

LFC Requestor: Gray, Brendon

2024 LEGISLATIVE SESSION  
AGENCY BILL ANALYSIS

Section I: General

Chamber: House

Category: Bill

Number: 0212

Type: Introduced

Date (of THIS analysis): 1/24/2024

Sponsor(s): Micaela Lara Cadena; Derrick J. Lente; Cristina Parajón

Short Title: Liquor Tax Rate & Fund

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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: None

Conflicts with: House Bill 213 (HB0213), House Bill 179 (HB179), House Bill 212 (HB212), House Bill 217 (HB217), Senate Bill 147 (SB147)

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

### Section IV: Narrative

#### 1. BILL SUMMARY

##### a) Synopsis

House Bill 0212 (HB0212) 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.

Is this an amendment or substitution?  Yes  No

Is there an emergency clause?  Yes  No

##### b) Significant Issues

#### 1. **NM has the highest alcohol-related deaths of all states in the U.S.**

For the past 26 years, New Mexico (NM) ranks highest in alcohol-related deaths of all states in the US (<https://www.nmhealth.org/data/view/substance/2682/>). In 2022, New Mexico (NM) has had 2,067 New Mexican deaths due to alcohol-related causes, with most of these deaths due to chronic conditions (1,226 deaths). Alcohol-related deaths are more than double the number of deaths due to drug overdose (997) in the same year. The age-adjusted death rate per 100,000 New Mexican residents for alcohol-related causes decreased from 102.8 deaths in 2021 to 93.88 deaths in 2022 (NMDOH, Substance Use Epidemiology Section).

#### 2. **Alcohol tax increases are one of the few evidence-based strategies to reduce alcohol-related harms. Is there any difference between progressive tax structures vs. fixed excise tax structure?**

HB212 proposes a tax using a progressive tax structure by determining the tax based on the percent of volume sold rather than a fixed amount per liter proposed in SB147. This allows the tax to increase the tax based not only alcohol content and volume, but also based on the price of the alcoholic beverage.

Compared to a per-unit tax (i.e. a dollar value per volume unit), the progressive tax will adjust to inflation or market changes, whereas the per-unit tax would not. Some data suggest a progressive tax may be more challenging and expensive to implement compared to a per-unit tax ([w30097.pdf \(nber.org\)](#)).

**Data are lacking: there are no studies comparing health benefits of progressive versus excise tax.**

The forementioned modeling study found that all policies were effective in reducing socioeconomic disparities in alcohol-associated deaths (i.e. disproportionately reducing deaths among lower-income versus high-income groups); however volumetric taxation and minimum unit pricing appeared to achieve the greatest reductions in health disparities. It is important to note that this study was not empiric, but rather a modeling study based on UK socioeconomic strata which differ vastly from sociodemographics in New Mexico ([Estimated Effects of Different Alcohol Taxation and Price Policies on Health Inequalities: A Mathematical Modelling Study | PLOS Medicine](#))

**In summary, data comparing impacts of progressive versus per-unit alcohol taxes on health outcomes and health equity are inconclusive. It is important to note that both tax policies are likely to reduce health disparities in alcohol-related deaths and improve overall health outcomes.**

([Effects of Alcohol Tax and Price Policies on Morbidity and Mortality: A Systematic Review, Estimated Effects of Different Alcohol Taxation and Price Policies on Health Inequalities: A Mathematical Modelling Study | PLOS Medicine](#))

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Increasing alcohol taxes, 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>) are proven methods to reduce excessive alcohol consumption. 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.

### **3.Harm Alleviations Fund Evidence:**

HB0212 proposes using funds for the alcohol and substance use harms alleviation fund for alcohol and substance use harms prevention, treatment, and recovery services. 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 intervention 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 an American Indian Southwest Tribe 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. Office of Alcohol Prevention:** This bill aligns 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
<b>Individual</b>	Improving access to screening, brief intervention, and referral to counseling and treatment statewide
<b>Community</b>	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
<b>Population</b>	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.

The proposed allocation of HB0212 revenue’s Harm Alleviation fund could be directed to multi-sector efforts, including the alcohol and substance use harms alleviation fund for alcohol and substance use harms prevention, treatment and recovery services. Money in the fund will be administered by the secretary of finance and administration and appropriated by the legislation.

The U.S. Surgeon General’s Report on Alcohol, Drugs, and Health in 2015 found that approximately 1 in 10 people with a substance use disorder receive any type of specialty treatment (<https://addiction.surgeongeneral.gov/key-findings>). The report also found that there are a variety of cost-effective evidence-based prevention programs and alcohol policies that prevent substance initiation, harmful use, and substance use-related problems. These programs and policies are effective at different stages of the lifespan. Lastly, the report found that communities are an important organizing force for bringing effective evidence-based intervention to scale.

## 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

### 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

HB212 conflicts with HB112, HB179, HB213, HB217, and SB147.

HB112 would keep the local DWI grant fund while creating a new county alcohol and substance use disorder prevention and treatment fund.

HB0213 a liquor excise tax imposed based on the type of alcoholic beverage, percent of alcohol per volume, and total volume sold (in liters or gallons) of each alcoholic beverage type.

HB179 also proposes a liquor excise tax imposed based on the type of alcoholic beverage, percent of alcohol per volume, and total volume sold (in liters or gallons) of each alcoholic beverage type.

HB217 proposes increasing the distribution to the local DWI grant fund from forty-five percent to sixty percent.

SB147 would change the alcohol excise tax to be a higher fixed rate. SB147 also proposes creation of the Alcohol Harms Alleviation Fund. SB147 changes the distribution to the local DWI grant fund from forty-five percent to two million eighty-four thousand dollars while HB212 repeals the local DWI grant program act.

### 6. TECHNICAL ISSUES

Are there technical issues with the bill?  Yes  No

HB0212 should emphasize that the treatment and prevention programs should be evidence based. The bill should include language in Section 4, part A line to state “evidence-based alcohol and substance use disorder prevention and treatment.”

Section 1 B currently reads: A distribution pursuant to Section 7-1-6.1 NMSA 1978 of twenty thousand seven hundred fifty dollars (\$20,750) monthly from the net receipts attributable to the liquor excise tax shall be made 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.

This would be stricken and replaced with:

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the alcohol and substance use harms alleviation fund in an amount equal to the net receipts attributable to the liquor excise tax, less two

million eighty-four thousand dollars (\$2,084,000) monthly and the amount distributed pursuant to Subsection B of this section.

It is unclear if the amount proposed in the new language captured in A. would be equal to or more than the current amount the municipality is receiving currently.

## 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

None

## 8. DISPARITIES ISSUES

### **Disparities issues related to race/ethnicity, geography, gender and special populations:**

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 was 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.

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).
- In 2022, Rio Arriba County's rate of alcohol-related death 199.68 deaths per 100,000 population (age-adjusted).

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 (NM Vital Records Bureau).

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

### **Equity considerations for progressive tax vs. a per-unit tax:**

Below are equity considerations related to comparison of a progressive tax versus a per-unit tax include considering relative impacts on lower versus higher income groups, both in terms of tax revenue generation and potential health benefits.

**The alcohol consumption and spending is higher among higher-income versus lower-income families.** In 2021-2022, 80% of adults in households with annual incomes of  $\geq$  \$100,000 consumed alcohol compared with 49% of those living in households with an income of  $<$  \$40,000. From 2021 to 2022, alcohol expenditures decreased by 17% among adults with an income of  $<$  \$50,000, compared to an 31% in alcohol expenditures among those with an income of  $\geq$ \$100,000.

(<https://extension.psu.edu/alcoholic-beverage-consumption-statistics-and-trends-2023>)

**It is not clear how these two different tax policies will affect alcohol expenditures among lower versus higher income groups.** A modeling study examined the impact of four different taxation strategies: current tax increase, ad valorem tax (additional sales tax on product value at time of purchase), volumetric tax (based on product strength/ethanol content); and minimum unit pricing (based on product volume only). The study found that all four policies would favor equitable revenue generation, i.e. greater spending increases among higher income groups versus lower income groups. ([Estimated Effects of Different Alcohol Taxation and Price Policies on Health Inequalities: A Mathematical Modelling Study | PLOS Medicine](#))

**In summary, data comparing impacts of progressive versus per-unit alcohol taxes on health outcomes and health equity are inconclusive. It is important to note that both tax policies are likely to reduce health disparities in alcohol-related deaths and improve overall health outcomes.**

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### **Geographic Distribution of the Funding for high AI/AN populations:**

Of Class A counties: Bernalillo, Dona Ana, San Juan, Sandoval, and Santa Fe the only municipality that may be affected is Farmington due to a large AI/AN population of 27.05%

It would be important to assure that the funding received of \$20,750 does not become less after the new taxation rules. (From Section 1 B, which currently reads: A distribution pursuant to Section 7-1-6.1 NMSA 1978 of twenty thousand seven hundred fifty dollars (\$20,750) monthly from the net receipts attributable to the liquor excise tax shall be made 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.

## **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.

Most alcohol-related deaths in NM are due to chronic conditions including alcohol-associated liver disease, diseases of the digestive and cardiovascular system (including cancer), shorter lifespan, and increased hospitalization.

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 (Data provided by Data Scientist in the NMDOH, 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 WONDER, <https://wonder.cdc.gov/controller/saved/D158/D361F908>).

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](https://www.who.int/health-topics/alcohol#tab=tab_3)).

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%9380%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>).

In NM, the rate of hospitalizations for chronic liver disease in 2022 was 122.5 per 100,000 population. 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.

Alcohol is also responsible for a disproportionate number of injury-related deaths including alcohol poisoning, homicide and suicide, and other acute injury including traffic crashes and falls.

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. Data provided by Data Scientist in the NMDOH, Vital Records & Health Statistics Bureau

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. Data provided by Data Scientist in the NMDOH, Vital Records & Health Statistics Bureau

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://www.nhtsa.gov/press-releases/traffic-crash-death-estimates-2022>).

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.

Creation of an alcohol and substance use harms alleviation fund may contribute to improved health and well-being of New Mexicans who use alcohol or are at risk of developing alcohol use disorder.

## **10. ALTERNATIVES**

None

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

If House Bill 0212 (HB0212) is not enacted, then there would be 1) no change in the percentage of revenue from alcohol excise taxes; 2) no creation of an alcohol and substance use harms alleviation fund; 3) no change in the percentage of alcohol excise taxes going into the general fund; 4) continuation of the DWI Grant Program Act; and 5) no change in the amount of funding provided to drug court fund from the liquor excise tax.

**12. AMENDMENTS**

None