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FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/19
LAST UPDATED _____ **HB** 272

SPONSOR Montoya

SHORT TITLE New Restaurant Liquor License Type **SB** _____

ANALYST Daly

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
	>\$20.0	>\$20.0	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	RLD Operating Funds

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 210
 Conflicts with SB 301
 Relates to HB 273

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation & Licensing Department (RLD)
 New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Bill

House Bill 272 expands the types of alcoholic beverages that a properly licensed restaurant may serve with food to include spirituous liquor. Under existing law, restaurants may only serve beer and wine with meals. In HB 272, licenses for beer and wine sales only are designated as Type A licenses; those allowing the sale of spirituous liquors in addition are designated as Type B

licenses. Type B licenses are dependent upon the adoption of an ordinance allowing such sales by the local option district (the same procedure that is required for Type A licenses). Restaurants qualifying for Type B licenses must meet the same requirements and restrictions as Type A licensees:

- Be operating under a valid food establishment permit;
- Primary source of revenue must derive from sale of food (not alcohol);
- At least 60 percent of gross receipts must be generated by food sales;
- Submission of annual reports of gross receipts from sale of food and from alcoholic beverages;
- No alcohol sales for off-premises consumption;
- Cut-off of sale and service of alcohol at 11:00 pm or when food sales cease, whichever is earlier; and
- Sunday sales of alcohol only if Sunday sales by drink approved by governing body.

The issuance fee for a Type B license is \$20 thousand (Type A licenses remain at \$1,050), with an annual renewal fee of \$1,300.

HB 272 also authorizes the transfer of both Type A and Type B licenses from one location to another within the same local option district while preventing transfers of either type from person to person. (Existing law does not allow a Type A license to be transferred from one location to another.)

HB 272 carries an effective date of July 1, 2019.

FISCAL IMPLICATIONS

RLD provides no estimate of the number of Type B licenses that may be issued. The fee for the initial issuance of such a license is \$20 thousand, so that number appears in the Revenue Table, with a “>” sign to indicate revenues could be greater than that amount, depending on the number of Type B licenses issued. RLD reports increased costs to administer this new type of restaurant license, which LFC staff estimates as minimal.

SIGNIFICANT ISSUES

HB 272 uses the phrase “alcoholic beverages” throughout to describe what is more specifically defined in the Liquor Control Act as “spirituous liquors”—as opposed to beer and wine. Since beer and wine are alcoholic beverages, RLD suggests the use of the phrase “spirituous liquors” in place of “alcoholic beverages” wherever it appears in the bill to clarify that distinction.

CONFLICT, DUPLICATION, RELATIONSHIP

HB 272 conflicts with SB 301, which proposes to amend the same section of statute which currently refer to “meals” to allow restaurant purchases of beer and wine only with a lunch or dinner entrée, while HB 272 changes “meals” to “food”.

HB 272 duplicates SB 210.

HB 272 also relates to HNB 273 which would authorize restaurant sales of beer and wine and spirituous liquors distilled and bottled in New Mexico.

AMENDMENTS

NMAG notes that Section 2(B) as drafted requires a local option district that has not adopted an ordinance authorizing Type A restaurant licenses to do so before it adopts an ordinance authorizing issuance of Type B licenses. That process may be duplicative and if not the intent of the legislation, an amendment authorizing one ordinance to cover both or only one type of restaurant license may be appropriate.

MD/gb