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## FISCAL IMPACT REPORT

SPONSOR Neville LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 2/13/2023  
BILL \_\_\_\_\_  
SHORT TITLE Concealed Carry in Restaurants and Bars NUMBER Senate Bill 114  
ANALYST Tolman

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		Indeterminate but minimal	Indeterminate but minimal			AOC Operating Budget

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
Administrative Office of the District Attorneys (AODA)  
Office of Attorney General (NMAG)  
New Mexico Sentencing Commission (NMSC)  
Corrections Department (NMCD)  
Department of Public Safety (DPS)  
Department of Health (DOH)

#### No Response Received

Law Offices of the Public Defender (PDD)

## SUMMARY

### Synopsis of Senate Bill 114

Senate Bill 114 amends Section 30-7-3 NMSA 1978, governing unlawful carrying of a firearm in licensed liquor establishments, to permit the carrying of a concealed handgun by a person with a concealed handgun license on the premises of a restaurant licensed to sell spiritous liquors and cider, in addition to a restaurant that sells beer or wine, when the restaurant does at least 60 percent of their business selling food. Current law already allows a concealed handgun to be carried into restaurants that serve beer or wine. Therefore, SB114 would allow properly licensed individuals to carry concealed handguns in more restaurants than currently permitted.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## FISCAL IMPLICATIONS

The Administrative Office of the Courts (AOC) notes that there will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. 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. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and any potential associated decrease in commenced prosecutions.

## SIGNIFICANT ISSUES

AOC and NMSC both point out that states are split on whether to prohibit the concealed carrying of firearms in restaurants and bars. See <https://www.concealedcarry.com/concealed-carry-laws-in-the-united-states/carry-in-restaurants-serving-alcohol/> or <https://giffords.org/lawcenter/gun-laws/policy-areas/guns-in-public/location-restrictions/> for charts and summaries of state laws regarding concealed carry of firearms in restaurants serving alcohol.

The Department of Health (DOH) noted that a large body of research has identified alcohol use as a key but modifiable risk factor for firearm violence (see Rosenberg, M. 2021. Considerations for developing an agenda for gun violence prevention research. *Annual Review of Public Health*, 42, 23-41. Available at: <https://doi.org/10.1146/annurev-publhealth-012420-105117>).

For example, a 40-year (1975-2014) systematic review of the research on gun violence found that: over a third of firearm-related fatalities acutely consumed alcohol and that alcohol was significantly associated with firearm use as a suicide means. As a result, 12 states including Oklahoma, New Mexico, and Texas have restrictions on possession of a loaded firearm in places where alcohol is sold on-premises for consumption (see Brana, C. C., Han, S. H., & Wiebe, D. J. 2016. Alcohol use and firearm violence. *Epidemiological Review*, 38(1), 32-45. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4762248/>). Another recent review of the research on gun violence found that restrictions on the number and density of alcohol outlets in neighborhoods as well as enhanced regulatory oversight of alcohol outlets have been shown to reduce violence (see Webster, D. W. 2022. Public health approaches to reducing community gun violence. *Journal of the American Academy of Arts & Sciences*, 1, 38-48. Available at: [https://www.amacad.org/sites/default/files/publication/downloads/Daedalus\\_Wi22\\_04\\_Webster.pdf](https://www.amacad.org/sites/default/files/publication/downloads/Daedalus_Wi22_04_Webster.pdf)).

Another research study found empirical evidence for the prevalence of firearm violence in neighborhoods with alcohol outlets by comparing similar neighborhoods matched on physical characteristics (e.g., vacant lots, tree cover, income, nearby drug activity, and commercial land use). In neighborhoods with alcohol outlets there was a 110 percent increase in firearm injury in the same block as bars/restaurants that served alcohol (compared to the control neighborhoods) after controlling for unemployment, income, population demographics, and the physical characteristics (see Jay, J., 2019. Alcohol outlets and firearm violence: A place-based case-control study using satellite imagery and machine learning. *Injury Prevention*, 26, 61-66. Available at: <https://injuryprevention.bmj.com/content/injuryprev/26/1/61.full.pdf>).

AOC noted that it could be possible that SB114 lead to a reduction in the number of prosecutions for unlawful carrying of a firearm on various premises. Some research indicates that broadening concealed carry laws and increasing the number of people carrying concealed weapons has

spurred a marked decrease in violent crime, others (see VerBruggen, R., October 20, 2022. Issue brief: more guns, same amount of crime? Analyzing the effect of right-to-carry laws on homicide and violent crime. *Manhattan Institute*. Available at: <https://www.manhattan-institute.org/analyzing-effect-of-right-to-carry-laws-on-homicide-and-violent-crime>).

AOC noted that Section 30-7-3 NMSA 1978, permitting concealed handguns to be carried in restaurants licensed to sell beer and wine (as opposed to those holding full liquor licenses) and do at least 60 percent of their business selling food, has been in effect since July 1, 2010. This issue could be examined locally since data may exist to analyze whether the 2010 law led to a rise or fall in shootings in proximity to these establishments.

AOC also noted that individuals with concealed carry licensees can still face “negligent use of a firearm” charges if in violation of Section 30-7-4(A)(2) NMSA 1978, which prohibits the carrying of a firearm while under the influence of an intoxicant or narcotic.

The Administrative Office of the District Attorneys (AODA) noted that SB114 would require the person carrying a concealed handgun to know whether the restaurant derives at least 60 percent of its gross receipts from selling food that is consumed on the premises. The average person is not familiar with the finances or bookkeeping of restaurants and the addition of spirituous liquors likely increases the gross receipts from alcohol. AODA notes that some sort of notice should be required so that persons do not unintentionally violate this law and commit a fourth degree felony. Requiring notice by licensed restaurants on whether they do or do not permit the carrying of concealed handguns would also reassure those who are uncomfortable around others who are drinking spirituous liquors while carrying a deadly weapon.

## PERFORMANCE IMPLICATIONS

AOC noted 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.

## TECHNICAL ISSUES

AODA noted that the short title for this bill is incorrect since SB114 does not allow for concealed carry in bars, but only specifies restaurants that derives no less than 60 percent of its annual gross receipts from the sale of food for consumption on the premises.

RT/al/ne