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FISCAL IMPACT REPORT

SPONSOR: Park DATE TYPED: 3/10/03 HB 841/ aHGUAC
SHORT TITLE: Location of Liquor Licenses SB _____
ANALYST: Maloy

REVENUE

| Estimated Revenue | | Subsequent Years Impact | Recurring or Non-Rec | Fund Affected |
|-------------------|----------------------------|----------------------------|-------------------------|------------------|
| FY03 | FY04 | | | |
| | (Unknown) See Narrative | | Recurring | General Fund |

Duplicates SB 643.

SOURCES OF INFORMATION

Responses Received From

Alcohol and Gaming Division of Regulation and Licensing Department

SUMMARY

Synopsis of HGUAC Amendment

The House Government and Urban Affairs Committee amended House Bill 841 to eliminate language that would deny the issuance of a license for the sale of alcohol at premises located within 300 feet of a “place where children congregate in a group an average of four days or more per week.”

This amendment is in response to concerns raised regarding the scope of the language. For instance, this language could have resulted in the denial of a liquor license to a restaurant in a shopping center, or near an apartment complex that included a playground.

Synopsis of Original Bill

House Bill 841 enacts a new subsection to Section 60-6B-10 of the Liquor Control Act, prohibiting the alcohol and gaming director from issuing liquor licenses to a proposed liquor establishment that would be within three hundred feet of certain facilities.

Significant Issues

The bill prohibits the director from issuing a liquor license at locations where alcoholic beverage

ages were not sold prior to May 1, 2003 that are within three hundred feet of a:

- day care center;
- pre-school;
- playground;
- park;
- facilities housing a head start program; or
- any other place where five or more children congregate in a group on an average of four days or more per week.

The bill does not expressly define these facilities.

FISCAL IMPLICATIONS

Enactment of HB 841 may result in the issuance of fewer liquor licenses. This would result in a recurring loss of revenue to the general fund. The amount of this loss is not estimated by the Alcohol and Gaming Division.

OTHER SUBSTANTIVE ISSUES

The Alcohol and Gaming Division provides the following information:

- For approximately 20 years, the Alcohol and Gaming Division encountered difficulty in the definition of a school because the Liquor Control Act prohibits the issuance of a liquor license for locations that are within three hundred feet of any church or school. Until, by regulation, school was defined, this was a problematic area.
- The bill would prohibit the director from issuing a liquor license for “any other place where five or more children congregate in a group on an average of four days or more per week”. Because “children” is not defined, it is unclear what places are included and could be interpreted differently by the various local governing bodies and any person wanting to protest the issuance or transfer of a liquor license. Places where five or more children congregate could include fast food stores such as McDonald’s, Burger King, and shopping centers, school bus stops, bus stops for public transportation, video stores and apartment complexes that have playgrounds. Additionally, the bill does not specify whether there is a limitation on the amount of time where five or more children congregate.
- Currently, there are grocery and convenience stores that have liquor licenses. Under the proposed language in the bill, when a grocery store or convenience store opens and want to sell alcoholic beverages, they would effectively be prohibited from obtaining a liquor license. A restaurant that wants to be located in a shopping center would also be prohibited from obtaining a liquor license because children are at shopping centers on a daily basis.
- A home daycare center could exist and a proposed owner of a liquor license would not know of its existence in the neighborhood.

- A license may continue to be granted for a proposed licensed premises if a person has obtained a waiver from the local governing body. However, the City of Albuquerque, through an ordinance, does not issue waivers for any type of liquor license except for a beer and wine (restaurant) license.
- The bill leaves decisions to the local governing body that may be arbitrary and capricious when they deny the issuance or transfer of a liquor license based upon their, or protestors', observations regarding which locations fall within "any other place where five or more children congregate".
- This bill would have a significant negative effect on the economic development of the State of New Mexico.

SJM/sb:yr