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## FISCAL IMPACT REPORT

SPONSOR Griego DATE TYPED 3/9/05 HB \_\_\_\_\_

SHORT TITLE Knowingly Provided Liquor To Minors SB 853/aSF1#1/aSF1#2

ANALYST Hanika-Ortiz

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	None				

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Office of the Attorney General (AGO)
- New Mexico Corrections Department (NMCD)
- New Mexico Public Defender Department (PDD)
- New Mexico Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of Senate Floor Amendment # 2

The Senate Floor Amendment #2 strikes Senate Floor Amendment #1.

#### Synopsis of Senate Floor Amendment # 1

The Senate Floor Amendment #1 establishes that it is a misdemeanor violation of the Liquor Control Act, as opposed to a 4<sup>th</sup> degree felony violation under current law, when a person either by misrepresentation or concealment of facts deceives another person into providing beverages to a minor.

#### Synopsis of Bill

Senate Bill 853 amends Section 60-7B.1 NMSA 1978 to establish that a violation of the Liquor Control Act for providing minors with alcoholic beverages requires knowledge that the recipient is under twenty one years of age. The bill also changes gender specific reference of “he” to general neutral “the person” and “the offender”.

### Significant Issues

Currently, the Act provides that it is a 4<sup>th</sup> degree felony violation to give, serve or sell alcoholic beverages to a minor if a person knows or has reason to know that the recipient is a minor. To prosecute under this bill the state would have to prove that the offender knew the individual was a minor.

### **PERFORMANCE IMPLICATIONS**

The AGO notes this bill will make it more difficult to obtain a conviction by adding the stricter intent requirement.

The PDD notes convictions have been easy to get and offenders are generally given conditional discharges and receive probation.

The CD notes that fewer convictions could reduce the number of probationers and prisoners guilty of violating the Liquor Control Act.

The AOC notes the number of people charged with or convicted of selling or giving alcoholic beverage to minors could be reduced.

### **FISCAL IMPLICATIONS**

The fiscal impact will be positive if fewer cases are brought to court. The cost per client in Probation for a standard supervision program is \$1.452 thousand per year. The cost per client in department-operated community corrections programs is \$4,371 thousand per year. The cost per inmate for incarceration is \$20,720 per year.

Frequent violations of the Act are linked with other charges, such as contributing to the delinquency of a minor, which may further reduce any positive fiscal impact of this bill.

In 2001, underage drinkers consumed 25.5% of all alcohol sold in New Mexico, totaling \$188 million in sales. These sales provided profits of \$92 million to the alcohol industry.

The direct costs of underage drinking incurred through medical care and loss of work costs New Mexico \$213 million each year. Youth violence and traffic crashes attributable to alcohol use by underage youth in New Mexico represent the largest costs for the State.

### **TECHNICAL ISSUES**

HB 487 was signed into law on March 2, 2004 and amended Section 60-7B.1 to increase the penalties for violating this section to deal with violators more harshly. SB 853 leaves those higher penalties in tact, but may make it more difficult to convict.

HB 853 is unclear if a person licensed pursuant to the provisions of the Liquor Control Act can have their license sanctioned for selling to or serving a minor, allowing a minor to drink or for failure to verify age. Failure to verify age should also require a licensee to reject obviously altered or false identification. Usually, age verification is required if there is reasonable doubt that

a person is at least 21 years old. In some States, “reasonable doubt” exists if the person appears to be under the age of 26.

**OTHER SUBSTANTIVE ISSUES**

Underage drinking is a causal factor in a host of serious problems, including homicide, suicide, traumatic injury, drowning, burns, violent and property crime, high risk sex, fetal alcohol syndrome, alcohol poisoning, and need for treatment for alcohol abuse and dependence.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

Prosecutions will be brought pursuant to the existing statute 60-7B.1.

**AHO/lg:yr**