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FISCAL IMPACT REPORT

ORIGINAL DATE 1/18/08
 LAST UPDATED 2/5/08 HB _____

SPONSOR Sanchez, B

SHORT TITLE Direct Wine Shipment Permits SB 59

ANALYST C.Sanchez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
\$25.0	\$138.0	\$143.0	Recurring	General Fund
	\$96.0	\$100.0	Recurring	DWI Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$57.0	\$57.0	\$57.0	\$171.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 59 creates a Direct Wine Shipment Permit that will allow the holder of a New Mexico winegrower's or retailer's license, or the holder of a winery license or a retailer license in a state other than New Mexico to obtain a permit that will allow up to 24 cases of wine per year to be shipped directly to a New Mexico resident. SB 59 establishes an annual application fee of \$50.00 per permit. The bill limits the amount per case to nine liter cases. Cases must be conspicuously labeled "CONTAINS ALCOHOL SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED FOR DELIVERY". SB 59 requires that permittees register with the Taxation & Revenue Department and requires payment of liquor excise and gross receipts taxes at established intervals.

SB 59 will amend NMSA 1978 Section 60-7A-3 to remove the provision regarding reciprocal shipping between states and replaces it with language permitting the direct shipment of up to twenty-four nine liter cases per year to a person twenty-one years of age or older for personal consumption and not for resale.

FISCAL IMPLICATIONS

The Alcohol and Gaming Division will need one (1) part-time FTE to review and process the Direct Shippers Permit applications and to respond to inquiries regarding the permit process. AGD estimates that approximately 500 permits will be requested if this bill is enacted. At \$50.00 per permit, the bill will produce estimated annual revenue in the amount of \$25,000.00. This is a conservative estimate since there is no way to determine the number of permits from out-of-state shippers.

Operating and administration costs associated with this bill includes, but is not limited to, staff time, increased postage and printing costs and costs associated with obtaining new license certificates.

SIGNIFICANT ISSUES

Direct wine shipments are not currently regulated, but are occurring. The State is not receiving any revenues for shipments currently being made. The State currently has no way to track companies that are shipping products into the state and has no mechanism to deal with disputes or taxation issues.

Direct purchases through the Internet are having a significant effect on the interstate commerce of wine. Some states have opted for a variety of measures, ranging from a ban on direct purchases to requiring only a permit for unlimited direct purchases.

A Federal Trade Commission report indicates that states that have required permits without quantitative restrictions or 'ceilings,' have been successful in collecting taxes through voluntary compliance. The report also concludes that states could significantly enhance consumer welfare by allowing direct shipment of wine to consumers, and that many states have adopted less restrictive measures than a ban on interstate direct shipping. The proposed bill is fairly restrictive because it has a limit of how much can be shipped to New Mexico residents.

ADMINISTRATIVE IMPLICATIONS

Alcohol Division staff will be required to review both initial applications and applications for renewal of licenses, enter applicant information into the database, and print and mail licenses. Additionally, staff time will be spent formulating the new application and answering questions from New Mexico winegrowers and retailers as well as from out-of-state licensees on the process for obtaining a permit. Administration of this task would require a half-time FTE.

OTHER SIGNIFICANT ISSUES

According to the Department of Tax and Revenues, about 15.1 million liters of wine were consumed in New Mexico in FY07, and excise taxes collected from these sales reached \$6.7 million. According to a study published in 2000, online direct sales of wine will account for

“5%-10% of the market in the next few years.” To estimate the excise taxes that are not currently being collected from these direct purchases, the amount collected (\$6.7 million) is multiplied by 5%, the percentage of direct sales with respect to total sales. Hence, approximately \$335,000 is not being collected from these direct sales.

The proposed bill includes a limit of 24 nine-liter cases sold annually to a New Mexico resident, which would decrease direct purchases or switch them to normal outlets. An adjustment of 30% was made to account for this effect ($335 \times 0.7 = 234$). Wine consumption in New Mexico has been growing rapidly. TRD numbers show a yearly growth of 4.1% per year in the last decade. This growth rate was assumed to continue in future years

CS/mt