrease by 12.8%. Due to the lower price effect, the sales volume at off-premises will increase by an additional 6% above the IWSR forecasted growth rate since the U.S. growth rate would mostly account for the components due the cultural preference trend toward the products with lower alcohol-by-volume.
- The projected growth due to the lower price is 6% from fiscal year 2024 through fiscal year 2028, and 5% in fiscal year 2029.
- The department implements this proposal by January 1, 2024, impacting five months of collections in fiscal year 2024.

DATA SOURCES:

- Liquor and Cannabis Board



Ten-Year Analysis

Bill Number 5375 S SB	Title Low-proof beverages/tax	Agency 140 Department of Revenue
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

<ul style="list-style-type: none"> - International Wine and Spirits Research - Economic and Revenue Forecast Council, Consumer Price Index, November 2022 Forecast - Department of Revenue, Excise Tax Return Data - Overproof.com, margin vs. Markup: Calculating both for your alcohol brand https://overproof.com/2021/08/30/margin-vs-markup-calculating-both-for-your-alcohol-brand/#:~:text=ABC%20or%20State%20Stores,markup%20is%2025%2D45%2 - On the Line, "What is the average bar profit margin?" https://pos.toasttab.com/blog/on-the-line/bar-profit-margin#:~:text=Bar%20Profit%20Margin%3F-,The%20average%20pour%20cost%20varies%20by%20bar%20type%20drinks%20served,is%20therefore%2078%2D80%20percent. - Total Wine and More
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Ten-Year Analysis

Bill Number 5375 S SB	Title Low-proof beverages/tax	Agency 195 Liquor and Cannabis Board
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Low-Proof Beverages Tax	501	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	13,725,590
Total		1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	1,372,559	13,725,590
Biennial Totals		2,745,118	2,745,118	2,745,118	2,745,118	2,745,118	2,745,118	2,745,118	2,745,118	2,745,118	2,745,118	13,725,590

Narrative Explanation (Required for Indeterminate Cash Receipts)

BACKGROUND:
 Section 1(26) defines “low-proof beverage” (LPB) as any beverage that is 16oz or less and that contains more than 0.5% alcohol by volume and less than 7% alcohol by volume (ABV), but does not include wine, malt beverages, or malt liquor. Section 2 levies a new tax on the sale of LPB equal to \$2.50/gallon, payable by a spirits distributor, distillery, craft distillery, and spirits COA with direct ship endorsement.

Sales of LPB would now be exempt from spirit liter taxes, BUT spirit sales tax still applies. Retail sales taxes would now apply to sales of LPB by retailers to consumers.

TABLE ASSUMPTIONS:
 Industry data on retail sales of spirits that are categorized as “premixed cocktails” and “spirits seltzer centric” and also fall into the 0.5%-7% ABV range shows that these made up approximately 4% of the total spirits volume in Washington state in FY 2022.

Using spirit sales tax and liter tax collections data from DOR for FY2021 for retail sales to consumers, it is calculated that the \$2.50/gallon tax on LPB could bring in \$1,214,849 in annual revenue.

The FY2022 industry data does not include sales by licensees (restaurants, bars, etc). However, if it is assumed that the market share of the licensee spirit purchases is also 4%, then the \$2.50/gallon tax on LPB could bring in an additional \$157,711 in annual revenue.



Ten-Year Analysis

Bill Number 5375 S SB	Title Low-proof beverages/tax	Agency 195 Liquor and Cannabis Board
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

Total revenue from the \$2.50/gallon tax is therefore anticipated to be \$1,372,559/yr.

Please see the attached “5375 SSB Low proof beverages - LPB calculations.pdf” for the calculations used.

FURTHER ANALYSIS:
Another spirits industry report shows that between FY2020 and FY2021, that the cocktail category of spirits (as opposed to gin, vodka, rum, etc) grew 87.4%. This would include those above 7% ABV as well. However, this shows that the LPB market is growing rapidly.

If that 87.4% growth rate were applied to the 4% market share referenced above, then it is not unreasonable to predict that the LPB market share of spirits could grow to 7.5% or higher ($187.4\% \times 4\% = 7.5\%$). In this scenario, the \$2.50/gallon tax could bring in \$2,276,626 from retail sales and \$295,550 from licensee sales - \$2,572,176 per year.

However, this is not the full picture of the revenue impact of this legislation. The Department of Revenue collects spirit sales and liter taxes, retail sales taxes, and B&O taxes. As noted earlier, sales of LPB would be exempt from spirit liter taxes, but be subject to retail sales taxes (on sales to consumers).

Please refer to DOR’s fiscal note for the impact that this legislation would have on the other taxes.

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