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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2/1/19

**SPONSOR** Papen **LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Alcoholic Beverage Imports & Shipments **SB** 127

**ANALYST** Daly

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
Minimal	Minimal	Minimal	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
<b>Total</b>	Minimal	Minimal	Minimal	Minimal	Recurring	RLD Operating Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation & Licensing Department (RLD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 127 prohibits third party aggregators, as defined in the bill, from shipping alcohol into the state. Only the holder of a direct ship permit issued by the director of the alcohol and gaming division of RLD may take on-line orders for, sell and ship wines for commercial purposes to a New Mexico resident. Those permit may only be issued to a winery that holds both a federal basic permit and a license to produce wine in New Mexico or another state. Such a permittee may only ship wines sold under the brand name owned by or exclusively licensed to that permittee. That permittee may take orders by any means and may ship its wines via a warehouse or common carrier licensed in another state as an agent for the permittee as long as

the order is placed through that permittee.

This bill removes existing language in the Liquor Control Act that allows out of state license holders and retailers in reciprocal shipping states who do not hold a direct ship permit to send wines to New Mexico residents. It adds language authorizing an individual to ship a limited amount of wine to another individual for non-commercial purpose, including resale.

SB 127 makes it a violation of the Liquor Control Act for any person to act in a manner that violates the provisions, subject to certain stated exceptions.

### **FISCAL IMPLICATIONS**

RLD reports that the fiscal implications of this bill are unknown. Given that a direct ship permit is subject to an annual fee of \$50, LFC staff estimates that any increase in the number of permits issued will result in only a minimal increase in revenue. Similarly, the impact on RLD for administering these changes appears to be minimal.

### **SIGNIFICANT ISSUES**

RLD advises that wines are currently being shipped into the state from third party aggregator platforms like Amazon. Likewise, license holders in reciprocal shipping states are permitted under existing law to ship directly to New Mexico residents without any kind of permit. SB 127 would prevent these sales. Given these new prohibitions, RLD suggests notice should be provided to these types of vendors.

Further, RLD calls attention to what it perceives to be a conflict between this bill and the existing provisions of Section 60-6A-11(B)(4), which allows a New Mexico wine grower to “accept and fulfill an order for wine that is placed via an internet web site, whether the financial transaction related to the order is administered by the licensee or the licensee’s agent.” RLD reads this provision as explicitly allowing the use of a third-party aggregator as that term is defined in this bill. However, the new provisions of Section 2(A) and (D)(3) concerning direct wine shipment permit holders shipping wine ordered by any means, including phone, fax, mail and the internet may address this concern, as well as the exception provided for New Mexico winegrowers in Sections 4(B) and 5(B), which expressly exempt actions taken consistent with Section 60-6A-11(B), the provision cited by RLD.

MD/gb