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FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/09
 SPONSOR Irwin LAST UPDATED 03/13/09 HB 115/aHBIC
 SHORT TITLE Direct Wine Shipments SB _____
 ANALYST Lucero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$20.0	\$20.0	Recurring	General Fund

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
		\$57.0	\$57.0	\$171.0	Recurring	General Fund
		\$10.0		\$10.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of HBIC Amendment

House Business and Industry Committee (HBIC) amendment to House Bill 115 eliminates references to “retailer’s license”, clarifying that “direct wine shipments” are intended to apply to shipments from entities holding a winegrower’s license, and not intermediate retailers.

The amendment also reduces the number of cases a permittee may ship from 24 nine-liter cases of wine annually to 2 nine-liter cases of wine monthly to a New Mexico resident for personal consumption.

Synopsis of Original Bill

House Bill 115 enacts a new section of the Liquor Control Act, Section 60-6A-11.1 NMSA 1978. The bill allows “eligible parties” to apply to the Regulation and Licensing Department (RLD) for a direct wine shipment permit. An “eligible party” is a licensee with a winegrower’s license or a retailer’s license or a person licensed in a state other than New Mexico that holds a winery license or a retailer’s license that allows the winery or retail licensee to sell wine directly to consumers.

The provisions state that the permittee be required to register with the Taxation and Revenue Department (TRD) to pay the liquor excise tax and gross receipts tax on sales in New Mexico, pay annually the liquor excise tax due, pay the gross receipts tax due on wine sold directly to a New Mexico resident, report annually to RLD and TRD the amount of wine sold and shipped in the prior year and submit to TRD audit of records of wine shipped to New Mexico residents.

The holder of a permit may ship not more than twenty-four nine-liter cases of wine annually to a New Mexico resident for personal consumption.

FISCAL IMPLICATIONS

TRD estimates that the annual application fees of \$50 for each direct wine shipment permit would probably amount to no more than a few thousand dollars. Some loss of gross receipts tax revenue may occur if direct wine shipments from out-of-state replace a substantial volume of sales within the state, but that loss is expected to be quite small. Liquor excise tax receipts would be expected to be unaffected. Additionally, TRD estimates a minimal administrative impact.

RLD’s Alcohol and Gaming Division (AGD) would need a part-time FTE at a cost of \$57 thousand, to review and process the direct shippers permit applications and to respond to inquiries regarding the permit process. AGD would estimate that perhaps 400 permits would initially be requested at \$50.00 each for estimated annual revenue of \$20,000.00. This is a conservative estimate as AGD has no way to determine the number of permits from out-of-state shippers.

Operating costs would include staff time, increased postage costs, printing costs and costs for license certificates. Initial costs estimated for FY 09 would be the costs to set up and prepare for licensing operations to commence on July 1, 2009.

SIGNIFICANT ISSUES

Direct wine shipments are not currently regulated, but are occurring and the State is not receiving any revenues. The State currently has no way to track those companies that are shipping product into the state and has no mechanism to deal with disputes or taxation issues.

For example, in another state, currently, there are no laws in place that give the department the authority to track, audit and collect taxes on direct wine shipments from wineries outside of the state," said Florida Department of Business and Professional Regulation Secretary Holly Benson. "As a result, there are discrepancies in the treatment of Florida wineries versus out-of-state wineries, the department cannot collect taxes on the wine that is shipped directly to consumers, and the department is unable to enforce underage drinking laws.

ADMINISTRATIVE IMPLICATIONS

Modification to existing liquor excise tax forms and instructions adding an annual report to be completed by the direct wine shipment permit holders.

TRD notes that the GenTax information technology system liquor excise tax program would have to be changed – moderate impact possibly \$10 thousand non-recurring.

- 1) Modification to forms - 40 hours
 - 2) Changes to configuration for new transactions and annual filing – 40 hours
- Total 80 hours of computer programming resources

The list of permittees would need to be provided to TRD for compliance verification. The permittees would need to be audited to ensure compliance with the liquor excise tax and, if applicable, the gross receipts tax.

AGD staff would be required to review both initial applications and applications for renewal of licenses, enter applicant information into the database, print and mail licenses. Additionally, staff time would be spent formulating the new application and answering questions from New Mexico winegrowers and retailers as well as from out-of-state licensees on the process for obtaining a permit. Administration of this task would require a half-time FTE.

RELATIONSHIP

Relates to HB226

Relates to Appropriation in the General Appropriation Act

TECHNICAL ISSUES

It is unclear if the delivery company staff, i.e. UPS, FedEx, etc would have to verify the age of those receiving/signing for the package. If so, it is unclear if they would have to be certified to serve alcohol, such as grocery and convenience store clerks are.

The wine industry and other companies have put in place several measures to check that those purchasing wines are over the age of 21. Companies such as ChoicePoint and IDology have teamed up with wine-industry associations to offer online age-verification services.

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