



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2023 Biennium

**Bill #** HB0174

**Title:** Generally revise winery laws

**Primary Sponsor:** Holmlund, Kenneth L

**Status:** As Introduced

- Significant Local Gov Impact     
 Needs to be included in HB 2     
 Technical Concerns  
 Included in the Executive Budget     
 Significant Long-Term Impacts     
 Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Federal Special Revenue	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Federal Special Revenue	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**Description of fiscal impact:** HB 174 has no fiscal impact to the state.

### FISCAL ANALYSIS

#### Assumptions:

1. HB 174 sets importation limit requirements on licensure for new Montana wineries and grants additional privileges for satellite tasting rooms and special permits for these wineries.
2. Current licensees are grandfathered in and may receive the additional privileges if they also abide by the importation limit requirements.
3. HB 174 also grants special permits to wineries and increases the amount of wine that a winery can sell or deliver directly to retailers or through a common carrier.
4. The Department of Revenue will absorb costs associated with changing and updating forms and tracking of licenses.

**Technical Notes:**

1. The responsible sales and server training in Section 2(e)(iv) should reference 16-4-1005, not 16-4-1006.
2. The effective date of passage and approval does not give the Department of Revenue enough time to update forms and tracking of licenses to ensure compliance.
3. A definition of wine variety as referenced on page 2 line 9 is necessary to avoid confusion.
4. Clarification is necessary on whether samples in the satellite tasting room are served with or without charge.
5. 16-3-411(2) and 16-3-411(3) have different lists of items that make up the 49% of importation requirements. Clarification is necessary to determine the intent of this.
6. There is potential for legal challenge on the basis of the equal protection clause of the Montana and US Constitutions, as similarly situated parties would be treated differently by the state.
7. Section 2(e) may increase the potential for legal challenge on the basis of the dormant commerce clause as Montana businesses would potentially be receiving a competitive advantage (24 permits vs. 10 permits) over out-of-state businesses. See US Supreme Court case *Tenn. Wine and Spirits Realities Ass'n v. Thomas*, 139 S. Ct. 2449 (2019).

*Kevin M. ...*      1/22/21      *KL*      1/20/21  
Sponsor's Initials      Date      Budget Director's Initials      Date