

**FISCAL NOTE**  
 LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised to include AM427.

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2021-22</b>		<b>FY 2022-23</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$320,000	(\$1,674,073)		(\$974,035)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$320,000</b>	<b>(\$1,674,073)</b>		<b>(\$974,035)</b>

**Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.**

LB 274 seeks to create a promotional farmer’s market special designated license under the Nebraska Liquor Control Act. For any craft brewery, micro distillery or farm winery that wishes to sell alcoholic liquor for consumption at a local farmer’s market, they would be able to apply for such a license upon the passing of LB 274. LB 274 dictates that the license will have an annual charge of \$15 to maintain.

LB 274 was amended by AM427, which does the following:

An amended version of LB 72 was added. LB 72 allows for the sale of pre-made cocktails and other alcoholic beverages for consumption off the premises of the place of sale. The amendment harmonizes the bill with the promotional farmer’s market license created by LB 274.

An amended version of LB 578 was added. LB 578 imposes a tax on ready-to-drink cocktails. The amendment changes the proposed rate of \$0.31 per gallon to be \$0.95 per gallon.

In addition, LB 274 now contains the emergency clause, meaning it would be operative immediately if enacted.

**Revenue:**

LB 274:

Furthermore, NLCC estimates that approximately half of current licensees eligible for a promotional farmer’s market special designated license will apply or renew per year. NLCC finds that the revenue gained from this license will not significantly impact the General Fund.

LB 72:

The changes made by LB 72 are not expected to create a fiscal impact.

LB 578:

The Nebraska Liquor Control Commission (NLCC) estimates RTD Cocktails make up 20% of the market for spirits in Nebraska. The total gallons of spirits sold in FY2019-2020 equaled 4,179,959, with 20% equaling 835,991 gallons. NLCC estimates 5% growth in spirit gallons sold, and finds that LB 578 would create an initial revenue loss of \$1,674,073 in FY21-22 and be reduced to \$974,035 in FY22-23 due to growth. There is no basis to disagree with these estimates.

NLCC expects rapid growth in the RTD Cocktail market if LB 578 were to pass. Several distilleries have found the current excise tax rate of \$3.75 per gallon for RTD Cocktails as limiting to their ability to set competitive prices. This rapid growth could make up for the initial revenue loss from LB 578, and is not included in the estimated revenue change.

**Expenditures:**

LB 274:

The Liquor Control Commission (NLCC) estimates a one-time OCIO programming charge of \$10,000 to create the Promotional Farmer’s Market Special Designated License. There is no basis to disagree with these estimates.

LB 274 provides that such licensees that apply and receive a farmer’s market special designated license must also apply for a permit from their local governing body to sell alcoholic liquor at a farmer’s market. Lancaster County expects the impact to such political subdivisions to be negligible, unless an unexpectedly high number of licensees apply for a permit in a given area. There is no basis to disagree with this estimate.

LB 72:

The changes made by LB 72 are not expected to create a fiscal impact.

LB 578:

NLCC estimates a cost of \$160,000 to change the two excise tax reporting systems currently in use to allow distilleries and wholesales to include RTD Cocktails in their monthly report. Additionally, NLCC estimates a cost of \$150,000 to implement a product registration system necessary for the verification of ABV and federal product classification. This expenditure could be reduced if compliance for product registration was delayed until NLCC is able to implement their new mainframe system.

There is no basis to disagree with these estimates.

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**2021**

**LB<sup>(1)</sup> 274 with AM 427 - Revised**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Liquor Control Commission

Prepared by: <sup>(3)</sup> LeAnna Prange Date Prepared: <sup>(4)</sup> 3/11/2021 Phone: <sup>(5)</sup> 402-471-4892

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$320,000	-\$1,674,073	0	-\$974,035
CASH FUNDS	0	0	0	0
FEDERAL FUNDS	0	0	0	0
OTHER FUNDS	0	0	0	0
<b>TOTAL FUNDS</b>	<b>\$320,000</b>	<b>-\$1,674,073</b>	<b>0</b>	<b>-\$974,035</b>

**Explanation of Estimate:**

NLCC's SDL online portal and main frame system would need to be enhanced and modified to accommodate a new license type for Promotional Farmers Market Special Designated Licenses. These modifications would be completed by the State's OCIO developers and are estimated at \$10,000.

NLCC determines LB 274 will reduce the number of regular special designated licenses. NLCC does not believe there will be any significant change in revenue due to most licensees utilizing SDLs have a catering endorsement which alleviates a cost per special designated license. LB 274 introduces an additional low-cost license type with a fee of \$15. After re-reading the proposed language, it appears to be a one-time fee. The total number of licenses that can apply for this new license type is 113. NLCC is unaware how many of these utilize farmers markets for their business exposure and sales benefits. Because of these reasons, and with the reduction of regular special designated licenses, NLCC determines these fees will offset with no significant changes in revenue. This is a change of determination from NLCC from the original fiscal note

NLCC would utilize existing staff and resources to inform the industry of this change in the law. There would be no anticipated expenses for subsequent years.

NLCC finds that approximately 20% of all spirit gallons sold in the state comprise RTD cocktails, LB 274 AM427 will lead to an initial drop in excise tax revenue due to the reclassification. FY2019-2020 saw a total spirit tax paid of \$15,674,846

<b>FY2019-2020 Spirit Gallons reported to NLCC for Excise Tax:</b>	4,179,959.0000
<b>RTD Cocktail Gallons per AM427, 20% of all Spirit Gallons:</b>	835,991.8000
<b>Actual 2019-2020 Spirit Excise Tax Revenue:</b>	\$15,674,846
<b>2019-2020 Spirit Excise Tax Revenue with 20% of gallons comprised of RTD Cocktails:</b>	\$13,334,069
<b>Projected 2021-2022 Revenue with AM427 at \$0.95 Per Gallon:</b>	\$14,000,773
<b>Projected 2022-2023 Revenue with AM427 at \$0.95 Per Gallon:</b>	\$14,700,811

NLCC saw an average growth in spirit gallons sold in the state for the past 4 years of 5% a year, continuing with that average, with 20% of those gallons meeting the definition of RTD Cocktails by LB 578 shows a projected tax revenue of \$14,000,773 in 2021-2022, a decline in revenue from 2019-2020 of -\$1,674,073; and \$14,700,811 in 2022-2023, a decline in revenue from 2019-2020 of -\$974,035.

There would be an initial drop in revenue from FY2020-2021 to FY2021-2022 due to the proportion of spirit gallons that comprise RTD Cocktails as defined in LB274 AM 427. However, the ready-to-drink category has

been experiencing year-over-year growth as a portion of the market and the gap is likely to close quickly with the importation and manufacture of RTD cocktails increasing in the state with the tax classification change. This potential increase of production is not reflected in the projected revenue as NLCC would be unable to quantify how large the increase of production would be.

Nebraska currently has 12 Micro Distillery license types that would have the privilege of creating spirit-based RTD cocktails. There is a 10,000 gallon production limitation to the Micro Distillery license.

Nebraska currently has 2 Spirit Manufacturing license types that would have the privilege of creating spirit-based RTD cocktails. There is no production limit for these license types.

To confirm compliance, NLCC would utilize product registration to verify ABV & federal product classification. NLCC's preference is that the process be automated to confirm that RTD cocktails being manufactured and imported into the state meet the definition provided in LB274 AM427 through a brand/product registration system. The cost of this is estimated by the OCIO at \$150,000. NLCC would utilize existing staff and office resources to implement and manage this system.

NLCC has 2 online reporting systems that collect spirit excise taxes. These online reporting systems will require revision to accommodate RTD cocktails as defined by LB 274 AM427. There is a cost estimate of \$80,000 associated with each online system for a total of \$160,000.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....			0	0
Operating.....			\$320,000	0
Travel.....			0	0
Capital outlay.....			0	0
Aid.....			0	0
Capital improvements.....			0	0
<b>TOTAL.....</b>			<b>\$320,000</b>	<b>0</b>

NLCC will work with Nebraska interactive developers to implement changes to two excise tax reporting systems. The changes require the addition of a section on the monthly excise tax returns to accommodate reporting of spirit-based RTD cocktails defined in LB274 AM427 for Nebraska Micro Distilleries and Spirit/Wine Wholesalers. The cost for these changes are estimated at \$80,000 per online reporting system for a total expenditure of \$160,000. NLCC will work with the State OCIO to edit the mainframe system to accommodate a Promotional Farmers Market Special Designated License at a cost of \$10,000.

NLCC has confirmed with OCIO regarding the creation of an online portal to identify spirit-based RTD cocktails manufactured and imported into the State of Nebraska. NLCC would use this to confirm compliance in this area.

The OCIO estimated this cost to be \$150,000.

NLCC would utilize existing staff and office resources to implement and manage LB274 AM427.