



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

WWW.RFA.SC.GOV • (803)734-3793

This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: S. 0244 Introduced on January 16, 2025
Subject: Tort Reform
Requestor: Senate Judiciary
RFA Analyst(s): Bryant
Impact Date: January 30, 2025

Fiscal Impact Summary

This bill makes changes to Chapter 38, Title, 15, which is the South Carolina Contribution Among Tortfeasors Act. The bill also makes various changes in numerous code sections regarding civil liability, civil action, and gross negligence for various topics, and makes changes to code sections related to punitive or exemplary damages. The bill further adds civil actions pertaining to intoxicated individuals and for alcohol server licensees.

The bill also adds Chapter 3 to Title 61 to require an individual employed as an alcohol server or manager to complete alcohol server training and to obtain an alcohol server certificate. The bill tasks the Department of Revenue (DOR) with the responsibility to approve alcohol server training programs offered by providers and specifies that DOR may collaborate with the Department of Alcohol and Other Drug Abuse Services (DAODAS) and the South Carolina Law Enforcement Division (SLED) to determine appropriate providers. DOR must also issue an alcohol server certificate to each applicant who completes an approved program or recertification program. Additionally, the bill specifies that SLED and DOR are responsible for enforcing the provisions of the bill and allows DOR and SLED to promulgate regulations necessary to administer and enforce the regulations governing responsible alcohol server training provisions. The bill further allows a captive insurance company to apply for a license to provide liquor liability insurance and changes the requirement that a person licensed or permitted to sell alcoholic beverages must maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coverage of at least \$1 million to coverage that is at least \$1 million per occurrence.

Judicial reports that it is unable to estimate the impact that the changes to civil litigation proposed in the bill will have on Common Pleas caseloads. Judicial indicates that moving from a modified joint and several liability system to a pure several liability system may make it more difficult for plaintiffs to recover damages and decrease the number of cases filed. However, the change may also make defendants less likely to settle once a case is filed, leading to more protracted litigation. For reference, Judicial estimates that in FY 2023-24, approximately 14,000 civil cases filed in Common Pleas courts would have been impacted by these changes. However, Judicial anticipates that any increases in Common Pleas caseloads as a result of this bill will be managed within existing appropriations.

DOR indicates the potential need to hire 4.0 FTEs (one supervisor and three staff) at a cost of \$300,000 per year for salary and fringe benefits to administer the provisions of the bill. The department will also need to make system changes and updates to implement and manage the alcohol server training program. However, DOR anticipates that any costs associated with the additional positions and system changes will be managed with existing appropriations.

DAODAS currently approves alcohol retailer and server education programs in South Carolina, including the Palmetto Retailers Education Program (PREP). PREP is delivered through a community-based system of county alcohol and drug abuse authorities. DAODAS provides these county alcohol and drug abuse authorities with resources to facilitate these trainings, including but not limited to training manuals, state affiliated trainers, marketing materials, certificates, and personnel funding. The costs to DAODAS are approximately \$10,000 annually and are funded through the federal Substance Abuse Prevention and Treatment Block Grant (SAPT). The department indicates that this bill may increase demand for these programs. However, DAODAS anticipates that any increase in costs as a result of increased demand will be managed within DAODAS' Federal Funds.

SLED previously indicated on similar legislation that any additional duties arising under the alcohol server training program will be managed with existing appropriations. Therefore, we do not anticipate that the bill will have an expenditure impact for SLED.

This bill may increase the caseload of the Administrative Law Court (ALC). ALC reports that due to a lack of historical data, the Court cannot adequately estimate the increase in the number of contested case hearings that may arise. ALC anticipates that the initial impact of the bill on the Court's caseload will likely be minimal and can be managed with existing resources. However, ALC reports that if there is a significant increase in the number of contested case hearings, the Court will require a General Fund appropriations increase.

DOI reports that this bill will require an increase in regulatory oversight by the department. However, DOI does not expect these additional duties to have a significant financial impact on the department. Therefore, DOI anticipates that it will manage the provisions of the bill with existing appropriations.

This bill may increase Other Funds revenue of ALC due to an increase in filing fees collected in court. Currently, a request for a contested case hearing regarding an alcoholic beverage license violation must be accompanied by a non-refundable filing fee of \$150. The amount of the increase will depend upon the number of requests for a contested case hearing filed with the Court, and ALC anticipates that any increase in Other Funds revenue will likely be nominal. Due to the lack of historical data, the overall Other Funds revenue impact from filing fees for a contested case hearing is, therefore, undetermined.

The bill also specifies that a captive insurance company may apply for a license for liquor liability insurance. DOI indicates that it is unknown at this time whether this provision will increase insurance premium taxes as any impact will depend on whether captive insurance companies write liquor liability policies. Further, the bill changes the requirement that a person

licensed or permitted to sell alcoholic beverages must maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coverage of at least \$1 million to coverage that is at least \$1 million per occurrence. DOI reports that this bill may affect the number of insurance premiums written and, therefore, may impact insurance premium tax revenue.

Additionally, this bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in a change to General Fund, Other Funds, and local funds revenue due to the change in fines and fees collections in court. Further, Section 3 of the bill specifies that failure to produce a copy of an alcohol server certificate subjects the permittee or licensee to noncompliance with Section 61-2-145(E). However, this code section does not exist in current law and is not enumerated in this bill. It is unknown if this noncompliance action will have an associated monetary penalty, and if so, where the funds will be allocated.

This bill allows providers to charge individuals a maximum of \$50 to participate in an alcohol server training program. Providers may see revenues increase as more individuals will be required to participate in a training program. The amount of the increase will depend upon the amounts that providers choose to charge participants and the number of servers and managers that will be required to participate in a training program. Therefore, RFA anticipates this bill will have an undetermined revenue impact on local authorities.

Explanation of Fiscal Impact

Introduced on January 16, 2025

State Expenditure

This bill makes changes to Chapter 38, Title, 15, which is the South Carolina Contribution Among Tortfeasors Act. The bill also makes various changes in numerous code sections regarding civil liability, civil action, and gross negligence for several topics, and makes changes to code sections related to punitive or exemplary damages. Additionally, bill adds civil actions pertaining to intoxicated individuals and for alcohol server licensees. The bill further makes changes to various definitions.

The bill also adds Chapter 3 to Title 61 to require an individual employed as an alcohol server or manager to complete alcohol server training and to obtain an alcohol server certificate. A permittee or licensee must maintain copies of the alcohol server certificates for the permittee or licensee, managers, and alcohol servers for the duration of their employment, and the certificates must be made available to DOR, SLED, or their agents and employees upon request. The bill tasks DOR with the responsibility to approve alcohol server training programs offered by providers and specifies that DOR may collaborate with DAODAS and SLED to determine appropriate providers. DOR must also issue an alcohol server certificate to each applicant who completes an approved program or recertification program and who provides other information as may be required by DOR in an application form that must be made available on the department's website. Alcohol server certificates are valid for a period of five years from the date the certificate is issued. After the five-year period, a new or recertified alcohol server certificate

must be obtained. DOR may not charge a fee to issue and renew alcohol server certificates for qualifying applicants.

Additionally, the bill specifies that SLED and DOR are responsible for enforcing the provisions of the bill, and DOR is responsible for bringing administrative actions for any violations. Contested case hearings arising under these provisions will be heard by the ALC. In addition to civil and criminal penalties available for violations, upon a final administrative determination, a permittee or licensee that violates the provisions of this section of the bill shall have its alcohol license or permit suspended for six months for a first offense and shall have its alcohol license or permit revoked for a second unrelated offense. DOR and SLED are authorized to promulgate regulations necessary to carry out the duties imposed upon them by law for the proper administration and enforcement of regulations governing the development, implementation, education, and enforcement of responsible alcohol server training provisions.

Judicial. Judicial reports that it is unable to estimate the impact that the changes to civil litigation proposed in the bill will have on Common Pleas caseloads. Judicial indicates that moving from a modified joint and several liability system to a pure several liability system may make it more difficult for plaintiffs to recover damages and decrease the number of cases filed. However, the change may also make defendants less likely to settle once a case is filed, leading to more protracted litigation. For reference, Judicial estimates that in FY 2023-24, approximately 14,000 civil cases filed in Common Pleas courts would have been impacted by these changes. However, Judicial anticipates that any increases in Common Pleas caseloads as a result of this bill will be managed within existing appropriations.

Department of Revenue. DOR indicates the potential need to hire 4.0 FTEs (one supervisor and three staff) at a cost of \$300,000 per year for salary and fringe benefits to administer the provisions of the bill. The department will also need to make system changes and updates to implement and manage the alcohol server training program. However, DOR anticipates that any costs associated with the additional positions and system changes will be managed with existing appropriations.

Department of Alcohol and Other Drug Abuse Services. DAODAS currently approves alcohol retailer and server education programs in South Carolina, including PREP, which is delivered through a community-based system of county alcohol and drug abuse authorities. DAODAS provides these county alcohol and drug abuse authorities with resources to facilitate these trainings, including but not limited to training manuals, state affiliated trainers, marketing materials, certificates, and personnel funding. The costs to DAODAS are approximately \$10,000 annually and are funded through the federal SAPT Block Grant. The department indicates that this bill may increase demand for these programs. However, DAODAS anticipates that any increase in costs as a result of increased demand will be managed within DAODAS' Federal Funds.

State Law Enforcement Division. SLED previously indicated on similar legislation that any additional duties arising under the alcohol server training program will be managed with existing

appropriations. Therefore, we do not anticipate that the bill will have an expenditure impact for SLED.

Administrative Law Court. According to ALC, this bill provides for additional circumstances under which a party may request a contested case hearing with the Court. Under the provisions of the bill, a party may request a contested case hearing to review decisions regarding licensing or permitting of the premises and violations by the person licensed or permitted to sell alcohol. A contested case hearing may also be requested if an applicant seeking to run an alcohol server training program is denied approval; if an alcohol server training program has its authorization suspended or revoked; and if a licensee for on-premises consumption allows its liability policy to lapse or terminate. This bill may increase the caseload of the ALC. ALC reports that due to a lack of historical data, the Court cannot adequately estimate the increase in the number of contested case hearings that may arise. ALC anticipates that the initial impact of the bill on the Court's caseload will likely be minimal and can be managed with existing resources. However, ALC reports that if there is a significant increase in the number of contested case hearings, the Court will require a General Fund appropriations increase.

Department of Insurance. DOI reports that this bill will require an increase in regulatory oversight by the department. However, DOI does not expect these additional duties to have a significant financial impact on the department. Therefore, DOI anticipates that it will manage the provisions of the bill with existing appropriations.

State Revenue

This bill specifies that contested case hearings arising under the bill will be heard by the ALC. This bill may increase ALC Other Funds revenue due to an increase in filing fees collected in court. Currently, a request for a contested case hearing regarding an alcoholic beverage license violation must be accompanied by a non-refundable filing fee of \$150. The amount of the increase will depend upon the number of requests for a contested case hearing filed with the Court, and ALC anticipates that any increase in Other Funds revenue will likely be nominal. Due to a lack of historical data, the overall Other Funds revenue impact from filing fees for a contested case hearing is, therefore, undetermined.

The bill also specifies that a captive insurance company may apply for a license for liquor liability insurance. DOI indicates that it is unknown at this time whether this provision will increase insurance premium taxes as any impact will depend on whether captive insurance companies write liquor liability policies. Further, the bill changes the requirement that a person licensed or permitted to sell alcoholic beverages must maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coverage of at least \$1 million to coverage that is at least \$1 million per occurrence. DOI reports that this bill may affect the number of insurance premiums written and, therefore, may impact insurance premium tax revenue.

Additionally, this bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in a change to General Fund and Other Funds revenue due to the

change in fines and fees collections in court. Further, Section 3 of the bill specifies that failure to produce a copy of an alcohol server certificate subjects the permittee or licensee to noncompliance with Section 61-2-145(E). However, this code section does not exist in current law and is not enumerated in this bill. It is unknown if this noncompliance action will have an associated monetary penalty, and if so, where the funds will be allocated.

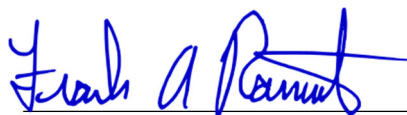
Local Expenditure

N/A

Local Revenue

This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in a change to local revenue due to the change in fines and fees collections in court.

This bill also allows providers to charge individuals a maximum of \$50 to participate in an alcohol server training program. Providers may see revenues increase as more individuals will be required to participate in a training program. The amount of the increase will depend upon the amounts that providers choose to charge participants, and the number of servers and managers that will be required to participate in a training program. Therefore, RFA anticipates this bill will have an undetermined revenue impact on local authorities.



Frank A. Rainwater, Executive Director