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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/17

SPONSOR McSorley LAST UPDATED _____ HB _____

SHORT TITLE Raise Liquor Tax for Certain Beverages SB 314

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					R or NR **	Fund Affected
FY17	FY18	FY19	FY20	FY21		
\$0.0	\$ 88,594.6	\$ 95,352.5	\$ 91,393.2	\$ 91,393.2	Recurring	General Fund
\$0.0	\$ 75,469.5	\$ 63,526.4	\$ 60,888.7	\$ 60,888.7	Recurring	DWI Fund
\$0.0	\$164,064.1	\$158,878.9	\$152,281.9	\$152,281.9	Recurring	TOTAL

Parenthesis () indicate expenditure decreases. ** R = recurring; NR = non-recurring

Partially duplicates HB398. Relates to HB55, HB237, SB153, which change the distribution of the liquor excise tax.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 314 raises the liquor excise tax rates on spirituous liquors, beer, wine, fortified wine, and cider and as follows:

- Spirituous liquors: from \$1.60/liter to \$7.24/liter
- Beer: from \$0.41/gallon to \$3.08/gallon
- Wine: from \$0.45/liter to \$2.14/liter
- Fortified wine: from \$1.50/liter to \$3.61/liter
- Cider: from \$0.41/gallon to \$3.08/gallon

Beginning July 1, 2021 and every four years thereafter, the bill also adjusts the liquor excise tax rate based on the consumer price index for all urban consumers in the west urban area, as published by the U.S. Department of Labor. The effective date of this bill is July 1, 2017.

FISCAL IMPLICATIONS

The fiscal impact estimate uses the Consensus Revenue Estimating Group’s (CREG) December 2016 forecast for liquor excise tax revenues for FY18-21 as a starting point. The estimate also assumes current statutory distributions of the liquor excise tax, with 46 percent going to the DWI fund in FY18 and 41.5 percent each year thereafter. The table below indicates current and proposed total revenues by type, in thousands of dollars:

	Current	New	Difference
Beer	\$18,086.0	\$114,298.4	\$96,212.4
Cider	\$45.3	\$286.3	\$241.0
Spirits	\$20,914.1	\$72,850.5	\$51,936.5
Wine	\$6,395.7	\$24,836.8	\$18,441.1
Fortified Wine	\$63.8	\$125.5	\$61.6
TOTAL	\$48,333.3	\$212,397.5	\$164,064.1

While the percentage increase for each tax rate is substantial (between 140 percent and 650 percent), the estimated price per drink increases for spirits, beer, and wine are 29 percent, 32 percent, and 26 percent respectively. Based on a meta-analysis of alcohol price elasticity, the estimate assumes the associated price increases would result in a 23 percent decrease in spirituous liquor consumption, an 18 percent decrease in wine consumption, and a 16 percent decrease in beer and cider consumption.¹

Even with the decrease in consumption, total revenues from the tax increase will generate a total of about \$150 to \$160 million in new revenue annually.

The Taxation and Revenue Department (TRD) also provides a fiscal analysis of this bill, which does not include the potential decrease in purchases resulting from the increase in tax rates. The estimates of new revenues are as follows:

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2017	FY2018	FY2019	FY2020	FY2021		
\$0.0	\$106,300.0	\$98,000.0	\$94,000.0	\$94,000.0	R	Local DWI Grant Fund
\$0.0	\$124,700.0	\$138,000.0	\$132,300.0	\$132,300.0	R	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

¹ Own-price elasticity for distilled spirits, wine, and beer are estimated at -0.8, -0.7, and -0.5, respectively. To put into context, a price elasticity of -0.5 means a 1 percent increase in price results in a 0.5 percent decrease in consumption. Cider is assumed to have the same price elasticity as beer, and fortified wine is assumed to have the same price elasticity as wine.

Table 1. Own-price elasticities for alcoholic beverages in three recent meta-analyses

Source	Distilled spirits	Wine	Beer	Total alcohol consumption
Fogarty 2006	-0.70	-0.77	-0.38	..
Gallet 2007	-0.68	-0.70	-0.36	-0.50
Wagenaar et al. 2008	-0.80	-0.69	-0.46	-0.51

It can be helpful to view the tax rate changes on a per drink basis, as opposed to a per gallon or per liter basis. The table below converts the current and proposed tax rates to a per drink rate based on a standard drink (12oz beer, 1.5oz spirits, 5oz wine):

Tax Rate Per Standard Drink		
	<u>Current</u>	<u>Proposed</u>
Beer (\$ per gallon)	\$0.41	\$3.08
Cents per drink	3.8	28.9
Beer, microbrew (\$ per gallon)	\$0.08	\$0.08
Cents per drink	0.8	0.8
Cider (\$ per gallon)	\$0.41	\$3.08
Cents per drink	3.8	28.9
Spirits (\$ per liter)	\$1.60	\$7.24
Cents per drink	7.1	32.1
Wine (\$ per liter)	\$0.45	\$2.14
Cents per drink	6.7	31.6
Fortified wine (\$ per liter)	\$1.50	\$3.61
Cents per drink	22.2	53.4

Based on IHS Global Insight’s February 2017 forecast for the consumer price index for all urban consumers, liquor excise tax rates would be increased by 7.2 percent in 2021 (for FY22) and 8.2 percent in 2025 (for FY26). The table below provides estimates for the adjusted tax rates:

Estimated Inflation Adjustment	Initial	2021 adj.	2025 adj.
Beer (\$/gallon)	\$3.08	\$3.30	\$3.57
Micro Beer (\$/gallon)	\$0.08	\$0.09	\$0.09
Cider (\$/gallon)	\$3.08	\$3.30	\$3.57
Spirits (\$/liter)	\$7.24	\$7.76	\$8.40
Wine (\$/liter)	\$2.14	\$2.29	\$2.48
Fortified Wine (\$/liter)	\$3.61	\$3.87	\$4.19
Small Wine < 80K (\$/liter)	\$0.10	\$0.11	\$0.12
Small Wine > 80K < 905K (\$/liter)	\$0.20	\$0.21	\$0.23
Small Wine > 950K < 1.5M (\$/liter)	\$0.30	\$0.32	\$0.35

SIGNIFICANT ISSUES

It is particularly notable that the beer and wine excise tax rates proposed in this bill are significantly higher than other tax rates in the country, and the tax rate on spirits is significantly higher than rates in the surrounding states.

Currently, the highest tax rate on beer in the nation is \$1.29/gallon (Tennessee), while this bill proposes a rate \$3.08/gallon. The highest tax rate on wine in the nation is \$0.87/liter (Kentucky), while this bill proposes a rate of \$2.41/liter. The excise tax rate on distilled spirits proposed in this bill is \$7.24/liter, which would make New Mexico second only to Washington state, whose tax rate is \$8.86/liter. The average national excise taxes on distilled spirits is \$1.91/liter, and in the tax rate in states surrounding New Mexico the highest rate is \$1.47/liter.

The imposition of tax rates substantially different from those around the nation and surrounding states opens up the risk of creating an underground market for alcohol in New Mexico.

Additionally, from a tax policy principle of equity, small producers of wine and beer are given favorable treatment in this bill, but small producers of cider are not. If the purpose of the favorable treatment is to encourage the growth of these similar industries, the bill should be amended to give similar treatment to all small producers.

There is substantial evidence that raising the price of alcohol, holding income and the price of other goods constant, results in less alcohol consumption. Therefore, policies aimed at increasing the price of alcohol have the potential to be effective in reducing the negative health effects and social harm caused by alcohol use.² However, it is important to note that while a tax increase of this magnitude may be effective in reducing the *taxable volumes* of alcohol sold in the state, it may also create an incentive to seek out lower-priced goods in other states, which would minimize the effect of the policy on actual volumes consumed by New Mexicans.

ADMINISTRATIVE IMPLICATIONS

TRD expects this bill to have a low impact on the Financial Distributions Bureau and Revenue Processing Division; however, the department notes it will be challenging for the Information Technology Division to meet the effective date of July 1, 2017.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates HB398, except this bill increases the excise tax on cider whereas HB298 does not.

TECHNICAL ISSUES

Page 3, lines 16 and 17 of the bill mentions the use of the consumer price index for all urban consumers in the west urban area published by the United States department of labor. The United States Bureau of Labor Statistics is typically the source for this statistic.

Page 3, lines 18-22, provide instruction for indexing the liquor excise tax rates to inflation using the consumer price index for all urban consumers (CPI-U) in the west urban area. The bill states, "...the department shall determine whether there has been a change from the previous four years in the cost of consumer goods and, if there has been a change, calculate the corresponding adjustments..." However, the intended methodology for this calculation is unclear. For example, the bill is not clear on whether the calculation should consider calendar year, fiscal year, or the 12 months prior to the required date for calculating the change in CPI-U.

Also, it is unclear what year is to be used as the base year for the calculation. For example, in calculating the adjustment effective July 1, 2021, if the prior calendar year 2020 is used as the numerator, then calculating "a change from the previous four years" could involve using 2017 or 2016 as the base year (denominator), depending on whether "previous four years" is interpreted as being prior to 2021 or prior to 2020.

² World Health Organization, 2009, *Evidence for the effectiveness and cost-effectiveness of interventions to reduce alcohol-related harm*, retrieved from http://www.euro.who.int/data/assets/pdf_file/0020/43319/E92823.pdf; Xu, X., & Chaloupka, F. J. (2011). The Effects of Prices on Alcohol Use and its Consequences. *Alcohol Research & Health*, 34(2), 236–245 (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3860576/>)

The bill states “the department” is responsible for providing the calculated rate adjustment, but it is not clear which department to which the bill is referring. While it is assumed the bill intends for TRD to provide the calculated rate adjustment, this should be made clear.

Additionally, TRD points the limits of what is considered a ‘small winemaker’ or ‘microbrewery’ has changed considerably over the years in this section of the statute, such that all or nearly all New Mexico producers are now given favorable treatment. According to TRD, “the large increase in taxes on other producers contained within the bill could attract attention, and it could be argued by inference that the bill violates the dormant commerce clause of the constitution.”

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

APPENDIX

See next page for comparisons of liquor excise taxes across states.

DI/al

Wine Excise Tax Rates as of January 1, 2016 (Dollars Per Gallon)			
State	Tax Rate	Tax Per Liter	Rank
Ky.	\$3.30	\$0.87	1
Alaska	\$2.50	\$0.66	2
Fla.	\$2.25	\$0.59	3
Iowa	\$1.75	\$0.46	4
D.C.	\$1.72	\$0.45	5
Ala.	\$1.70	\$0.45	6
N.M.	\$1.70	\$0.45	7
Ga.	\$1.51	\$0.40	8
Va.	\$1.51	\$0.40	9
R.I.	\$1.40	\$0.37	10
Ill.	\$1.39	\$0.37	11
Hawaii	\$1.38	\$0.36	12
Ark.	\$1.35	\$0.36	13
Md.	\$1.35	\$0.36	14
S.D.	\$1.27	\$0.34	15
Tenn.	\$1.27	\$0.34	16
Minn.	\$1.18	\$0.31	17
S.C.	\$1.08	\$0.29	18
Mont.	\$1.06	\$0.28	19
N.D.	\$1.06	\$0.28	20
N.C.	\$1.00	\$0.26	21
W.Va.	\$1.00	\$0.26	22
Del.	\$0.97	\$0.26	23
Nebr.	\$0.95	\$0.25	24
N.J.	\$0.88	\$0.23	25
Wash.	\$0.87	\$0.23	26
Ariz.	\$0.84	\$0.22	27
Conn.	\$0.72	\$0.19	28
Okla.	\$0.72	\$0.19	29
Nev.	\$0.70	\$0.18	30
Ore.	\$0.67	\$0.18	31
Maine	\$0.60	\$0.16	32
Mass.	\$0.55	\$0.15	33
Vt.	\$0.55	\$0.15	34
Mich.	\$0.51	\$0.13	35
Ind.	\$0.47	\$0.12	36
Idaho	\$0.45	\$0.12	37
Mo.	\$0.42	\$0.11	38
Colo.	\$0.32	\$0.08	39
Ohio	\$0.32	\$0.08	40
Kans.	\$0.30	\$0.08	41
N.Y.	\$0.30	\$0.08	42
Wis.	\$0.25	\$0.07	43
Calif.	\$0.20	\$0.05	44
Tex.	\$0.20	\$0.05	45
La.	\$0.11	\$0.03	46
Miss.	-	-	-
N.H.	-	-	-
Pa.	-	-	-
Utah	-	-	-

Distilled Spirits Excise Tax Rates as of January 1, 2016 (Dollars Per Gallon)			
State	Tax Rate	Tax Per Liter	Rank
Wash.	\$33.54	\$8.86	1
Ore.	\$22.74	\$6.01	2
Va.	\$19.86	\$5.25	3
Ala.	\$18.25	\$4.82	4
Alaska	\$12.80	\$3.38	5
Utah	\$12.75	\$3.37	6
Iowa	\$12.52	\$3.31	7
N.C.	\$12.48	\$3.30	8
Mich.	\$11.94	\$3.15	9
Idaho	\$10.94	\$2.89	10
Ohio	\$9.86	\$2.60	11
Minn.	\$8.83	\$2.33	12
Mont.	\$8.67	\$2.29	13
Ill.	\$8.55	\$2.26	14
Miss.	\$7.74	\$2.04	15
Vt.	\$7.71	\$2.04	16
Ky.	\$7.54	\$1.99	17
Pa.	\$7.23	\$1.91	18
Ark.	\$6.88	\$1.82	19
Fla.	\$6.50	\$1.72	20
N.Y.	\$6.44	\$1.70	21
N.M.	\$6.06	\$1.60	22
Hawaii	\$5.98	\$1.58	23
Maine	\$5.82	\$1.54	24
D.C.	\$5.69	\$1.50	25
Okla.	\$5.56	\$1.47	26
N.J.	\$5.50	\$1.45	27
S.C.	\$5.42	\$1.43	28
Conn.	\$5.40	\$1.43	29
R.I.	\$5.40	\$1.43	30
N.D.	\$4.66	\$1.23	31
Md.	\$4.64	\$1.23	32
S.D.	\$4.63	\$1.22	33
Tenn.	\$4.46	\$1.18	34
Mass.	\$4.05	\$1.07	35
Ga.	\$3.79	\$1.00	36
Del.	\$3.75	\$0.99	37
Nebr.	\$3.75	\$0.99	38
Nev.	\$3.60	\$0.95	39
Calif.	\$3.30	\$0.87	40
Wis.	\$3.25	\$0.86	41
Ariz.	\$3.00	\$0.79	42
Ind.	\$2.68	\$0.71	43
Kans.	\$2.50	\$0.66	44
La.	\$2.50	\$0.66	45
Tex.	\$2.40	\$0.63	46
Colo.	\$2.28	\$0.60	47
W.Va.	\$2.11	\$0.56	48
Mo.	\$2.00	\$0.53	49
N.H.	\$0.00	\$0.00	50

Beer Excise Tax Rates as of January 1, 2016 (Dollars Per Gallon)		
State	Tax Rate	Rank
Tenn.	\$1.29	1
Alaska	\$1.07	2
Ala.	\$1.05	3
Ga.	\$1.01	4
Hawaii	\$0.93	5
Ky.	\$0.84	6
S.C.	\$0.77	7
D.C.	\$0.64	8
N.C.	\$0.62	9
Md.	\$0.49	10
Fla.	\$0.48	11
Minn.	\$0.48	12
Mont.	\$0.47	13
Miss.	\$0.43	14
N.M.	\$0.41	15
Utah	\$0.41	16
Okla.	\$0.40	17
N.D.	\$0.39	18
Ark.	\$0.35	19
La.	\$0.32	20
Nebr.	\$0.31	21
N.H.	\$0.30	22
S.D.	\$0.27	23
Vt.	\$0.27	24
Va.	\$0.26	25
Wash.	\$0.26	26
Conn.	\$0.23	27
Ill.	\$0.23	28
Calif.	\$0.20	29
Mich.	\$0.20	30
Tex.	\$0.20	31
Iowa	\$0.19	32
Kans.	\$0.18	33
Ohio	\$0.18	34
W.Va.	\$0.18	35
Ariz.	\$0.16	36
Del.	\$0.16	37
Nev.	\$0.16	38
Idaho	\$0.15	39
N.Y.	\$0.14	40
Ind.	\$0.12	41
N.J.	\$0.12	42
R.I.	\$0.12	43
Maine	\$0.11	44
Mass.	\$0.11	45
Colo.	\$0.08	46
Ore.	\$0.08	47
Pa.	\$0.08	48
Mo.	\$0.06	49
Wis.	\$0.06	50

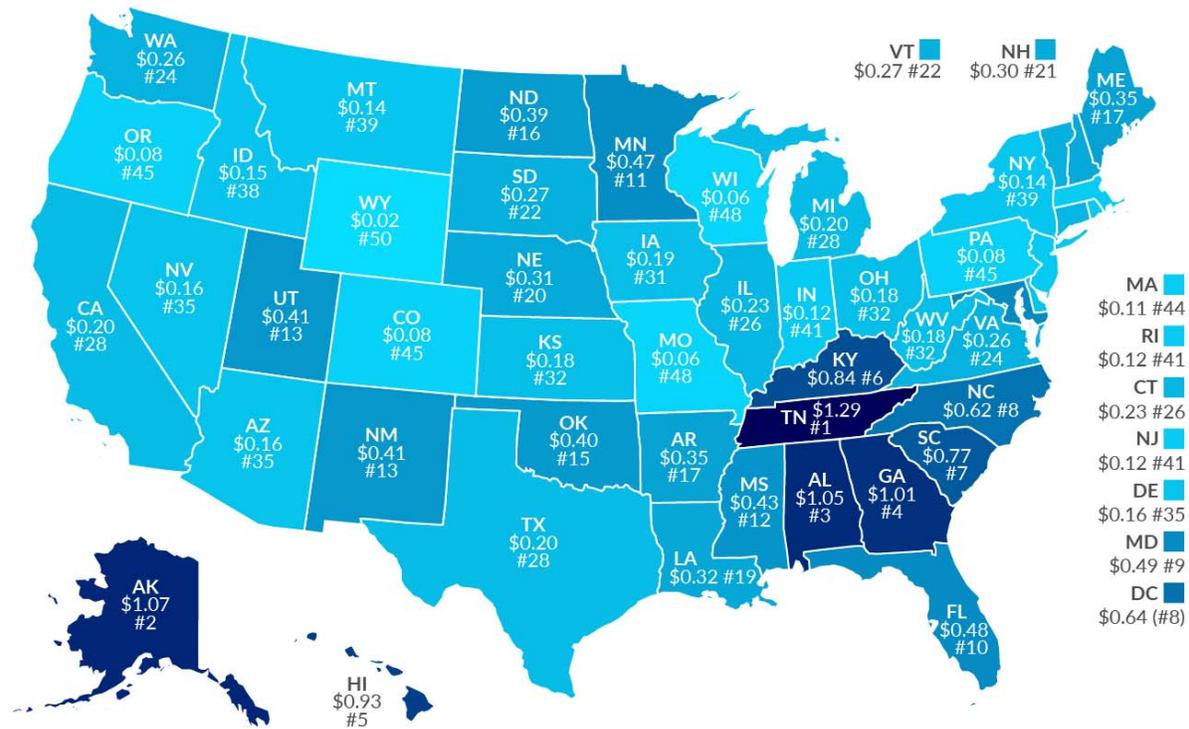
Wine Excise Tax Rates as of January 1, 2016 (Dollars Per Gallon)			
Wyo.	-	-	-

Distilled Spirits Excise Tax Rates as of January 1, 2016 (Dollars Per Gallon)			
Wyo.	\$0.00	\$0.00	51

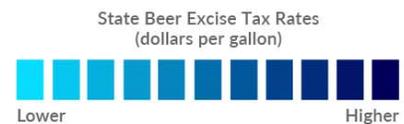
Beer Excise Tax Rates as of January 1, 2016 (Dollars Per Gallon)		
Wyo.	\$0.02	51

How High Are Beer Taxes in Your State?

State Beer Excise Tax Rates as of Jan. 1, 2016 (dollars per gallon)

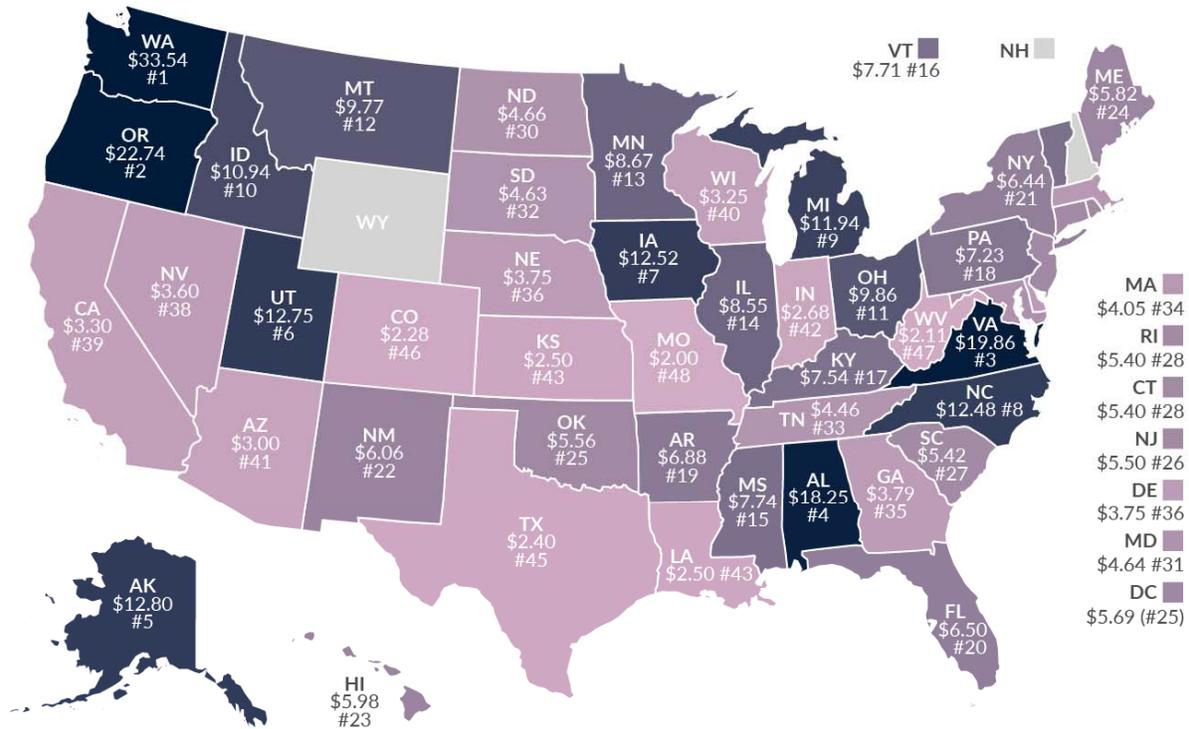


Note: Rates are those applicable to off-premise sales of 4.7% alcohol by volume beer in 12 ounce containers. Local excise taxes are excluded.
 GA, HI, ID, IA, MN, NC, ND, OH, OK, TX, UT, VA, WA, and WI: Different rates are also applicable according to alcohol content, place of production, size of container, or place purchased (on- or off-premise or onboard airlines).
 AL and GA: Includes the statewide local rate (\$0.52 in Alabama and \$0.53 in Georgia).
 AR, MD, MN, and DC: Includes sales taxes specific to alcoholic beverages.
 AR and RI: Includes case fees and/or bottle fees which may vary with the size of container.
 KY and TN: Includes the wholesale tax rate (11% in Kentucky and 17% in Tennessee), converted into a gallonage excise tax rate.
 Source: Distilled Spirits Council of the United States.



How High Are Taxes on Distilled Spirits in Your State?

State Spirits Excise Tax Rates as of Jan. 1, 2016 (dollars per gallon)



Note: Rates are those applicable to off-premise sales of 40% alcohol by volume (a.b.v.) distilled spirits in 750ml containers. D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included.

AK, CA, CT, DE, FL, GA, IL, IN, LA, MD, MA, NV, NY, ND, RI, SD, TX: Different rates are also applicable according to alcohol content, place of production, size of container, or place purchased (on- or off-premise or onboard airlines).

AL, ID, IA, ME, MI, MS, MT, NH, NC, OH, OR, PA, UT, VT, VA, WV, WY: Control states, where the government controls all sales. Products can be subject to ad valorem mark-up as well as excise taxes.

KY: Includes the wholesale tax rate of 11%, converted to a gallonage excise tax rate.

AR, MN, SC, TN: Includes case fees and/or bottle fees which may vary with size of container.

AR, DC, MD, MN, ND, SD, WA: Includes sales taxes specific to alcoholic beverages.

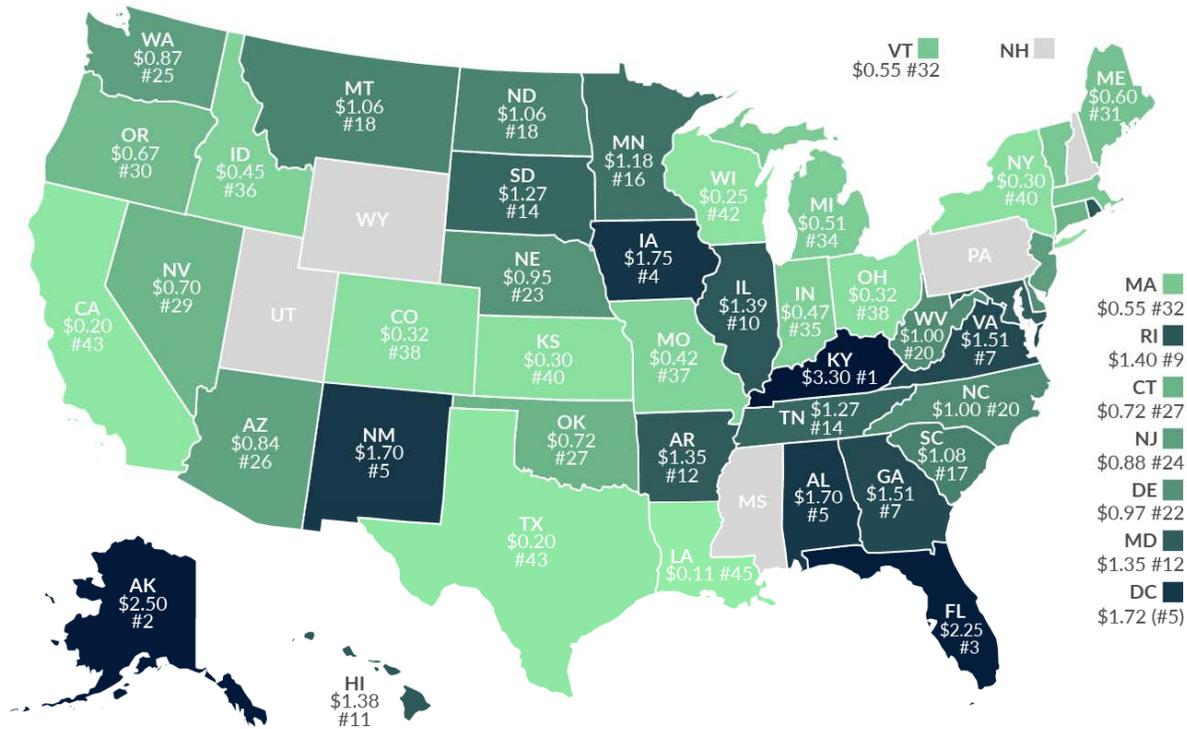
WA: Includes the retail (17%) and distributor (10%) license fees, converted into a gallonage excise tax rate.

Source: Distilled Spirits Council of the United States.



How High Are Wine Taxes in Your State?

State Wine Excise Tax Rates as of Jan. 1, 2016 (dollars per gallon)



Note: Rates are those applicable to off-premise sales of 11% alcohol by volume (a.b.v.) non-carbonated wine in 750ml containers. Federal rates vary by alcohol content and type of wine, ranging up to \$3.15 for 21-24% alcohol and \$3.40 for sparkling wine. D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included. AK, AZ, CA, CO, CT, GA, HI, ID, IL, IN, IA, KS, LA, ME, MA, MI, MS, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, RI, SC, SD, TX, VT, VA, WA, WV, WI, DC: Different rates also applicable according to alcohol content, place of production, size of container, place purchased (on- or off-premise or on board airlines) or type of wine (carbonated, vermouth, etc.). MS, NH, UT, PA, WY: Control states, where the government controls all sales. Products can be subject to ad valorem mark-up as well as excise taxes. KY: Includes the wholesale tax rate of 11%, converted to a gallonage excise tax rate. AR, MN, TN: Includes case fees and/or bottle fees which may vary with size of container. AR, MD, MN, SD, DC: Includes sales taxes specific to alcoholic beverages. Source: Distilled Spirits Council of the United States.

