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FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/13
LAST UPDATED 02/15/13 **HB** 137/HBICS
SPONSOR HBIC
SHORT TITLE Concealed Guns In Liquor Establishments **SB** _____
ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrec	Fund Affected
Total	Unknown*	Unknown*	Unknown*	Unknown*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See "Fiscal Implications" Below

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)
 Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 Association of District Attorneys (AODA)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

House Business and Industry Committee Substitute for House Bill 137 would amend Section 30-7-3 NMSA 1978, so that the only licensed liquor dispensers where persons were permitted to carry a concealed handgun, if they had a concealed carry license, would be into a liquor store where alcoholic beverages are sold for consumption elsewhere, *i.e.*, not on the premises, or a "restaurant" as defined in the Liquor Control Act" unless there were signs or verbal instructions that carrying a firearm in not permitted in the restaurant. By limiting the second exception to just restaurants, the HBIC substitute would eliminate bars, night clubs and other licensed liquor establishments as additional places that the original bill would have permitted duly licensed people to carry a concealed handgun.

FISCAL IMPLICATIONS

The Administrative Office of the Courts (AOC) notes there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact would be proportional to the enforcement of this law, and commenced prosecutions. While new laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase, the change proposed by HB 137 is less restrictive than current law and may result in fewer enforcement actions.

SIGNIFICANT ISSUES

The AODA provided the following:

The HBIC substitute would clarify the places where persons who have a valid concealed handgun carry license can take their weapons. The substitute would still permit a license holder to take their handgun into package liquor stores and into establishments meeting the definition of a “restaurant” under the Liquor Control Act. It would revise the current restriction that concealed handguns are only permitted in those eating establishments where the only alcoholic beverages sold are beer and wine and which derive no less than 60% of their gross revenue from food sold for consumption on the premises. It would probably increase the places where persons with a concealed carry license could take their guns since more restaurants would be included. Since the HBIC substitute would permit places with a full service liquor license, where “hard liquor” is sold, would allow persons to carry a concealed handgun inside (unless prohibited by written signs or verbal instructions), there still may be more persons under the influence of intoxicating liquor with immediate access to their firearms. Although most people drink responsibly, especially when they are in a restaurant, the changes proposed could result in more criminal cases, some of which could be very serious.

Eliminating bars and night clubs as places where concealed handguns would have been permitted is likely to result in fewer cases than might have occurred under the original bill but it is still unknown if allowing guns into restaurants with a full service liquor license will result in more cases so it is hard to predict what the fiscal impact on DA offices would be.

SIGNIFICANT LEGAL ISSUES

The AGO provided the following:

The HBIC substitute bill relies on a definition of “restaurant” found in the Liquor Control Act, as follows:

‘restaurant’ means an establishment having a New Mexico resident as a proprietor or manager that is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided that "restaurant"

does not include establishments as defined in rules promulgated by the director serving only hamburgers, sandwiches, salads and other fast foods;”

However, this definition is dated. It could also be interpreted to mean that a license-holder could lawfully carry a concealed firearm in a traditional, “sit-down” restaurant, but not a fast-food restaurant or a casual dining restaurant. The substitute appears to be drafted to mean that a license-holder may carry a concealed weapon on the premises of a restaurant regardless of whether that restaurant serves alcohol. However, because of the reliance on the Liquor Control Act’s definition of the term “restaurant”, confusion could be the actual result.

PERFORMANCE IMPLICATIONS

The Administration of the Courts (AOC) states that the courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas: Cases disposed of as a percent of cases filed; and percent change in case filings by case type

AMENDMENTS NEEDED TO IMPROVE THIS BILL

The AGO suggests including language from 10.8.2.27 NMAC, which requires that private property owners who wish to prohibit concealed carrying of firearms on the premises in question to comply with §30-14-6 NMSA, which clearly details the requirements for legally effective signage (as an alternative to verbal notice). This would clarify confusion about the rights and responsibilities of private property owners and concealed carry permit holders.

EC/blm