HOUSE BILL NO. HB0175

Optional liquor tax-limited time period.

Sponsored by: Representative(s) Semlek, Davison and Petersen and Senator(s) Townsend

A BILL

for

AN ACT relating to taxation and revenue; authorizing a county or municipality to impose an optional excise tax on the sale of alcoholic beverages for a limited time period as specified; providing for distribution; specifying conditions; amending related provisions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 39-15-203(a) by creating a new paragraph (vi), 39-15-204(a)(intro) and by creating a new paragraph (vii), 39-15-211 by creating a new subsection (d), 39-16-203(a) by creating a new paragraph (v), 39-16-204(a)(intro) and by creating a new paragraph (vi) and 39-16-211 by creating a new subsection (d) are amended to read:

39-15-203. Imposition.

(a) Taxable event. The following shall apply:

(vi) The following provisions apply to imposition of the alcoholic beverage excise tax under W.S. 39-15-204(a)(vii):

(A) Any county or city may impose an excise tax not to exceed the rate specified in W.S. 39-15-204(a)(vii) upon the retail sale of alcoholic beverages for a specified period of time. In no event shall the time period exceed three (3) months in any one (1) calendar year. Except as provided by subparagraph (F) of this paragraph, no tax shall be imposed under W.S. 39-15-204(a)(vii) until the proposition to impose the tax is submitted to the vote of the qualified electors of the county or city, and a majority of those casting their ballots vote in favor of imposing the tax. As used in this paragraph, "city" means any incorporated municipality. Except as otherwise provided, an excise tax imposed under this paragraph shall commence as provided by W.S. 39-15-207 following the election approving the imposition of the tax;

(B) The proposition to impose an excise tax shall be at the expense of the county or city and be submitted to the electors of the county or city upon the receipt by the governing body of the county or city a petition requesting the election signed by at least five percent (5%) of the electors of the county or city or of a resolution approving the proposition from the governing body of the county or city. If proposed by petition by electors, the number of electors required shall be determined by the number of votes cast at the last general election. The election shall be at the direction and under the supervision of the governing body of the county or city;

(C) The proposition may be submitted at an election held on a date authorized under W.S. 22-21-103. A notice of election shall be given in at least one (1) newspaper of general circulation published in the county, or in the city if only a city wide tax is proposed, and the notice shall specify the object of the election and the term of the tax to be imposed. The notice shall be published at least once each week for a thirty (30) day period preceding the election. At the election the ballots shall contain the words "for the alcoholic beverage sales and use tax" and "against the alcoholic beverage sales and use tax". The ballot shall also contain the proposed length of time for the imposition of the tax;

(D) If the proposition to impose or continue the tax is defeated the proposition shall not again be submitted to the electors of the county or city for at least eleven (11) months;

(E) If the proposition is approved by the qualified electors or under subparagraph (F) of this paragraph, the governing body of the county or city shall by ordinance impose an excise tax upon retail sales of alcoholic beverages. The governing body of the county or city shall adopt an ordinance for the tax authorized by W.S. 39-15-204(a)(vii). The ordinance shall include the following:

(I) A provision imposing an excise tax upon every retail sale of alcoholic beverages made within the county or city;

(II) Provisions identical to those contained in article 1 of this chapter insofar as it relates to sales taxes, except the name of the county or city as the taxing agency shall be substituted for that of the state and an additional license to engage in business shall not be required if the vendor has been issued a state license pursuant to law;

(III) A provision that any amendments made to article 1 or to chapter 16 not in conflict with article 1 of this chapter or to chapter 16 shall automatically become a part of the sales tax ordinances of the county or city;

(IV) A provision that the county or city shall contract with the department prior to the effective date of the county or city sales tax ordinances whereby the department shall perform all functions incident to the administration of the sales tax ordinances of the county or city;

(V) A provision that the amount subject to the sales tax shall not include the amount of any sales tax imposed by the state of Wyoming.

(F) The tax authorized under W.S. 39-15-204(a)(vii) may be continued subject to the following terms and conditions:

(I) The tax shall be initially imposed following approval of the electorate in accordance with subparagraphs (B) and (C) of this paragraph;

(II) The tax shall be continued for subsequent years for the same time period if favorably supported by a resolution adopted by the governing body of the county or city;

(III) Ordinances under this subparagraph shall conform with subdivisions (E)(I) through (V) of this paragraph;

(IV) Excise taxes shall be continued under this subparagraph only if the governing body of the county or city has certified that an ordinance to continue the tax under this subparagraph has been adopted within ninety (90) days following the termination of the tax. Within five (5) days of such certification, the governing body of the county or city shall notify the department of revenue of this tax;

(V) The tax may be terminated in the same manner as it was continued under subdivisions (II) and (IV) of this subparagraph except that ordinances shall be for the rescinding of the tax. If the tax is continued under subdivisions (II) and (IV) of this subparagraph, it may also be terminated by an election to rescind the tax conducted subject to subparagraphs (B) through (D) of this paragraph.

39-15-204. Taxation rate.

(a) In addition to the state tax imposed under W.S. 39-15-101 through 39-15-111 any county of the state may impose the following excise taxes, ~~and~~ any city or town may impose the tax authorized by ~~paragraph~~ paragraphs (ii) and (vii) of this subsection and any resort district may impose the tax authorized by paragraph (v) of this subsection:

(vii) An excise tax at a rate in increments of one percent (1%) not to exceed a rate of four percent (4%)

upon retail sales of alcoholic beverages made within the county or city.

39-15-211. Distribution.

(d) All revenue collected by the department from the taxes imposed by W.S. 39-15-203(a)(vi) shall be transferred to the state treasurer who shall:

(i) Deduct one percent (1%) to defray the costs of collecting the tax and administrative expenses incident thereto which shall be deposited into the general fund;

(ii) Deposit the remainder into the trust and agency fund for monthly distribution to the county or city treasurer of the entity in which the tax has been imposed to be deposited into the general fund.

39-16-203. Imposition.

(a) Taxable event. The following shall apply:

(v) The following provisions apply to imposition of the alcoholic beverage excise tax under W.S. 39-16-204(a)(vi):

(A) Any city or county may impose an excise tax not to exceed the rate specified in W.S. 39-16-204(a)(vi) upon the retail sale of alcoholic beverages for a specified period of time. In no event shall the time period exceed three (3) months in any one (1) calendar year. Except as provided by subparagraph (F) of this paragraph, no tax shall be imposed under W.S. 39-16-204(a)(vi) until the proposition to impose the tax is submitted to the vote of the qualified electors of the county or city, and a majority of those casting their ballots vote in favor of imposing the tax. As used in this paragraph, "city" means any incorporated municipality. Except as otherwise provided, excise taxes imposed under this paragraph shall commence as provided by W.S. 39-16-207 following the election approving the imposition of the tax;

(B) The proposition to impose an excise tax shall be at the expense of the county or city and be submitted to the electors of the county or city upon the receipt by the governing body of the county or city a petition requesting the election signed by at least five percent (5%) of the electors of the county or city or of a resolution approving the proposition from the governing body of the county or city. If proposed by petition by electors, the number of electors required shall be determined by the number of votes cast at the last general election. The election shall be at the direction and under the supervision of the governing body of the county or city;

(C) The proposition may be submitted at an election held on a date authorized under W.S. 22-21-103. A notice of election shall be given in at least one (1) newspaper of general circulation published in the county, or in the city if only a city wide tax is proposed, and the notice shall specify the object of the election and the term of the tax to be imposed. The notice shall be published at least once each week for a thirty (30) day period preceding the election. At the election the ballots shall contain the words "for the alcoholic beverage sales and use tax" and "against the alcoholic beverage sales and use tax". The ballot shall also contain the proposed length of time for the imposition of the tax;

(D) If the proposition to impose or continue the tax is defeated the proposition shall not again be submitted to the electors of the county or city for at least eleven (11) months;

(E) If the proposition is approved by the qualified electors or under subparagraph (F) of this paragraph, the governing body of the county or city shall by ordinance impose an excise tax upon the retail sale of alcoholic beverages. The governing body of the county or city shall adopt an ordinance for the tax authorized by W.S. 39-16-204(a)(vi). The ordinance shall include the following:

(I) A provision imposing an excise tax upon every retail sale of alcoholic beverages made within the city and upon sales made within the city and storage, use and consumption of tangible personal property in the city at the rate approved by the electors or under subparagraph (F) of this paragraph, whichever is appropriate;

(II) Provisions identical to those contained in article 1 of this chapter insofar as it relates to use taxes, except the name of the county or city as the taxing agency shall be substituted for that of the state and an additional license to engage in business shall not be required if the vendor has been issued a state license pursuant to law;

(III) A provision that any amendments made to article 1 or to chapter 15 not in conflict with article 1 of this chapter or to chapter 15 shall automatically become a part of the sales tax ordinances of the city;

(IV) A provision that the city shall contract with the department prior to the effective date of the county or city sales tax ordinances whereby the department shall perform all functions incident to the administration of the use tax ordinances of the county or city;

(V) A provision that the amount subject to the tax shall not include the amount of any sales or use tax imposed by the state of Wyoming.

(F) The tax authorized under W.S. 39-16-204(a)(vi) may be continued subject to the following terms and conditions:

(I) The tax shall be initially imposed following approval of the electorate in accordance with subparagraphs (B) and (C) of this paragraph;

(II) The tax shall be continued if favorably supported by a resolution adopted by the governing body of the county or city;

(III) Ordinances under this subparagraph shall conform with subdivisions (E)(I) through (V) of this paragraph;

(IV) Excise taxes shall be continued under this subparagraph only if the governing body of the county or city has certified that an ordinance to continue the tax under this subparagraph has been adopted within ninety (90) days following the termination of the tax. Within five (5) days of such certification, the governing body of the county or city shall notify the department of revenue of this tax;

(V) The tax may be terminated in the same manner as it was continued under subdivisions (II) and (IV) of this subparagraph except that ordinances shall be for the rescinding of the tax. If the tax is continued under subdivisions (II) and (IV) of this subparagraph, it may also be terminated by an election to rescind the tax conducted subject to subparagraphs (B) through (D) of this paragraph.

39-16-204. Taxation rate.

(a) In addition to the state tax imposed under W.S. 39-16-101 through 39-16-111 any county of the state may impose the following excise taxes, any city or town may impose the tax authorized by paragraph (vi) of this subsection and any resort district may impose the tax authorized by paragraph (iv) of this subsection:

(vi) An excise tax at a rate in increments of one percent (1%) not to exceed a rate of four percent (4%) upon sales and storage, use and consumption of alcoholic beverages made within the city, the purpose of which is for general revenue.

39-16-211. Distribution.

(d) All revenue collected by the department from the taxes imposed by W.S. 39-16-203(a)(v) shall be transferred to the state treasurer who shall:

(i) Deduct one percent (1%) to defray the costs of collecting the tax and administrative expenses incident thereto which shall be deposited into the general fund;

(ii) Deposit the remainder into the trust and agency fund for monthly distribution to the county or city treasurer of the entity in which the tax has been imposed to be deposited into the general fund.

Section 2. This act is effective July 1, 2006.

(END)