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FISCAL IMPACT REPORT

SPONSOR Trujillo, J ORIGINAL DATE 02/07/17
LAST UPDATED _____ HB 262
SHORT TITLE Sunday Liquor Sales on December 31 SB _____
ANALYST Amacher

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
None	None		

(Parenthesis () Indicate Expenditure Decreases)

Relates to: SB 37, SB 57, SB 58, SB 124, SB 201, SB 211, SB 300 and HB 39, HB 51, HB 56, HB 162, HB 262, HB 296, HB 300

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department (EDD)
Regulation and Licensing Department (RLD)
State Fair Commission (SFC)
Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 262 amends the Liquor Control Act to provide for hours of sales in those instances when December 31 falls on a Sunday. If enacted, the effective date of this bill is June 16, 2017.

FISCAL IMPLICATIONS

No known fiscal impacts.

SIGNIFICANT ISSUES

House Bill 262 amends the Liquor Control Act (Chapter 60-7A-1 NMSA 1978) by proposing Sunday sales in those years when December 31 falls on a Sunday, from 11:00 a.m. until 2:00 a.m. of the following day. This is subject to an annual application and an additional fee of \$100.

The provisions of HB 262 are only applicable to those counties in which the local option district voted in favor of Sunday sales; dispensers or clubs.

In reading HB 262, it appears that the proposed amendments are applicable to a dispenser, restaurant licensee or club. However, there is an existing exception for a restaurant licensee in Chapter 60-6A-4 NMSA 1978. For those with a restaurant license, if Sunday sales have been approved in the local option district, a restaurant licensee may serve beer and wine on Sundays until the time meal(s) sales and services cease or 11:00 p.m., or whichever time is earlier. Thusly the provisions of HB 262 are non-applicable to those with restaurant licenses, also commonly known as restaurant beer and wine licenses. This is not to be confused with “restaurants” as this type of business may have a dispenser license or a lease agreement of a dispenser license. HB 262 applies to those with dispenser licenses and club licenses.

Examples of dispenser licensees include bars, full service restaurants that intend to serve beer/wine/spirits and may have a bar, grocery stores, gift shops, nightclubs, and package liquor stores. Club licenses, also known as non-dispenser licenses, are applicable to private clubs and may sell and serve alcohol on licensed premises for club activities. Clubs may only sell to their membership and/or bona fide guests.

Currently eleven counties do not allow liquor sales on Sundays. For those where the local option district has allowed liquor sales on Sundays, and has a dispenser license, the hours to sell are from 11:00 a.m. to midnight on Sundays, and 7:00 a.m. to 11:00 p.m. Monday through Saturday. HB 262 proposes an extension of hours for those with a dispenser license, when December 31 does fall on a Sunday. If HB 262 is enacted, on December 31, 2017, sales may continue until 2:00 a.m. of the following day.

OTHER SUBSTANTIVE ISSUES

The dispenser liquor license is a type of quota liquor license. It is commonly referred to as a full liquor license since it allows for the sale and service of beer, wine, and sprits both by: 1) the drink for consumption on the licensed premises, and 2) and by package for consumption off the licensed premises. In 2016, there were 1,411 quota liquor licenses statewide. Of those, there were 383 inter local dispenser licenses – licenses that have lost their package rights and only retain the rights that allow for on-premise sales.

Under current law, a dispenser license holder may lease the liquor license but only to one lessor. And only the single lessor may operate and directly profit from the operation of the license. The lessor will usually exercise the right to either sell and serve alcohol on the licensed premises or sell alcohol for consumption off of the licensed premises. Dispenser licenses are leased to entities whose business models require the service of beer, wine and spirits for on-premise consumption (ex: chain restaurants.) Alternatively, dispenser licenses are also leased to entities wishing to use the package rights of the license to sell liquor for consumption off of the licensed premises (ex: grocery stores.) RLD notes that of all the quota licenses, the full dispenser license type is the most valuable. Because it is a quota license type, there is more demand than supply, driving the price to \$750,000 and above.

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As expressed by RLD, this measure deals with the conflict faced when New Year's Eve falls on a Sunday night. HB 262 resolves that conflict such that sales can continue until 2 a.m., except for holders of restaurant beer and wine licenses whose sales will still end at 11 p.m.

Christmas Day sales hours are from noon until 10:00 p.m. on Christmas day, except in a local option district where this was voted against such sales or consumption on Christmas day. There are no package sales allowed on Christmas Day.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Liquor sales on December 31, when it happens to be on a Sunday, such as the upcoming one in 2017, will continue to stop at midnight.

JMA/al