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FISCAL IMPACT REPORT

SPONSOR: Tsosie DATE TYPED: 2/20/03 HB _____
 SHORT TITLE: Alcohol Licenses Near Tribal Lands SB 675
 ANALYST: Maloy

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		See Narrative	Recurring	General Fund

Relates to House Bill 676 (Requiring approval of tribal government for issuance / renewal of liquor license for an establishment within 20 miles of tribal land).

SOURCES OF INFORMATION

Responses Received From
 Alcohol and Gaming Division, Regulation and Licensing
 Attorney General's Office

SUMMARY

Synopsis of Bill

Senate Bill 675 enacts a new section to the Liquor Control Act that prohibits the Director of the Alcohol and Gaming Division from issuing, renewing or transferring liquor licenses within 50 miles of tribal land of a tribe that has not adopted an ordinance permitting the sale of alcoholic beverages within its exterior boundaries, *unless the licensed premises are located in a municipality with a population of more than 400,000.*

The bill provides, however, that a license may be granted in those instances where the licensee has obtained a waiver from each tribal government within 50 miles of the location of the proposed establishment.

Significant Issues

1. Tribal governments undoubtedly have the authority to regulate matters within their own jurisdictions. However, this bill seemingly (based on the meaning of exterior boundary") grants tribal governments the right to determine where a liquor license

may be located outside their jurisdictions. The term “exterior boundaries” needs to be defined. Further, this pertains only to liquor licensing issuance. This raises questions of sovereignty and whether lands can be “extended for specific jurisdictional purposes.

2. The Alcohol and Gaming Division asserts that tribal governments should not have the authority to make a final determination on whether or not a New Mexico *state* liquor license can be issued.
3. There are likely constitutional issues related to denying the renewal or transfer of an existing license. Liquor licenses are property rights, with a value of roughly \$200,000.
4. What is the anticipated effect of this legislation on regions of the state such as the Checkerboard Area?

FISCAL IMPLICATIONS

At this time, the amount of the fiscal impact is unknown. However, SB 675 may result in the issuance of fewer liquor licenses. Therefore, there may be a reduction in the amount of fees collected by the Alcohol and Gaming Division and deposited with the general fund. This loss of revenue will be recurring.

ADMINISTRATIVE IMPLICATIONS

Currently, tribal governments are not required to advise the Alcohol and Gaming Division of ordinance relating to the sale of alcohol. Therefore, the potential number of tribal lands and/or licensees is unknown. If the number is considerable, the Alcohol and Gaming Division may require addition FTE support.

OTHER SUBSTANTIVE ISSUES

1. The Alcohol and Gaming Division has also raised the issue “that it appears likely that New Mexico will realize an increase in drinking and driving on highways for longer periods of times for purposes of purchasing or consuming alcoholic beverages. The result is that alcohol users would drive further to obtain, purchase and/or consume alcoholic beverages resulting in the potential for higher exposure on highways to other motorists.”
2. In analyzing a similar bill (HB 676, requiring approval of tribal government for issuance / renewal of liquor license for an establishment within 20 miles of tribal land), the Office of Indian Affairs reported the following:
 - a. This legislation would permit tribes a strong part in the issuance of permits to sell alcohol near the reservation boundaries.
 - b. Alcoholism is a problem on most reservations and in one way or another, effects in every member of the community. The debilitating effects of alcoholism may cause domestic violence, increase the chance of diabetes, cause one to lose one’s job, home, family, life, and to be disconnected

from one's community. The tribes are impacted by alcohol abuse and should have a say whether they wish to have a venue which is permitted to sell alcoholic beverages near their reservation boundaries.

- c. This bill may encourage to adopt an ordinance regarding the sale of alcoholic beverages near the exterior boundaries of their reservation, if they do not have an ordinance already in effect.
- d. Alcohol and substance abuse programs for tribal members cost tribal governments a lot of money each year. It also costs the tribes greatly, not only in monetary terms, but in terms of losing active, healthy, participating and connected members of their community. Most crime on the reservations is related to alcohol or substance abuse.
- e. Driving while under the influence of alcohol is an epidemic in the State of New Mexico and causes many deaths each year.
- f. Proximity to venues selling alcohol near the reservation boundaries may increase the abuse of alcohol within reservation boundaries.
- g. Alcohol abuse has a very poisonous effect on communities and this negative impact is far-reaching. Easy access to alcohol would affect the youth of the reservation negatively.

SJM/njw:pr