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FISCAL IMPACT REPORT

ORIGINAL DATE
SPONSOR McCamley **LAST UPDATED** 01/27/15 **HB** 11

SHORT TITLE Sunday & Christmas Day Alcohol Sales **SB** _____

ANALYST Cerny

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	\$ (250.0)	\$ (250.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation & Licensing Department (RLD)

Department of Health (DOH)

Department of Public Safety (DPS)

Office of the Attorney General (AGO)

Tourism Department (TD)

SUMMARY

Synopsis of Bill

House Bill 11 would amend the Liquor Control Act, Section 60-3A-4-7 NMSA 1978.

HB 11 seeks to regularize and simplify restrictions regarding the sales of alcohol. HB 11 eliminates the limitations and restrictions regarding alcohol sales on Sundays and on Christmas Day for all license holders. It also changes the hours that alcohol sales may be permitted. It would extend the hours that winegrowers and small-brewers would be permitted to sell alcohol, from the current midnight, until 2 am under HB 11.

House Bill 11– Page 2

HB 11 would allow package and by-the-drink sales of alcohol from 7 a.m. until 2 a.m. the following day, the same hours allowed under current law, except for Sundays. Under current law, Sunday sales begin at 11 a.m. Thus Sunday hours for alcohol sales would be extended by four hours.

However, in the case of a restaurant license, consumption of beer and wine can take place under HB 11 from 7 a.m. and must conclude when meals sales and services cease or at 11 p.m. that day, whichever time is earlier. Under current law, there is no start time for sales of beer and wine for these license holders.

Current law also limits Christmas Day alcohol sales from 12 noon until 10 p.m. and vests each local option district with the authority to vote to disallow on-premise consumption and package sales of alcohol on that day. HB 11 would remove this provision, making the hours of alcohol sale on Christmas Day congruent with other days of the year, i.e., from 7 a.m. until 2 a.m. the next day.

Also currently, each local option district may determine whether or not they will allow any Sunday sales and Christmas sales and this determination may be made through a local election process. HB 11 would eliminate this provision.

HB 11 would also remove the provision that allows tribal authorities to permit Sunday sales of alcohol on tribal lands or to disallow Christmas Day alcohol sales, however those sales are exempted from the Liquor Control Act under Section 60-3A-5D NMSA 1978.

FISCAL IMPLICATIONS

HB 11 carries no appropriation.

However, RLD analysis states that HB 11 would negatively impact revenue to the Alcohol and Gaming Division (AGD):

Sunday sales applications generate a \$100 fee which goes to the General Fund. Annually, AGD receives approximately 2,500 Sunday sales applications, each accompanied by a \$100 fee. If this bill goes into effect, there would be no further need for a Sunday sales applications, resulting in a loss of revenue of about \$250,000 annually to the General Fund.

SIGNIFICANT ISSUES

According to analysis by the DOH, in 2013, approximately 1,150 people died of alcohol-attributable causes. To place this in context, this equates to an average of three people dying of alcohol-attributable causes every day in New Mexico. DOH analysis, citing various authorities, also states:

New Mexico has the highest alcohol-attributable death rate in the nation and one in six deaths among working age adults in the state are attributable to alcohol. The most recent economic impact report from the Centers for Disease Control and Prevention (CDC) estimated that alcohol cost New Mexico \$1.9 billion in 2006, the third highest cost per capita in the nation. The report calculated that 42 percent of these costs are borne by the government.

A number of expert bodies have systematically reviewed the available scientific evidence and recommended not extending hours and days of sale. The World Health Organization recommends maintaining restrictions on hours of alcohol sales based on evidence that these limits reduce alcohol consumption and alcohol-related problems. Additionally, the Community Preventive Services Task Force recommends maintaining limits on days of sale and maintaining limits on hours of sale. These recommendations were made based on strong evidence that increasing hours and days of sale increased alcohol consumption, violence in the community, emergency room admissions, and deaths and injuries from alcohol-involved motor vehicle crashes.

The reviews that informed these recommendations included studies from New Mexico. One study found that the 1995 repeal of the ban on Sunday sales in New Mexico was associated with a 29 percent increase in alcohol-related crashes and a 42 percent increase in alcohol-related crash fatalities on Sundays (McMillan GP, Lapham S. Effectiveness of bans and laws in reducing traffic deaths: legalized Sunday packaged alcohol sales and alcohol-related traffic crashes and crash fatalities in New Mexico.

Elimination of the local option district ability to regulate liquor sales may prove unpopular with local governments, who currently can hold elections to determine whether Sunday and Christmas Day alcohol sales, and on-premise consumption, will be permitted. RLD analysis states that:

Currently, 7 local options have held special elections to disallow package alcohol sales on Sundays; so that 121 allow Sunday package sales. However, 42 out of the total 128 local option districts do not allow Sunday alcohol sales by the drink (on-premise consumption); so that 86 allow Sunday sales by the drink. Local option districts who have held special elections to vote to disallow either type of Sunday sales may not appreciate having local control removed, especially if they have spent the approximate \$50,000 it costs to hold a special election on these matters.

Analysis from TD states that the impact of HB 11 on tourism in the state “remains unclear.”

ADMINISTRATIVE IMPLICATIONS

RLD currently requires an application for Sunday sales for operators in local option districts that permit such sales and we issue a license to allow for such sales where permitted by law. This bill would eliminate that process.

OTHER SUBSTANTIVE ISSUES

AGO analysis states concern about status quo of current law:

As the Act currently is written there may be a concern that the State is endorsing religion by regulating sales of alcohol on Sundays and Christmas. HB 11 would eliminate this concern by providing a uniform law regarding the sale of alcohol that avoids any connection between the State and religion.

AMENDMENTS

AGO analysis states that

Section 60-6A-26.1 will need to be amended to remove section (D) in order for the small brewer's license to be consistent with other license types regarding the hours of operation for licensees to sell, serve or allow the consumption of alcoholic beverages. Without the removal of Section 60-6A-26.1(D), the small brewer licensee would be restricted with regard to alcohol sales on Sundays, Christmas and voting days.

CAC/bb