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FISCAL IMPACT REPORT

SPONSOR Rodella/CA
Trujillo/Ruiloba/ ORIGINAL DATE 2/01/18
Youngblood LAST UPDATED 2/12/18 HB 258/aHJC

SHORT TITLE No Scanbacks & Instant Malt Liquor Coupons SB _____

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB211

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of HJC Amendment

House Judiciary Committee Amendment to House Bill 258 strikes “physical” in the definition of “coupon”.

Synopsis of Original Bill

House Bill 258 proposes to amend the Liquor Control Act to prohibit nonretail licensees (suppliers) from offering coupons (instant redeemable coupons) and scanbacks (electronic coupons).

SIGNIFICANT ISSUES

According to the Regulation and Licensing Department (RLD), New Mexico’s unfair competition and tied-house laws prohibit manufacturers, importers and wholesalers from paying money or giving things of value to retail licensees, Section 60-8A-1 NMSA 1978.

A "tied house" is a practice whereby an industry member induces a retailer to purchase its

alcohol beverages.

Under the current law, upper tier members (those who manufacture, import or wholesale alcoholic beverages but do not sell directly to the public) are prohibited from inducing the preferential placement and sales of their products. More specifically, suppliers or distributors/wholesalers cannot offer financial or other inducement to a licensee who sells alcoholic beverages to the public; i.e. a retailer.

When suppliers restrict scanback program participation to certain key retail accounts or channels, or fail or refuse to make these programs available to all retailers, they can be subject to administrative sanctions for violating tied-house laws. What has happened in New Mexico is that participation in promotional programs has been offered through the use of scanbacks, with the result that retailers who do not have the equipment to participate do not have access to the promotional programs. Scanbacks also are a way that suppliers avoid making the offers through their licensed wholesalers.

RLD's Alcohol & Gaming Division has dealt with scanbacks by requiring that suppliers offer paper coupons in sufficient numbers to ensure that all retailers in the state are able to participate in each promotion, thereby allowing for an even playing field. Other states have simply outlawed these instruments.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 211 Liquor License Unfair Competition

ABS/al/jle