

**NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used for other purposes.**

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR:  M. Garcia       DATE TYPED:  1/30/03     HB  72   
 SHORT TITLE:  Beverage Container Deposit Act       SB \_\_\_\_\_  
 \_\_\_\_\_ ANALYST:  Maloy

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative	Recurring	General Fund/OSF

### SOURCES OF INFORMATION

Responses Received From  
 New Mexico Environment Department

### SUMMARY

#### Synopsis of Bill

House Bill 72 would establish a five cent (\$.05) deposit fee on every beverage container sold in the state. "Beverage container" means the individual, separate, sealed glass container containing beer or other malt beverage.

Every "dealer" (a person in New Mexico who engages in the sale of beverages in beverage containers to a consumer) would be required to accept empty beverage containers of the type he sells from persons returning the containers. The dealer must pay the person a refund of the deposit of not less than five cents (\$.05). Similarly, every "distributor" (a person who engages in the sale of beverages in beverage containers to a dealer) would be required to accept from a dealer an empty beverage container of the kind, size, and brand sold by the distributor, and to pay the dealer a refund of the deposit.

Beverage containers could be rejected by dealers and distributors if they are not properly marked or are contaminated, and a dealer could refuse to accept anything more than 144 containers from an individual per day.

The Environment Department would administer the Beverage Container Deposit Act, including investigating and resolving complaints through informal discussions, mediation, or public hearing. The department would be empowered to assess administrative fines of up to \$1,000 for violations of provisions requiring that containers be marked with the refund value or for failure of a dealer or distributor to refund deposits. The department would be required to fine dealers \$100 if they failed to display required signs.

## **FISCAL IMPLICATIONS**

HB72 does not include an appropriation. Existing staff and budget resources are to absorb the additional administrative and enforcement responsibilities for this refund / recycling program.

## **ADMINISTRATIVE IMPLICATIONS**

The additional administrative and enforcement responsibilities would weigh heavily on the solid waste program. The department estimates approximately 10% of current staff resources would have to be diverted from “higher priority programs” to administer the bill’s requirements. The program would be required to: draft and adopt needed administrative rules and regulations, educate dealers and distributors, develop and provide Notice signage to dealers, inspect and enforce the marking of containers, respond to refund complaints, hold administrative hearings, generate hearing findings and reports, and assess penalties for violations.

The department estimates it would take not less than 18 months to establish the basic program framework needed to become operational. Controversial administrative rules and regulations would need to be developed and approved by the Environment Improvement Board.

The cost for dealers and distributors to collect, store and transport to a recycling facility the containers presented for refund should be considered. How are dealers and distributors who operate their businesses in areas of the State where a glass recycling facility is not readily available to be affected? The market for recycled glass has been historically very weak, and the cost to transport glass from New Mexico to such markets exceeds the value of the glass.

## **OTHER SUBSTANTIVE ISSUES**

1. The implications for dealers and distributors on other fronts are somewhat unpredictable.
  - Theoretically, the deposit / refund *could* present a fiscal “wash” for a dealer or distributor if just as many containers are presented for refund as are purchased.
  - Since many consumers are not diligent about recycling, a dealer or distributor may profit from the program if more containers are purchased than are presented for refund.
  - Some dealers and distributors may bear a disproportionate burden if more containers are presented to their business for refund due to location or surrounding population of consumer.
2. Attempts to reduce the waste stream and litter should be addressed comprehensively, as glass containers make up a very small proportion (less than 5%) of each.

## **ALTERNATIVES**

A bill establishing a surcharge on waste disposal, to be used to increase diversion, recycling, and litter abatement efforts in a comprehensive manner, may be far more efficient in addressing the perceived goals of HB72.

## **POSSIBLE QUESTIONS**

1. Will consumers seek less costly beer and malt beverage products (can products) if the bottled prices are increased for the \$.05 deposit?
2. How would an increase in canned beverage sales affect the environment?