

Research Plan: Restaurant Taxes and Regulations

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Support: To Be Determined

Deputy Executive Director Approval: Initial: Date:

Executive Director Approval: Initial: Date:

Purpose

To study taxes and regulations on restaurants in Tennessee and potentially recommend changes that balance the needs of the businesses and the broader needs of the public.

Background

State and local governments in Tennessee regulate restaurants to protect employees and customers, ensure cleanliness, and prevent the spread of foodborne illnesses. To help pay for that regulation, restaurants pay fees. For example, restaurants are charged an annual liquor-by-the-drink licensing fee that varies according to seating capacity. Restaurants also pay taxes, including taxes on sales of alcoholic beverages.

For counties and cities that approved, by referendum, sales of alcoholic beverages (i.e., liquor-by-the-drink) for consumption on the premises, Public Chapter 211, Acts of 1967, imposed a tax rate of 15% on those sales (i.e., the mixed drink tax). Of Tennessee's 95 counties, 65 collected a total of \$33.9 million in mixed drink tax revenue in 2020, and of 345 cities, 159 collected a total of \$31.0 million.

The revenue from the mixed drink tax is partially restricted in its use. Half of mixed drink tax revenue is distributed to the state's general fund and is earmarked for education purposes, and half is distributed to the county or city where the sale was made. Fifty percent (50%) of the amount distributed to counties and cities is earmarked for school systems in the county, with the other 50% going to the applicable county or city for unrestricted use.

The US labor market has been challenging for employers recently, especially in the accommodations and food services industry, which according to the Bureau of Labor Statistics has the highest rates of labor turnover and unfilled job openings of any US industry. Regarding restaurants in Tennessee, some stakeholders say that state requirements to verify employees' immigration status may be a reason for labor shortages. In addition, they say that state

requirements for licensing, permitting, and training may be placing an undue burden on restaurants.

In response to these concerns, Senate Bill 2262 by Briggs and House Bill 2419 by Mannis was taken off notice in the House of Representatives, but passed in the Senate, and requests TACIR study

- liquor-by-the-drink and similar taxes on-premise consumption of alcoholic beverages and beer;
- licensing, permitting, and other fees under title 57, chapters 4 and 5 for the restaurant industry;
- staffing challenges with respect to server permits, wages, and applicable training necessary to operate such restaurants; and
- other barriers to entry for such restaurants that may be minimized or mitigated.

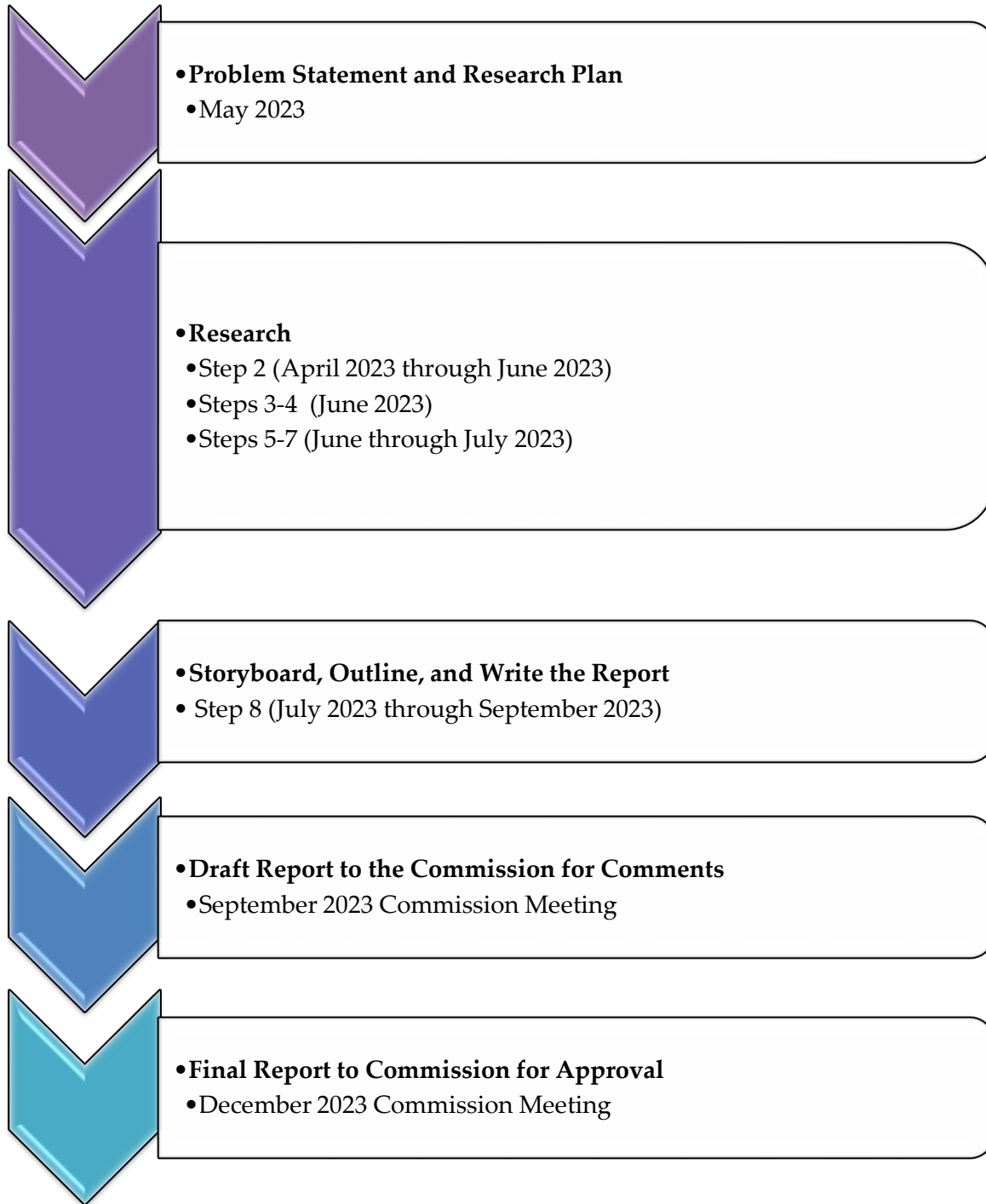
Step 1. Define the Problem

Stakeholders such as restaurant owners say that taxes and regulations on liquor-by-the-drink make it challenging to establish, staff, and successfully operate restaurants in Tennessee.

Step 2. Assemble Some Evidence

- Interview the bill sponsors, Senator Briggs and Representative Mannis.
- Interview stakeholders to determine what is driving this issue.
 - County Commissioners Association
 - County Mayors Association
 - County Officials Association
 - County Services Association
 - County Technical Assistance Service (CTAS)
 - Hospitality TN
 - Municipal Technical Advisory Service (MTAS)
 - National Federation of Independent Businesses
 - Tennessee Alcoholic Beverage Commission
 - Tennessee Chamber of Commerce
 - Tennessee Department of Agriculture
 - Tennessee Department of Health
 - Tennessee Department of Revenue

- Tennessee Malt Beverage Association
 - Tennessee Municipal League (TML)
- Review Tennessee’s statutes and regulations relevant to restaurants.
- Review relevant case law and Attorney General opinions.
- Review past bills meant to address this issue, including committee hearings on those bills and the fiscal notes.
- Review existing laws and regulations of other states.
- Review relevant federal statutes and regulations.
- Review relevant literature.
- Gather relevant data sets, including statistics related to restaurants.



Amendment No. 1 to SB2262

Briggs
Signature of Sponsor

AMEND Senate Bill No. 2262*

House Bill No. 2419

by deleting all language after the enacting clause and substituting:

SECTION 1.

(a)

(1) The Tennessee advisory commission on intergovernmental relations (TACIR) is directed to perform a study of the laws in this state and other states relating to restaurants licensed or permitted, or both, under title 57, chapter 4 or 5.

(2) The study must include a review of:

(A) Liquor-by-the-drink and similar taxes and for on-premise consumption of alcoholic beverages and beer;

(B) Licensing, permitting, and other fees under title 57, chapters 4 and 5 for the restaurant industry;

(C) Staffing challenges with respect to server permits, wages, and applicable training necessary to operate such restaurants; and

(D) Other barriers to entry for such restaurants that may be minimized or mitigated, as identified by TACIR in conducting the study.

(3) The study must be conducted within TACIR's existing resources.

(b) All appropriate state departments and agencies shall provide assistance to TACIR.

(c) On or before January 1, 2024, TACIR shall reports its findings and recommendations to the governor, the speaker of the senate, and the speaker of the house of representatives. The report may be delivered electronically.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.