

Unknown, however may be significant. The requirement that the Alcohol and Gaming Division audit the records of those affected by the bill would most likely require at least one additional FTE to accomplish this task. Additionally, the position would require funding, office space, equipment and travel budget.

OTHER SUBSTANTIVE ISSUES

The Alcohol and Gaming Division provided the following information regarding this bill:

Section (A) of the bill states that **“no licensee”** shall sell alcoholic beverages in unbroken packages at retail for less than twenty percent above the wholesale price paid by the licensee for the alcoholic beverage. Section (B), however, only requires **“a retailer”** to retain purchase and sales records of all alcoholic beverages sold in unbroken packages. Currently there are approximately 78 licensed retailers in the State. There are other types of licensees, however, that have the ability to sell alcoholic beverages in unbroken packages. It is unclear whether the intent of the bill is to require all licensees that have the ability to sell alcoholic beverages in unbroken packages to retain the records provided for in the bill.

Moreover, there is no clear indication from the contents of the bill what is expected to be accomplished by this requirement. Additionally, the minimum mark-up provision of the bill may be unconstitutional pursuant to previous federal court decisions. Brown-Forman Crp v. N.M. Department of ABC, 672 F. Supp 1383 (D.M.M. 1987)

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