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FISCAL IMPACT REPORT

ORIGINAL DATE 02/13/13

SPONSOR Maestas LAST UPDATED _____ HB 461

SHORT TITLE Increase Alcohol Server Training Frequency SB _____

ANALYST Weber

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	See Fiscal Implications			

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Attorney General's Office (AGO)
 Public Defender Department (PDD)
 Regulation and Licensing Department (RLD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 461 proposes the following changes related to liquor control.

1. Shortens the period of time, from 5 years to 3 years, during which issued alcohol server permits remain valid. Currently issued permits remain valid until its scheduled

expiration, i.e., the bill does not impact currently issued cards.

2. Changes the penalty for a certified server:
 - a) who sells or serves alcohol to a minor for the first time to a misdemeanor from a fourth degree penalty
 - b) for a second and subsequent offense, that certified server is guilty of a fourth degree felony.

For offenders who are not certified servers, the offense remains a fourth degree felony.

FISCAL IMPLICATIONS

Alcohol Gaming Division (AGD) reports issuing 282,000 server permits since the program began and the server training program instituted. AGD issued 13,250 new server permits in 2012 alone, not including renewals and duplicates. On average, AGD processes and mails out approximately 17,000 to 18,000 server permits per year, including both new permits and renewals. This number will go up if server permits are renewed every 3 years instead of every 5 years. The workload for AGD will increase as the number of renewal applications will increase. The amount of additional workload is minimal and can be absorbed with existing resources.

If the average is 17,500 new permits per year and the renewal fee \$10 each the annual revenue is \$175,000. For 5 years, the current validity period, the total is \$875,000. Assuming the same total number of annual registration, this dollar total will be generated over 3 years rather than 5. This makes the annual total approximately \$292,000 rather than 175,000, an increase of \$117,000. This change is not noted in the revenue section since the increase will not begin for more than the three year time period used for fiscal impact reports.

SIGNIFICANT ISSUES

The AGO notes that it seems there will be exceptions made for certified trainers. There appears to be an equal protection violation because certified trainers are not penalized as much as non-certified trainers.

Non-certified trainers would have an equal protection claim. So certified trainers are charged with misdemeanors and non-certified trainers are charged with felonies. There will also be due process violations claimed.

The AODA and PDD note similar concerns of different penalties for the same violation. In fact, it seems backwards that the uncertified, uninformed are penalized more vigorously than the certified, informed who should know better.

DOT offers:

Alcohol constitutes one of the most serious health concerns for young people in the United States and in New Mexico. Reducing access to alcohol is a critical element in the prevention of underage drinking; states have the authority to control access to alcohol.

A reduction in the law from a felony to a misdemeanor for a “server,” according to Section 60-6E-7, NMSA 1978, may have a significant impact on youth purchasing alcohol, as servers may be more inclined to sell alcohol to underage persons due to a decrease in deterrence. New

Mexico leads the nation in the age at which youth take their first drink before the age of thirteen, and New Mexico ranks 16th in the nation for “Deadliest States for Teen Driving.”

The age of first use of alcohol is a powerful predictor of a lifetime of alcohol use and dependence, and, therefore, a change in the law from a fourth degree felony to a misdemeanor for a “server” may have a long term impact on underage drinking. All deterrent measures are needed to reduce underage drinking in New Mexico.

All servers in New Mexico are required to undergo training and are informed of the law regarding the sale of liquor to minors prior to servers serving or selling alcohol.

Increasing server training from five years to three years would likely have a positive impact on the reduction of selling and serving alcohol to minors because the frequency of training would increase.

TECHNICAL ISSUES

The bill apparently does not address whether current permits issued for five years would expire early or if they are “grandfathered in” to the issued expiration.

MW/blm