

SF3396 - 0 - Limited Malt Liquor and Food Retailer Definition

Chief Author: **Matt Klein**
 Committee: **Commerce And Consumer Protection**
 Date Completed: **2/29/2024 4:03:30 PM**
 Lead Agency: **Public Safety Dept**
 Other Agencies:
 Administrative Hearings

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Public Safety Dept						
General Fund		-	-	2,377	2,377	2,377
State Total						
Administrative Hearings		-	-	-	-	-
General Fund		-	-	2,377	2,377	2,377
Total		-	-	2,377	2,377	2,377
Biennial Total				2,377	4,754	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Public Safety Dept					
General Fund	-	-	18	18	18
Total	-	-	18	18	18

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Laura Cecko **Date:** 2/29/2024 4:03:30 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026
					FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Public Safety Dept					
General Fund	-	-	2,377	2,377	2,377
Total	-	-	2,377	2,377	2,377
Biennial Total			2,377		4,754
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	25	25	25
Public Safety Dept					
General Fund	-	-	2,523	2,523	2,523
Total	-	-	2,548	2,548	2,548
Biennial Total			2,548		5,096
2 - Revenues, Transfers In*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	25	25	25
Public Safety Dept					
General Fund	-	-	146	146	146
Total	-	-	171	171	171
Biennial Total			171		342

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 Agency: **Public Safety Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026
General Fund	-	-	2,377	2,377	2,377
Total	-	-	2,377	2,377	2,377
Biennial Total			2,377		4,754

Full Time Equivalent Positions (FTE)		Biennium			Biennium
		FY2023	FY2024	FY2025	FY2026
General Fund	-	-	18	18	18
Total	-	-	18	18	18

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Laura Cecko **Date:** 2/29/2024 3:56:12 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	2,377	2,377	2,377
Total	-	-	2,377	2,377	2,377
Biennial Total			2,377		4,754
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	2,523	2,523	2,523
Total	-	-	2,523	2,523	2,523
Biennial Total			2,523		5,046
2 - Revenues, Transfers In*					
General Fund	-	-	146	146	146
Total	-	-	146	146	146
Biennial Total			146		292

Bill Description

SF3396 proposes to amend Chapter 28A and Chapter 340A to allow for the sale of limited malt liquor at food retailer locations.

Sec 2 amends 340A.101 by adding Sub 10b. and proposing the definition of a food retailer.

Sec 3 amends 340A.101 by adding Sub 15a and proposing the definition of limited malt liquor.

Sec 4 adds the limited malt liquor license applicant to those that are prohibited from having a financial interest in certain other liquor licenses.

Sec 5 amends 340A.402 Sub 1 (2) to add limited malt liquor to retail license disqualifiers.

Sec 6 adds 340A.4031 to allow for limited malt liquor licenses to be issued by the governing body of city or county, adds the stipulation that an additional off-sale license is not required, and requires the issuing authority to notify DPS- Alcohol and Gambling Enforcement (AGE) division within 10 days of issuing the limited malt liquor license.

Sec 7 amends 340A.408 to allow the local issuing authority to set the licensing fee and directs ½ of that fee issued to by a county to be paid to the town board where the business is located and directs the liquor liability insurance requirements.

Sec 8 through 16 address the length of licensing, conditions when a licensing fee refund may be issued, hours of sale, and product tampering.

Assumptions

AGE assumes that the financing structure of this bill may cause implementation and cash flow challenges.

Sec 2 Subd 10b defines a food retailer as a for-profit, not-for-profit, or cooperative self-service retail establishment that primarily sells, directly to consumers: bread and bakery items; meats, seafood, and poultry; fruits, vegetables, and other produce; dairy products; and dried, canned, and other packaged groceries and shelf-stable food products. A food retailer includes large and mid-scale establishments such as supermarkets and grocery stores but may also include small-scale establishments such as corner stores or convenience stores.

Sec 3 defines limited malt liquor as malt liquor containing not less than one-half of one percent alcohol by weight nor more

than 15 percent alcohol by weight.

The proposed limited malt liquor is an intoxicating liquor as defined by MN 340A.101 Subd. 14 and is subject to the approval of the commissioner, which includes a pre-license inspection to ensure the property and establishment conform to other provisions within Chapter 340A.

Limited malt liquor creates a new license type subject to licensure. AGE assumes a retail identification card (buyers' card) will be issued for each applicant to allow for the wholesale/distributor to sell intoxicating liquor to a limited malt liquor retailer pursuant to MN Administrative Rule 7515.0210.

The Dept of Agriculture currently issues a retail food handler license, a retail mobile food handler license, and a special event food handler license which meet the definition of the proposed Sec 2 Subd 10b noted above.

There are no exemptions noted in the SF3396 proposal, subsequently AGE assumes the three categories identified by the Dept of Agriculture would be eligible for the proposed limited malt liquor license. AGE obtained the current listing of active licenses for these groups from the Dept of Agriculture and found that 7,311 establishments are eligible to apply for the proposed limited malt liquor license.

Dept. of Agriculture Active Licenses	Currently Issued
Retail Food Handler	6004
Retail Mobile Food Handler	1046
Special Event Food Handler	261
Total	7311

Department of Agriculture licensing database 02/22/24

The proposal would require AGE to:

- Add an additional license type; receive and review applications from the local licensing authority, review for insurance requirements and completeness, issue a corresponding retail identification card (buyer's card), then approve and enter the limited malt liquor license into the statewide liquor licensing database.
- Perform pre-license inspections of applicants, complete routine follow-up inspections for regulatory compliance, respond to regulatory complaints, and complete regulatory investigations.
- Enforce the hours of liquor sale prescribed under Sec 15 Subd 1a limiting the hours of sale for those establishments that offer 24-hour service, ensure employees over the age of 18 are completing the sale of alcoholic beverages, and investigate complaints of sales to underage and obviously intoxicated persons.

AGE assumes \$24,500 annual costs associated with administrative civil penalty appeals at an estimated 100 hours of ALJ time. Hours were estimated based on similar work.

AGE notes the limited malt liquor licensing fee is set by the issuing authority and received by the issuing authority.

AGE notes the required \$20 retail identification card (buyers' card) is received by DPS-AGE and those receipts are directed to the general fund.

SF3396 does not provide for effective dates and AGE assumes August 1, 2024, if passed. Assume FTEs would be hired starting July 1.

AGE assumes a total of 18 FTE to complete the tasks related issuing, regulating and enforcing an estimated 7,311 new liquor licenses:

3 Office Administrative Specialist (OAS) Intermediate and one supervisor (Office Administrative Specialist Principal) to receive and review applications for completeness, required signatures, liquor liability verification, data entry for application and license fee, follow-up and final license issuance. Total estimated hours per license = 1 x 7,311 licenses = 7,311 hours / 2080 FTE hours = 3.5

AGE assumes six Liquor Control Investigative Specialists and one supervisor (Investigator) to complete pre-license inspections and follow up routine inspections for compliance. Total estimated hours per license = 2 x 7,311 licenses = 14,622 hours / 2080 FTE hours = 7

AGE assumes 6 Special Agents and one supervisor (Assistant Special Agent in Charge) to investigate criminal complaints and enforcement of hours of sale, sales to underage, and sales to obviously intoxicated persons. Total estimated hours per license = 2 x 7,311 licenses = 14,622 hours / 2080 FTE hours = 7

Expenditure and/or Revenue Formula

EXPENDITURES:

AGED has not hired a Special Agent at or below midrange salary recently. Instead, all Special Agents have been salaried at steps towards the highest brackets available to them, due to experience. Because of this, it is necessary to account for

actual possible costs via the maximum salary and fringe benefit request.

18 FTE's include salary, fringe, and non-salary costs. Non salary costs for employees include office space, furniture, telephones, cell phones, laptops, and background checks.

Non salary costs specific to sworn special agents in FY25 include one-time costs such for squad cars, body worn cameras, bullet proof vests, firearms, emergency lights and sirens, radios, psychological test, and medical exam.

Salaries are reflected to the most recent collective bargaining agreements, with the exception of Assistant Special Agent in Charge due to ongoing collective bargaining.

Salary, Fringe and Non-Salary Included	FTE	FY25	FY26	FY27 & beyond
Liquor Licensing				
OAS Intermediate	3	\$274,565.04	\$274,565.04	\$274,565.04
OAS Principle	1	\$103,270.15	\$103,270.15	\$103,270.15
Liquor Regulation				
Liquor Control Investigative Specialist	6	\$643,450.76	\$643,450.76	\$643,450.76
Investigator	1	\$138,848.50	\$138,848.50	\$138,848.50
Liquor Enforcement				
Special Agent	6	\$1,145,375.81	\$1,145,375.81	\$1,145,375.81
Assistant Special Agent in Charge	1	\$193,038.44	\$193,038.44	\$193,038.44
Subtotal	18	\$2,498,548.70	\$2,498,548.70	\$2,498,548.70
Civil Penalty Appeals				
Estimate of 100 hours of annual ALJ time @ \$245.00 per hour	0	\$24,500.00	\$24,500.00	\$24,500.00
TOTAL	18 FTE	\$2,523,048.70	\$2,523,048.70	\$2,523,048.70

AGED has not hired a Special Agent at or below midrange salary recently. Instead, all Special Agents have been salaried at steps towards the highest brackets available to them, due to experience. Because of this, it is necessary to account for actual possible costs via the maximum salary and fringe benefit request.

18 FTE's include salary, fringe, and non-salary costs. Non salary costs for employees include office space, furniture, telephones, cell phones, laptops, and background checks.

Non salary costs specific to sworn special agents in FY25 include costs such for squad cars, body worn cameras, bullet proof vests, firearms, emergency lights and sirens, radios, psychological test, and medical exam.

Salaries are reflected to the most recent collective bargaining agreements, with the exception of Assistant Special Agent in Charge due to on going collective bargaining.

REVENUES:

Retail Identification Card (Buyer's Card) required	FY25	FY26	FY27 & beyond
7311 assumed applicants x \$20 fee	\$146,220.00	\$146,220.00	\$146,220.00
TOTAL	\$146,220.00	\$146,220.00	\$146,220.00

Long-Term Fiscal Considerations

Allowing for limited malt liquor at food retailer establishments is new to Minnesota and there is no historical data to draw from. There is potential for significant growth in this industry that could have long-term fiscal impact to AGED, both in expenditures and revenue.

Local Fiscal Impact

SF3396 Sec 7 amends 340A.408 to allow the local issuing authority to set the licensing fee and directs ½ of that fee issued to by a county to be paid to the town board where the business is located and directs the liquor liability insurance requirements.

References/Sources

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Chief Author: **Matt Klein**
 Committee: **Commerce And Consumer Protection**
 Date Completed: **2/29/2024 4:03:30 PM**
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Chloe Burns **Date:** 2/29/2024 9:44:45 AM
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Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	25	25	25
Total	-	-	25	25	25
Biennial Total			25		50
2 - Revenues, Transfers In*					
Administrative Hearings	-	-	25	25	25
Total	-	-	25	25	25
Biennial Total			25		50

Bill Description

SF3396 proposes to allow for the issuance of limited malt liquor licenses to food retailers for the sale of limited malt liquor at licensed food retailer locations. It defines how licenses and license fees are issued, the length of license issuance, and places restrictions on the timeframe for the sale of limited malt liquor.

Assumptions

The Office of Administrative Hearings (OAH) in consultation with Minnesota Management and Budget (MMB) assesses agencies the cost of services rendered to them. All agencies shall include in their budgets provisions for such assessments.

OAH has used the estimate provided by the Department of Public Safety- Alcohol and Gambling Enforcement Division to assume that annually, an estimated 100 hours of administrative law judge (ALJ) time will be required to address administrative civil penalty appeals that are referred to OAH by the Department of Public Safety.

OAH currently bills ALJ time at the MMB-approved billable rate of \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)).

Expenditure and/or Revenue Formula

Estimated 100 hours of ALJ time at \$245/hr = \$24,500 per fiscal year for administrative civil penalty appeals referred to OAH, pursuant to the requirements of Minn. Stat. § 14.53.

Long-Term Fiscal Considerations

Annual appeals costs would continue into future years.

Local Fiscal Impact**References/Sources**

Agency Contact: Denise Collins

Agency Fiscal Note Coordinator Signature: Denise Collins

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