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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/3/18

SPONSOR Garcia Richard LAST UPDATED 2/8/18 HB 285

SHORT TITLE Liquor Tax Rate Differential SB \_\_\_\_\_

ANALYST Clark

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20	FY21	FY22		
NFI	(\$10.0) – (\$35.9)	(\$12.0) – (\$37.1)	(\$13.0) – (\$38.3)	(\$15.0) – (\$39.6)	Recurring	General Fund
NFI	(\$7.0) – (\$25.4)	(\$8.0) – (\$26.3)	(\$9.0) – (\$27.2)	(\$10.0) – (\$28.1)	Recurring	Local DWI Grant Fund

Parenthesis ( ) indicate revenue decreases

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

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Minimal			Minimal	Nonrecurring	Taxation and Revenue Department

Parenthesis ( ) indicate expenditure decreases

Relates to HB35

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of Bill

House Bill 285 amends the Liquor Excise Tax Act to create a preferential tax rate for craft distillers of spirituous liquor in much the same way existing statute provides a preferential rate for craft beer. Instead of the current rate of \$1.60 per liter for spirituous liquor, a craft distiller would pay a rate of \$0.32 per liter on the first 375 thousand liters sold.

The effective date of this bill is July 1, 2018.

**FISCAL IMPLICATIONS**

There is little data available on craft distillery volumes in New Mexico compared with total volumes of spirituous liquor, so the LFC analysis uses total liquor volumes and the new rates combined with a range of proportions similar to the proportions of craft beer and cider to total volumes. This was used as the high end of the range, and detailed impact estimates are shown below.

	<b>Current Revenues</b>				
	FY18	FY19	FY20	FY21	FY22
General Fund	\$23,500.0	\$25,300.0	\$25,200.0	\$25,100.0	\$24,900.0
Local DWI	\$20,230.6	\$18,124.5	\$18,053.6	\$17,982.6	\$17,840.7
Muni in Class A County	\$249.0	\$249.0	\$249.0	\$249.0	\$249.0
Total	\$43,979.6	\$43,673.5	\$43,502.6	\$43,331.6	\$42,989.7

	<b>Proposed Revenues (max range of impact)</b>				
	FY18	FY19	FY20	FY21	FY22
General Fund	\$23,500.0	\$25,264.1	\$25,162.9	\$25,061.7	\$24,860.4
Local DWI	\$20,230.6	\$18,099.1	\$18,027.3	\$17,955.4	\$17,812.6
Muni in Class A County	\$249.0	\$249.0	\$249.0	\$249.0	\$249.0
Total	\$43,979.6	\$43,612.2	\$43,439.2	\$43,266.1	\$42,922.0

	<b>Difference</b>				
	FY18	FY19	FY20	FY21	FY22
General Fund	\$0.0	-\$35.9	-\$37.1	-\$38.3	-\$39.6
Local DWI	\$0.0	-\$25.4	-\$26.3	-\$27.2	-\$28.1
Muni in Class A County	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Total	\$0.0	-\$61.3	-\$63.4	-\$65.5	-\$67.8

Estimates from TRD were used for the low end of the range, and their analysis is provided below.

Data on spirit sales from current liquor excise tax returns was used to estimate how much would qualify for the new craft distiller rate as specified in the bill. Craft distilling is already a small but growing industry in the state, and future monthly taxable gallons from qualifying distillers were estimated from the last 36 months of data. The tax rate decrease of \$1.28 per liter was applied to volumes under the limit specified in the bill. It is not estimated that any manufacturers that qualify for the craft distiller rate would exceed the 375-thousand-liter limit within the timeframe of the estimate. The resulting loss of revenue was applied to the two funds indicated above according to distribution percentages given in current statute.

**SIGNIFICANT ISSUES**

Local craft distiller products are sometimes sold and consumed in similar venues and similar fashions as craft beer, so this might satisfy the LFC tax policy principle of equity, by treating similar taxpayers fairly. As this bill provides a tax advantage for small distillers (similar to the advantage currently enjoyed by microbrewers), and there is a good chance most or all of New Mexico’s distillers would qualify for this tax rate, this also provides the state’s distillers with an

advantage when competing with products from large national or multinational distillers. More than 13 million liters of spirituous liquor are sold in New Mexico each year, and the Regulation and Licensing Department reports the state is home to 12 licensed craft distillers.

Natalie Bovis wrote an article in August 2015 in the award-winning *New Mexico Magazine* about the state’s growing distillery scene, and an excerpt is provided below. The entire article can be found at:

<https://www.newmexico.org/nmmagazine/articles/post/tasting-nm-strong-stuff-92082/>

Local New Mexico cocktail culture is experiencing a boomlet, thanks in part to the 2011 Craft Distillers bill, which allows distillers to also serve as distributors and retailers. This opened the door for distilleries to become venues, like wine-tasting rooms and microbreweries.

Although most distilleries use local ingredients, even spirits companies that rely on key ingredients and processing from neighboring Mexico (Silver Coin Tequila, Del Maguey Mezcal) have given New Mexico’s mixology scene a boost by basing their operations here.

And it’s only getting easier for entrepreneurial purveyors of liquid mirth. It took two and a half years for White Rock–based Don Quixote Distillery to become the first licensed distillery in New Mexico history, back in 2004. “Laws were out of date, and there was confusion between federal, state, and county licenses,” says Don Quixote cofounder Olha Dolin, who surmises that she and her husband, Ron, were the first because other would-be distillers threw in the towel after being defeated by red tape.

Several new distilleries have made the scene since the Dolins staked their claim, and it’s likely that more will soon join them. Last month, another piece of legislation was passed that allows folks who are exploring the idea to rent excess working space from one of New Mexico’s licensed craft distillers without having to commit to the equipment and paperwork.

## ADMINISTRATIVE IMPLICATIONS

TRD reports implementing the changes proposed would have a moderate impact on the Information Technology Division, with soft costs of approximately \$35 thousand.

## RELATIONSHIP

This bill relates to HB35, which changes the distribution of liquor excise tax revenues.

### **Does the bill meet the Legislative Finance Committee tax policy principles?**

- 1. Adequacy:** Revenue should be adequate to fund needed government services.
- 2. Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- 3. Equity:** Different taxpayers should be treated fairly.
- 4. Simplicity:** Collection should be simple and easily understood.
- 5. Accountability:** Preferences should be easy to monitor and evaluate