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FISCAL IMPACT REPORT

SPONSOR Castellano LAST UPDATED _____
ORIGINAL DATE 2/23/2023
BILL _____
SHORT TITLE 18-Year Olds Delivering & Stocking Liquor NUMBER House Bill 494
ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Public Employees Labor Relations Board (PELRB)
Regulation and Licensing Department (RLD)

No Response Received

Department of Health (DOH)
Economic Development Department (EDD)

SUMMARY

Synopsis of House Bill 494

House Bill 494 (HB494) amends the Liquor Control Act (act), specifically concerning the statutory prohibitions on minors on licensed premises and the employment of minors by licensees.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

RLD anticipates no fiscal impact to the department from the enactment of HB494.

SIGNIFICANT ISSUES

RLD explains that generally, unaccompanied minors (minors not with their parent, guardian, or

adult spouse) are prohibited from being on a licensed premises.

- An existing exception to this prohibition is that minors at least 18 years of age, and licensed under the NM Commercial Driver’s License Act, and making a delivery of packaged alcoholic beverages to a licensee may enter the licensed premises for that delivery.
- HB494 would amend this exception, allowing a minor who is at least 18 years of age making a delivery of packaged alcoholic beverages to enter the licensed premises for that delivery and remain on the premises while stocking the alcoholic beverages delivered.

RLD further explains, that the act allows licensees to employ minors only under specific circumstances.

- A wholesaler licensee may employ persons 18 years of age or older who are licensed pursuant to the New Mexico Commercial Driver’s License Act, to engage in activities customary to warehouse operations and to handle and deliver alcoholic beverages to licensees holding a dispenser, retailer, restaurant, club, small brewer, winegrower, craft distiller, manufacturer, rectifier license, or any other license that allows for the purchase of alcoholic beverages, as long as the minor delivers sealed, unbroken packages, including containers such as bottles, cans and kegs.
- HB494 would amend this provision to allow minors employed by wholesaler licensees who are at least 18 years of age to deliver and stock the alcoholic beverages delivered, without the requirement that the minor be licensed pursuant to the New Mexico Commercial Driver’s License Act.

OTHER SUBSTANTIVE ISSUES

RLD cautions that federal and state laws regarding trade practices prohibit “tied house” practices, commercial bribery, and inducements between industry members (ie. wholesalers) and retailers (ie. retailer, dispenser, governmental, winegrower, small brewer, craft distiller, club licensees). A wholesaler providing the free labor, or services, in stocking shelves for retailers may run afoul of these trade practice laws.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Wholesaler licensees will not be able to employ minors, 18 years of age and older, to deliver or stock alcoholic beverages at licensed establishments, unless that minor is licensed pursuant to the New Mexico Commercial Driver’s License Act.

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