

LFC Requestor: Gray, Brendon

2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: House

Category: Bill

Number: 179

Type: Introduced

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Sponsor(s): Joanne Ferrary, Antoinette Sedillo Lopez, Elizabeth Thomson, Shannon Pinto, D. Wanda Johnson

Short Title: Liquor Tax Changes & Uses

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	FY 25		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	FY 25	FY 26		
\$0	\$0	\$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: SB147

Conflicts with: HB212, HB213

Companion to: None

Relates to: HB112, HB213, HB212

Duplicates/Relates to an Appropriation in the General Appropriation Act:

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

1. Adds a definition for 'barrel': the equivalent of thirty-one gallons.

2. Proposes increasing liquor excise tax rates on alcoholic beverages for certain manufacturers and producers in the following manner:

-On spirituous liquors

-If manufactured or produced by a craft distiller licensed pursuant to Section 60-6A-6.1 NMSA 197:

-Products up to 10% alcohol by volume:

- 1) \$.08/ liter for the first 250,000 liters sold;
- 2) \$.28/ liter for the next 250,000 liters sold;
- 3) \$7.24/ liter sold thereafter; and

-Products over 10% alcohol by volume:

- 1) \$.32/ liter on the first 175,000 liters sold;
- 2) \$.65/ liter on the next 200,000 liters sold;
- 3) \$7.24/ liter sold thereafter; and

-All other spirituous liquors: \$7.24/ liter sold

-On beer and cider

-If manufactured or produced by a microbrewer or small winegrower and sold in this state:

- .08/ gallon on the first 30,000 barrels sold;
- .28/ gallon for all barrels sold over 30,000 barrels but less than 60,000 barrels;
- .41/ gallon for 60,000 or more barrels sold but not over 200,000 barrels; and

-All other beer and cider, \$3.08/ gallon sold.

-On wine

-If manufactured or produced by a microbrewer or small winegrower and sold in this state:

- .10/ liter on the first 80,000 liters sold;
- .20/ liter on each liter sold over 80,000 but not over 950,000 liters sold;
- .30/ liter on each liter sold over 950,000 but not over 1,000,000 liters sold; and

-All other wine, \$2.14/ liter sold.

3. Proposes indexing the tax rates for all manufacturers and producers that the proposed increase in liquor excise tax starts July 1st, 2025, through June 30th, 2028. HB179 proposes that no later than April 30, 2028 (and April 30 of each third year thereafter) the Department of Finance and Administration shall calculate the rates of liquor excise tax to be imposed as of July 1 of that year. The rates of the liquor excise tax shall be equal to the product, rounded down to the nearest whole cent, of the rates provided in Subsections B through E of this section, multiplied by a fraction with a numerator equal to the consumer price index for the previous calendar year and a denominator

equal to the consumer price index for the calendar year 2024; provided that the rate of the tax shall not be less than the rate imposed on July 1 of the previous year.

4. Proposes changing current distributions from a percentage of net receipts of the alcohol excise tax to dollar amounts in the following manner:

-\$2,084,000.00 to the local DWI grant fund instead of 45%.

-\$20,750.00 to a municipality that is located in a class A county and that has a population according to the most recent federal decennial census of more than thirty thousand but less than sixty thousand and shall be used by the municipality only for the provision of alcohol treatment and rehabilitation services for street inebriates.

-\$250,000.00 to the drug court fund instead of 5%.

5. Creates an Alcohol Harms Alleviation Fund and proposes distributing the remainder of the revenue from the liquor excise tax to it. The fund is to be administered by the Department of Finance and Administration, and consists of: appropriations, distributions, gifts, grants, donations, and bequests made to the fund and income from investment of the fund. HB179 proposes that the money in the fund is subject to appropriation by the legislature for alcohol harms prevention, treatment, and recovery services to individuals throughout the state, including on lands of Indian nations, tribes and pueblos, and to individuals harmed by a person in need of those services. HB179 proposes that when appropriating the funds, the legislature shall prioritize community-based initiatives that address the needs of populations and communities that are disproportionately impacted by excessive alcohol use and are working to reduce health disparities. Finally, HB179 proposes that the money in the fund shall be expended by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

1) For the past 26 years, New Mexico (NM) ranked highest in alcohol-related deaths of all states in the US (<https://www.nmhealth.org/data/view/substance/2682/>). In NM in 2022, 2,067 New Mexicans died due to alcohol-related causes, with most of these deaths due to chronic conditions. Alcohol-related deaths are more than double the number fatal drug overdoses (997) in the same year.

2) Alcohol tax increases are one of the few evidence-based strategies to reduce alcohol-related harms. According to the Centers for Disease Control and Prevention's (CDC) Community Guide (<https://www.thecommunityguide.org/topics/excessive-alcohol-consumption.html>) and the World Health Organization's (WHO) SAFER initiative (<https://www.who.int/initiatives/SAFER>), alcohol taxes increases are proven methods to reduce excessive alcohol consumption. Around 50 studies have identified an association between alcohol taxes and prices, and morbidity and mortality. For example, a review by Wright *et al.*'s (2017) (<https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-017-4497-z>) found a significant inverse relationship between alcohol taxes or prices, and the consumption of alcohol products (i.e., higher prices lead to less alcohol consumption); a relationship which held for both light and heavy drinking behavior. Another review by Ramirez *et al.*'s (20107) found that even modest tax increases in Illinois and Maryland were associated with decreases in excessive consumption and alcohol-related problems (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5675427/>). Similar results are found in

Vandenburg *et al.*'s 2016 (<https://pubmed.ncbi.nlm.nih.gov/26719379/>). Wright *et al.*'s review (2017) also found that the associated revenue streams may be subject to significant degree of volatility (<https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-017-4497-z>). The volatility around tax revenue stems from different consumer behaviors. Tax revenues could decrease as long-term habits are gradually changed or increase over time as consumers become more accustomed to higher prices. In summary, it has been found that doubling the alcohol tax would reduce alcohol-related mortality by an average of 35%, traffic crash deaths (11%), sexually transmitted diseases (6%), violence (2%), and crime (1.4%).

3) HB179 proposes using funds for the Alcohol Harms Alleviation Fund for community-based alcohol harm prevention efforts. Evidence-based population-level prevention strategies can decrease the harms of excessive consumption of alcohol and use of other substance use. A 2021 meta-analysis revealed that alcohol prevention programs conducted among adolescents reduced the amount of alcohol consumed among participants (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8392207/>). Another study found that brief interventions in adolescence reduced the odds of reporting any alcohol-related harms and reduced the frequency of alcohol-related harms seven years after the intervention (<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2798620#:~:text=Robust%20analyses%20showed%20that%20compared,the%207%2Dyear%20study%20period>). The variability of outcomes in the literature regarding the efficacy of substance use disorder treatment hinges on the modality and type of treatment employed, as well as if the modality is culturally appropriate. One pilot study on American Indian problem drinkers in the southwest found that evidence-based and culturally adapted substance use treatment showed significant improvements in alcohol use, psychological distress, and a reduction justice system involvement among participants (<https://www.sciencedirect.com/science/article/pii/S2352853215300018>).

4) NMDOH Office of Alcohol Prevention: This bill aligns well with the recently created NMDOH Office of Alcohol Prevention which directs program efforts to reduce disease and death caused by alcohol misuse. Program efforts will be directed to key interventions at the individual, provider, community, and state level. Below are the main evidence-based strategies the Office of Alcohol Prevention is using for reducing alcohol consumption based on the [Excessive Alcohol Consumption](#) Recommendations of the Community Preventive Task Force.

Socioecological Level	Evidence-based strategies
Individual	Improving access to screening, brief intervention, and referral to counseling and treatment statewide.
Community	Inclusion of alcohol reduction in community improvement plans with the State Health Improvement Plan (SHIP); Technical and financial support of evidence-based programs to reduce alcohol-related deaths throughout the state.
Population	Multi-sector coordination through interagency workgroup, and building of tribal and community task for to coordinate population level efforts to reduce alcohol-related efforts; Statewide support for data and evaluation of programs and policies through the newly formed Public Health Assessment, Surveillance and Evaluation (PHASE) team.

5) Proposed Allocation of HB179: The proposed allocation of HB179 revenue will be directed to multi-sector efforts, including the Alcohol Harms Alleviation Fund for alcohol harms prevention, treatment, and recovery services to reduce alcohol-associated deaths throughout the state. Approximately \$250-\$270 million of revenue would be estimated to go towards state agencies and community organizations to fund programs such as alcohol and prevention treatment and access for seniors (ALTSD), Domestic Violence Prevention and Treatment (CYFD), Home visiting Programs (ECECD, NMDOH, DDS), Expansion of School Based

Health Center Alcohol and Substance Use Prevention Programs (NMDOH), CHW and CHR Expansion for Behavioral Health (NMDOH), and Positive Youth Development Programs (NMDOH). However, it is not clear from the bill how these funds will actually be allocated to support evidence-based interventions. DOH recommends that the proposed allocation supports evidence-informed or evidence based practices that contribute to reduction of alcohol-related deaths.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
- Is this proposal related to the NMDOH Strategic Plan? Yes No
 - Goal 1:** We expand equitable access to services for all New Mexicans
 - Goal 2:** We ensure safety in New Mexico healthcare environments.
 - Goal 3:** We improve health status for all New Mexicans
 - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

This bill would improve LFC performance measures related to reducing alcohol related deaths, as well as aligning with NM’s State Health Improvement Plan (SHIP) for FY24-26.

For the LFC Performance Measure: Among Medicaid patients in Fiscal Year 2023, the rate of brief screening and subsequent diagnosis of alcohol use disorder was 42.8 per 100,000 population. This bill would potentially increase the SBIRT performance measure to the NMDOH goal of 72.6 per 100,000 population.

For the FY24-26 SHIP, reducing alcohol-related death rate is part of the priority of improved behavioral health outcomes. The SHIP seeks to promote effective substance use disorder treatment and decrease alcohol related death rates.

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

HB179 duplicates SB147 and relates to HB112 that proposes changing the distribution of alcohol sales taxes for alcohol treatment and rehabilitation services for ‘street inebriates’ for Class A cities with populations between 30,000 and 60,000 population from \$20,750 annually, to one half of one percent of the net proceeds attributable to the alcohol excise sales tax. Five percent of proceeds from the liquor excise tax would be distributed to the drug court fund. It would establish a distribution of 24% of the net proceeds attributable to the alcohol excise sales tax to counties (proportionate to population) to be used for alcohol and substance abuse prevention and treatment. This bill also would establish a “county alcohol and drug abuse prevention and treatment” fund to be administered by the Health Care Authority. Money from this fund shall be used to provide grants to counties to fund alcohol and substance use disorder prevention and treatment programs. The grants would be used to provide all or a portion of the non-federal share of Medicaid services for alcohol and substance abuse prevention and treatment.

HB179 conflicts with HB212 and HB213. HB212 proposes to: 1) change taxes from fixed liquor excise tax to percentage tax based on amount sold; 2) removal of “fortified wine” language; 3) defining “barrel”; 4) creation of the alcohol and substance use harms alleviation fund and funding of \$2,084,000 monthly; 5) repeal the local DWI grant program act; 6) fixed amount of \$250,000 per month of funding to drug court fund rather than a percentage of excise tax. HB213 proposes to: (a) change the distribution of liquor excise tax from the local DWI grant fund and alcohol treatment and rehabilitation services for ‘street inebriates’ in municipalities in a class A county with a population more than 30,000 but less than 60,000 people, (b) create a alcohol and substance use harms alleviation fund, (c) distribute \$250,000 rather than 5% from net receipts to the drug court fund, (d) exclude liquor excise tax from the definition of “gross receipts,” (e) add the definition of a barrel to be the equivalent of thirty-one gallons, (f) removes fortified wine as a defined type of alcoholic beverage, (g) add the definition of a “retailer,” (h) remove the definition of a wholesaler, (i) apply the liquor excise tax to retailers rather than wholesalers, and (j) change the tax from a specific dollar amount per liter of spirituous liquors and wine and specific dollar amount per gallon of beer or cider to a specified percentage per serving of each type of alcoholic beverage.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

HB179 should emphasize that the treatment and prevention programs should be evidence-based. The bill should include language in Section 4, part A line 20-21 to state “evidence-based alcohol and substance use disorder prevention and treatment”.

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

1. American Indian/Alaska Native populations bear the greatest burden of alcohol-related death in NM. In 2022, the age-adjusted rate of alcohol-related death for American Indians in NM is 283.37 deaths per 100,000 population. This is over three times the rate of alcohol-related death in the state overall for the same year, 93.9 deaths per 100,000 population.

2. Alcohol-related deaths are concentrated geographically.

- In 2022, McKinley County's rate of alcohol-related death was 257.95 deaths per 100,000 population (age-adjusted) (Vital Records & Health Statistics Bureau).
- In 2022, Rio Arriba County's rate of alcohol-related death 199.68 deaths per 100,000 population (age-adjusted) (Vital Records & Health Statistics Bureau).

3. Men have higher rates of alcohol death than women. In 2022 the age-adjusted rate of alcohol-related death in men was 135.30 deaths per 100,000 population, while women the rate was 54.2 deaths per 100,000 population (Vital Records & Health Statistics Bureau).

4. Alcohol-associated harm disproportionately affects other marginalized populations, who are also less likely to have access to alcohol-related services. Among individuals experiencing homelessness, 16% report a substance use disorder, and they are less likely to have access to healthcare services (<https://www.samhsa.gov/blog/addressing-social-determinants-health-among-individuals-experiencing-homelessness>). Binge or heavy drinking among sexual minority females is double that of straight females

https://www.samhsa.gov/data/sites/default/files/reports/rpt41899/2022_LGB_Brief_Final_06_07_23.pdf

5. Revenue from this tax will come from New Mexicans who excessively consume alcohol but the financial or health impact on lower income populations or racial ethnic groups disproportionately affected by alcohol deaths is not known for this tax. The Behavioral Risk Factor Surveillance System (BRFSS) found that in 2021, only 6.3% of New Mexicans reported heavy drinking in the last month, defined as 2 or more drinks per day for men, or one or more drink per day for women. BRFSS also found that only 15.3% of New Mexicans reported binge drinking in the past month, defined as 5 or more drinks in a sitting for men or four or more drinks in a sitting for women (2022 BRFSS, NMDOH). However, within the group with excessive drinking, the tax difference per year between those with incomes >75,000 vs. those with salaries of <25,000 may only a difference of approximately \$8 per year, which would impact people with lower incomes more than those with higher incomes. ([The Economic and Health Effects of a Twenty-Five Cent per Drink Excise Tax Increase in New Mexico, March 2015](#)) However, if this tax is passed, an analysis of the impact of this tax should be done on whether or not low income or those currently disproportionately impacted by alcohol-related deaths (American Indian and Black populations) will bear a disproportionate burden of the tax.

9. HEALTH IMPACT(S)

There is evidence that increased alcohol taxes reduce excessive alcohol use and use of other substances, and thus reduce related harms. If implemented, the bill would most impact people who consume excessive alcohol, people who use other substances, and their families. In addition, people who do not consume excessive alcohol will be impacted by reducing alcohol-related injury and by reducing societal costs of excessive drinking.

1. Most alcohol-related deaths in NM are due to chronic conditions including:

- **Alcohol-associated liver disease.** In 2022, more than half of the alcohol-related deaths in the state were due to chronic conditions. In New Mexico, alcohol-associated liver disease was responsible for 21.9 deaths per 100,000 population in 2022. In NM that same year, the rate of death from chronic liver disease was 52.8 deaths per 100,000 population (Vital

Records & Health Statistics Bureau). The national rate of death from chronic liver disease is 17 per 100,000 population, and the rate of alcoholic liver disease deaths is 10 per 100,000, which makes the death rate from chronic liver disease in NM 210% higher than the national rate, and the rate of alcoholic liver disease in NM is 119% higher than the national rate (CDC, <https://www.cdc.gov/nchs/fastats/alcohol.htm>).

- **Diseases of the digestive and cardiovascular system, including cancer.** Alcohol has toxic effects on the digestive and cardiovascular systems and is classified as carcinogenic by international agencies like the WHO and the International Agency for Research on Cancer (https://www.who.int/health-topics/alcohol#tab=tab_3).
- **Shorter lifespan.** The CDC calculates that on average, excessive drinking shortens the lifespan by about 26 years, due to cancer, diseases of the colorectal and digestive system, and cardiovascular disease (<https://www.cdc.gov/alcohol/features/excessive-alcohol-deaths.html>). An article from the journal *Nature* found that even those who had one alcoholic drink a day could add a year to their lifespan if they quit drinking ([https://www.nature.com/articles/s41598-022-11427-x#:~:text=In%20conclusions%2C%20modest%20drinkers%2C%20no,65%E2%80%930%25\)%20of%20drinkers](https://www.nature.com/articles/s41598-022-11427-x#:~:text=In%20conclusions%2C%20modest%20drinkers%2C%20no,65%E2%80%930%25)%20of%20drinkers)). This increase in lifespan stems from a reduction in cancers, liver diseases, cardiovascular diseases, and accidental injury. Meta-analyses have shown that alcohol prevention programs reduce the amount of alcohol consumed, and reduce the odds of reporting alcohol-related harms (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8392207/>), (<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2798620#:~:text=Robust%20analyses%20showed%20that%20compared,the%207%2Dyear%20study%20period>).
- **Increased hospitalizations.** In NM, the rate of hospitalizations for chronic liver disease in 2022 was 122.5 per 100,000 population (NMDOH, Community Health Systems Epidemiology Bureau). That same year, the rate of hospitalizations where chronic liver disease was found (but was not the primary diagnosis) was 548.8 per 100,000 population (NMDOH, Community Health Systems Epidemiology Bureau).

2. Alcohol is also responsible for a disproportionate number of injury-related deaths including:

- **Alcohol poisoning:** In NM, the rate of poisoning deaths where alcohol was involved but not the primary cause of death was 13.5 deaths per 100,000 population in 2022 (NMDOH, Vital Records & Health Statistics Bureau).
- **Homicide and suicide:** That same year in NM, the rate of homicide victims where alcohol was indicated was 6.5 deaths per 100,000 population, and suicide was 5.7 deaths per 100,000 population (Vital Records & Health Statistics Bureau).
- **Other acute injury including traffic crashes and falls.** NM ranked in the top three states for motor vehicle deaths in 2022 (1.77 deaths per 100,000 population compared with a national rate of 1.31 deaths per 100,000); 37% of deadly crashes are alcohol-related (<https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813472>)

4. **Excessive alcohol use is incredibly costly to the state of NM.** A 2010 CDC analysis calculated that excessive drinking costs NM over \$2 billion in 2010 (\$3 billion in 2023 dollars), and NM had the highest societal cost per drink at \$2.77 per drink (\$3.92 per drink in 2023) (<https://www.cdc.gov/alcohol/features/excessive-drinking.html>). Societal cost is calculated based on estimated losses in workplace productivity, alcohol-related healthcare expenses, criminal justice/law enforcement costs, and alcohol-related motor vehicle crashes.

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

IF HB179 is not implemented, the liquor excise tax rates on alcoholic beverages for certain manufacturers and producers in the following manner will not be increased as proposed, the tax rates for all manufacturers and producers will not be indexed, the current distributions from a percentage of net receipts of the alcohol excise tax to dollar amounts in the following manner will not change, and the Alcohol Harms Alleviation Fund will not be created.

The proposed allocation of HB179 revenue will be directed to multi-sector efforts, including the Alcohol Harms Alleviation Fund, to reduce alcohol-associated deaths throughout the state (see Table). If HB179 is not implemented, these prevention and treatment efforts will not receive the needed revenue to expand evidence-based alcohol prevention and treatment strategies.

12. AMENDMENTS

None