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FISCAL IMPACT REPORT

ORIGINAL DATE 03/03/15
 SPONSOR SJC LAST UPDATED 03/04/15 HB _____
 SHORT TITLE Craft Brewer Licenses SB 238/SJCS
 ANALYST Cerny

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|---------------------------|---------------------------|---------------------------|---------------|
| FY15 | FY16 | FY17 | | |
| | Indeterminate but Minimal | Indeterminate but Minimal | Recurring | General Fund |

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY15 | FY16 | FY17 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|-------------------|---------------------------|---------------|
| Total | | NFI | NFI | | | |

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 11, HB 198, HB 243, SB 71, SB 241, SB 300

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Office of the Attorney General (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 238 as substituted by the House Judiciary Committee amends the Liquor Control Act, 60-7A-12C NMSA 1978.

CS 238 would allow a licensed New Mexico small brewer or winegrower that also holds a dispenser or restaurant license to additionally hold a Small Brewer and Winegrowers Limited Wholesaler License. They may do so by holding an interest in a legal entity, directly or indirectly through an affiliate, that holds a restaurant or a dispenser's license and the Small Brewer and Winegrowers Limited Wholesaler's license issued pursuant to the Liquor Control Act.

Currently small brewers that do not have a dispenser or restaurant license may apply for and receive a wholesaler license to self-distribute the products they manufacture. Small brewers that hold a restaurant or dispenser license currently are barred from obtaining a wholesaler license.

New Mexico has a 3-tiered system for the regulation of alcohol. There is a manufacturing tier, a distribution/wholesaler tier and a retail tier. Many of the ownership disclosure requirements and various prohibitions are aimed at preventing a system known as a “tied house” where the bar owner also makes and distributes the alcohol he sells in his bar, creating a monopoly for a single alcohol manufacturer.

FISCAL IMPLICATIONS

CS 238 carries no appropriation and has minimal fiscal impact.

Revenue from additional wholesaler licenses will be generated. The fee per license is \$1,000 annually.

SIGNIFICANT ISSUES

Most of New Mexico’s license holders have limits on the types of licenses they may hold. A wholesaler/distributor may not also be the manufacturer nor may he be the retailer. All manufacturers, *except* for those carved out in the small brewer, winegrower and craft distiller license types, are prohibited from being wholesalers or retailers.

CS 238 creates a new type of license specifically for licensed Small Brewers and Winegrowers so that they may sell or ship, at wholesale, the beer or wine they produce (unlike wholesalers who carry and distribute alcoholic beverages from a variety of manufacturers). They already have the rights to sell and ship their products at retail.

CS 238 does not amend the statute so that craft distiller license holders, who are also barred from holding a wholesaler license in the same situation, are granted parity with craft brewers.

ADMINISTRATIVE IMPLICATIONS

The Alcohol and Gaming Division would need to create the new license, including necessary forms and checklist.

RELATIONSHIP

HB 11, HB 198, HB 243, SB 71, SB 238, SB 241, and SB 300 all relate to the regulation and licensing of alcohol sale.

HB 11 proposes to amend the Liquor Control Act to extend hours of sale for alcoholic beverages from midnight until 2 AM for package liquor (off-premise consumption) and winegrowers. HB 11 would also eliminate restrictions on Sunday and holiday sales.

HB 198 and SB 300 both propose to allow governmental licenses to sell distilled spirits as well as beer and wine at municipal golf courses. Currently governmental licenses can only sell beer and wine at municipal golf courses.

SB 71 proposes to amend the Liquor Control Act so that local option districts may hold an election to allow restaurant licenses to sell distilled spirits produced in New Mexico, as well as beer and wine. Currently, restaurant licenses may sell beer and wine, but not distilled spirits.

SB 241 proposes to amend the Liquor Control Act to allow the transfer of dispenser and retailer license out of local option districts which are below the number allowed by law (“under-quota”).

SB 258 also defines a growler as “a clean, refillable and resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider for consumption off premises” and allows growlers to be sold for off-premise consumption.

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