



Synopsis of Original Bill

Senate Bill 81 amends Section 7-17-2 NMSA 1978, to change the definition of “microbrewer” to mean as a brewer who produces fewer than fifteen thousand barrels of beer in a year. Current statute defines a microbrewer as a brewer who produces less than five thousand barrels annually.

Effective Date: July 1, 2013

**FISCAL IMPLICATIONS**

Estimate after the HTRC Amendment:

Per TRD, this estimate assumes that the technical issue is fixed and the “gallons” is revised to be “barrels”. The State would lose revenue from expanded volume definition for microbrewer. Impacts were calculated based on the effect of the tax change on the demand decrease for beer and increase for beer manufactured or produced by a microbrewer. Considering this bill would encourage importing beer produced or manufactured by microbrewers from other states, the estimate assumes that six brewers would be qualified for the new definition of microbrewer with the maximum production. Thus additional 30 thousand barrels would be taxed at the rate of \$0.08/gallon and 30 thousand barrels would be taxed at the new rate of \$0.28/gallon. The Taxation and Revenue Department (TRD) Monthly Liquor Volume Reports show that an average growth rate of beer produced by small microbrewer under the current law and sold in NM is approximately 16%. And since the effective date of the bill is January 1, 2014. So only half of FY14 revenue would be affected.

This incentive is intended to assist and grow this local industry. This bill could be a boon for the microbrewers business as consumers substitute consumption of the higher taxed liquids for the lower taxed ones. This bill may also encourage importing beer produced or manufactured by microbrewers from other states.

Estimate before the HTRC Amendment:

This bill triples the production cap for microbrewers who then receive 33 cents per gallon subsidized tax rate. The TRD reports that impacts were calculated based on the effect of the tax change on the demand decrease for beer and increase for beer manufactured or produced by a microbrewer. The estimate assumes that six brewers would be qualified for the new definition of microbrewer. The TRD Monthly Liquor Volume Reports show that an average growth rate of beer produced by small microbrewer under the current law and sold in NM is approximately 16 percent. These estimates reflect the concern that increased production caps will increase this already robust growth rate.

| Appropriation |           |           |           |           | Recurring<br>or Nonrecurring | Fund<br>Affected |
|---------------|-----------|-----------|-----------|-----------|------------------------------|------------------|
| FY13          | FY14      | FY15      | FY16      | FY17      |                              |                  |
| \$0.0         | (\$243.0) | (\$562.0) | (\$655.0) | (\$380.0) | Recurring                    | General Fund     |
| \$0.0         | (\$172.0) | (\$398.0) | (\$465.0) | (\$270.0) | Recurring                    | DWI Fund         |

## PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since the TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

## ADMINISTRATIVE IMPLICATIONS

The TRD reports moderate to high impact. Minor revisions would be needed to forms, instructions, publications. Taxpayer and department personnel education will be needed. But GenTax would need modification to allow the new rate. The effective date does not give much time to implement these changes due to the current upgrade to GenTax.

Further the TRD is upgrading its data systems relating to GenTax, requiring that the systems be “locked-down” to any modification until July 1, 2013. The Department’s IT resources are fully engaged with contractors during this period to test and validate the systems’ upgrades, and pursuant to contractual agreements and best-practice standards may not undertake systems changes until system upgrade verifications are completed. The TRD’s IT personnel are unavailable to begin to develop systems modifications (e.g., new deductions, data reporting, functionality, etc.) until after July 1st, and therefore **NO SYSTEMS CHANGES CAN BE IMPLEMENTED UNTIL OCTOBER 1, 2013** to allow adequate time for development, testing and verification of any new system requirements.

As a result the TRD will not be able to implement the GenTax modifications necessary to record and claim the tax credit until at least October 1, 2013, after the effective date of the legislation.

## TECHNICAL ISSUES

The House Taxation and Revenue Committee amendment, the new Section 2 amends Section 7-17-5 NMSA 1978 to be \$0.08 per gallon on the first ten thousand gallons sold and \$0.28 per gallon on all gallons sold more than ten thousand gallons but less than fifteen thousand gallons. The “gallons” should be “barrels”.

The TRD notes that the on page 2, line 25, “a year” should be defined.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate