

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

**ORIGINAL DATE** 01/20/11  
**LAST UPDATED** 03/12/11    **HB** 77/aHBIC  
**SPONSOR** Gonzales  
**SHORT TITLE** Gift Shop Beer and Wine Sales License    **SB** \_\_\_\_\_  
**ANALYST** Sanchez, C.

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	\$300.0	\$300.0	Recurring	General

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$80.0	\$80.0	\$160.0	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of HBIC Amendment

The House Business and Industry Committee amendment to House Bill 77 requires that all employees and licensees comply with the provisions of the alcohol server education article.

The amendment removes small brewer's from Section 3 that allowed shipment of beer & wine by small brewers, retailers and gift shop licensees via common carrier to those jurisdictions in the United States that permit such shipments.

All other changes are technical.

Synopsis of Original Bill

House Bill 77 creates a new type of liquor license for gift shops and amends other sections of the Liquor Control Act.

- The new license limits sales to New Mexico beer and wine for off-premise consumption but also allows for shipment of New Mexico made beer and wines out of state via common carrier by small brewers, retailers or gift shop licensees. The bill requires that local option districts approve gift shop licenses by holding an election on the question.
- Gift shop licenses would have the following restrictions:
  - the person granted the license shall not serve food or beverages except as permitted by the bill;
  - shall not own, lease or manage another liquor license;
  - shall not sell gasoline or other fuel used to power motorized vehicles from the premises;
  - the premises cannot be licensed under another license;
  - shall submit annual reports of total gross receipts and gross receipts from beer and wine sales, including separate reporting of sales of beer and wine shipped by common carrier;
  - sell only beer & wine, in unbroken packages, produced in New Mexico by a licensed winegrower or small brewer for consumption off the licensed premises;
  - the license would not be transferrable from person to person or from location to location and would expire each June 30;
  - the amount of liquor sold to one person in a twenty-four hour period would be limited to the equivalent of no more than four six packs of twelve-ounce containers or twelve 750 milliliter bottles of wine;
- The total annual gross receipts must be reported annually and the sales of beer and wine shall not exceed twenty percent of the total gross receipts, however the gross receipts from beer & wine shipped by common carrier are not included in the calculation of the twenty percent. If the twenty percent annual limit is exceeded, the license shall be revoked and the licensee may not reapply for a gift shop license for twenty-four months.
- The beer and wine sold on the premises shall be held at an appropriate temperature for storage but not chilled to discourage immediate consumption. Beer and wine shall not be available for consumption on the licensed premises.
- The gift shop license would not be subject to the quota limitation.
- Gift shop licensee employees must be 21 years of age or older to sell beer and wine on the premises.
- The initial application fee for a gift shop license is \$200 with a license fee and annual renewal fee of \$1,300.00.
- HB 77 creates a new section allowing shipment of beer & wine by small brewers, retailers and gift shop licensees via common carrier to those jurisdictions in the United

States that permit such shipments. The amount of such shipments is limited to not more than four six packs of twelve-ounce containers of beer or twelve seven hundred fifty milliliter bottles of wine to any address or single purchaser in any twenty-four hour period.

### **FISCAL IMPLICATIONS**

House Bill 77 includes an application fee for a gift shop license of \$200 with a license fee/annual renewal fee of \$1,300. It is unknown how many licenses would be issued. According to the Alcohol and Gaming Division (AGD), an estimate of 200 licenses at \$200 plus \$1,300 each for FY 11 and FY 12 would generate \$300,000.

As the bill contains language regarding annual reporting, the Alcohol and Gaming Division estimates that it would need at least one FTE auditor to audit the reports and conduct on-site audits of the business records to ensure reporting compliance. Estimated salary and benefits for the FTE is approximately \$54,000 plus overhead, mileage and per diem for traveling throughout the state for audits.

### **SIGNIFICANT ISSUES**

According to RLD, House Bill 77 would allow shipment of domestic beer & wine by small brewers, retailers and gift shop licensees via common carrier. The Liquor Control Act does not currently address or authorize direct shipment of beer and wine. This bill's new language creates that authority, however there would be disparity between small brewers, retailers and gift shop licensees and the other types of licenses currently authorized under the LCA. Under the Liquor Control Act, "retailer" is defined in NMSA 1978 60-3A-3 U as a person having in the person's possession with the intent to sell alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises. A retailer license is one which allows the package sale of beer, wine and spirits only and there are only 71 of these licenses statewide. Examples of the types of businesses that have a retailer license are grocery stores, liquor stores and convenience stores. The language in HB 77 would not permit the shipment of beer and wine by Dispenser license holders or winegrower's

### **PERFORMANCE IMPLICATIONS**

Passage of this bill will require additional staff time to process license applications, audit reports and to ensure compliance will be required.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

CS/bym:svb