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F I S C A L I M P A C T R E P O R T

SPONSOR Candelaria ORIGINAL DATE 02/10/15 LAST UPDATED 03/18/15 HB _____
SHORT TITLE Sale of Alcohol Growlers SB 258
ANALYST Cerny

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	Minimal positive	Minimal positive	Recurring	LDWI Grant Fund
	Minimal positive	Minimal positive	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			General

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 11, HB 198, HB 243, SB 71, SB 238, SB 241, SB 300

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)
Office of the Attorney General (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 258 would amend the Liquor Control Act, 60-7A-12C NMSA 1978.

SB 258 adds definitions for “cider” and “growler.”

“Cider” is defined as “an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples that contains not less than one-half of one percent alcohol by volume

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and not more than seven percent alcohol by volume.”

“Growler” is defined as “a clean, refillable and resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider for consumption off premises” and allows growlers to be sold for off-premise consumption.

SB 258 would allow the holder of a winegrower license to sell wine or cider in growlers.

It would also allow small brewers to sell beer in growlers for consumption off the licensed premises.

FISCAL IMPLICATIONS

SB 258 carries no appropriation and has minimal positive revenue impact on TRD since wine and cider may now be sold in growlers by holders of Winegrowers licenses (Small Brewers may already do so). The increase in revenue will likely grow over time as consumers try alcoholic cider beverages (the fastest growing segment in the alcohol industry) and see the benefits of reusable growlers.

SIGNIFICANT ISSUES

Hard cider is one of the fastest growing segments of the alcoholic beverage category in the U.S. According to an April 20, 2014 article by Brad Tuttle in [Time](http://time.com/82620/fastest-growing-alcoholic-beverage-category-its-not-craft-beer/) (<http://time.com/82620/fastest-growing-alcoholic-beverage-category-its-not-craft-beer/>). The article states that the production has tripled between 2011 and 2013. Big brewers such as Anheuser-Busch, MillerCoors and the Boston Beer Company (maker of Sam Adams) have all introduced cider brands of their own. The article states that “researchers surveyed more than 100 cider producers and the vast majority projected strong growth over the next five years.”

Currently, small brewers are selling growlers as their statute indicates that they are allowed to bottle and label beer. They are also allowed to sell growlers or bottles of beer from any other New Mexico small brewer. SB 258 simply clarifies that this is an authorized practice. It does not provide holders of Small Brewer’s licenses the right to sell cider in growlers, or at all, however.

SB 258 would also extend the selling of wine and cider in growlers to holders of Winegrower’s licenses. AGO analysis suggests:

It might be helpful to include references to what a person with a winegrower’s license is permitted to do with cider (manufacture, store, sell, transport, etc.) under the winegrower’s license rather than simply giving permission for someone with a winegrower’s license to sell cider in a growler (i.e., how is the licensee permitted to obtain the cider?).

With regard to the definition and sale of growlers, Department of Health analysis on a similar bill states:

There is currently no evaluation of the impact on alcohol-related harm by allowing growlers...The industry standard for growlers is 64 fluid ounces or a half of a gallon. This would be more than five standard drinks of 5% alcohol beer. This bill proposes to

define a growler as no more than a gallon of beer [128 oz.], which is twice the industry standard.

RELATIONSHIP

HB 11, HB 198, HB 243, SB 71, SB 238, SB 241, and SB 300 all relate to the regulation and licensing of alcohol sale.

HB 11 proposes to amend the Liquor Control Act to extend hours of sale for alcoholic beverages from midnight until 2 AM for package liquor (off-premise consumption) and winegrowers. HB 11 would also eliminate restrictions on Sunday and holiday sales.

HB 198 and SB 300 both propose to allow governmental licenses to sell distilled spirits as well as beer and wine at municipal golf courses. Currently governmental licenses can only sell beer and wine at municipal golf courses.

HB 243 proposes to amend the Liquor Control Act so that the definition of alcohol includes frozen and powdered forms, allows crafts distillers and small brewers to have three offsite premised, allows winegrowers to sell wine or cider in growlers, defines growlers, changes the required notification period for public hearings at the local option district level, allows for alternating proprietorships for small brewers, winegrowers and craft distiller, allows retailers to form buying cooperatives, and clarifies what is a reasonable return from alcohol retailer to a wholesaler.

SB 71 proposes to amend the Liquor Control Act so that local option districts may hold an election to allow restaurant licenses to sell distilled spirits produced in New Mexico, as well as beer and wine. Currently, restaurant licenses may sell beer and wine, but not distilled spirits.

SB 238 proposes to allow licensed small brewers to hold interest in a legal entity, directly or indirectly or through an affiliate, that holds a restaurant, dispensers, or wholesalers license issued pursuant to the Liquor Control Act.

SB 241 proposes to amend the Liquor Control Act to allow the transfer of dispenser and retailer license out of local option districts which are below the number allowed by law (“under-quota”).

TECHNICAL ISSUE

AGO analysis points out that the definition of cider poses a conflict with current language in the Liquor Excise Tax statute (Section 7-17-2K NMSA 1978). While that section defines cider in the same way as does SB 258, it also defines “wine” as “an alcoholic beverage other than cider.”

However, “Winegrower” is defined in the Liquor Control Act as “a person who owns or operates a business for the manufacture of wine.”