

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 27, 2024

Bill: SB-147

Sponsor: Senators Antoinette Sedillo Lopez, Bill Tallman, and Shannon D. Pinto

Short Title: Liquor Tax Increase & Use

Description: This bill makes changes to the distribution of the liquor excise tax under Section 7-1-6.40 NMSA 1978. It amends the distribution as follows:

- Local DWI Grant Fund from 45% to a flat \$2,084,000 monthly and
- Drug Court Fund from 5% to a flat \$250,000 monthly.

The current distribution of \$20,750 to a municipality located in a class A county (Farmington) is unchanged. After the above distributions are made, a new distribution is added for the Alcohol Harms Alleviation Fund, which is created in Section 4 of the bill, for the remainder of the net receipts attributable to the liquor excise tax. The general fund will no longer receive any amount of liquor excise tax revenue. This bill also adds the definition of “barrel” to Section 7-17-2 NMSA 1978. Section 3 of this bill makes changes to the imposition and increases rates for the liquor excise tax for all categories of alcoholic beverages and requires that starting July 1, 2028, the Taxation and Revenue Department (Tax and Rev) calculate the rates based on a formula that takes into consideration the Consumer Price Index (CPI).

Effective Date: July 1, 2025

Taxation and Revenue Department Analyst: Lucinda Sydow

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	--	(\$25,250)	(\$25,460)	(\$25,670)	R	General Fund
--	--	\$2,060	\$1,870	\$1,680	R	Local DWI Grant Fund
--	--	\$0	\$0	\$0	R	Municipality – Class A County (Farmington)
--	--	\$450	\$430	\$410	R	Drug Court Fund
--	--	\$222,900	\$222,860	\$222,980	R	Alcohol Harms Alleviation Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: The Taxation and Revenue Department (Tax & Rev) used the Liquor Excise Tax forecast from the Consensus Revenue Estimating Group (CREG) in December 2023 to estimate the revenue impact of the proposed tax increases and distribution changes. The Liquor Excise Tax covers a variety of products. The bill proposes tax increases to most categories, with the exception of microbrewer and small winegrower products. Tax & Rev applied different demand elasticities to the products. Based on a meta-analysis study of the impact of price and tax levels on drinking and income elasticities by Wagenaar, Salois and Komro¹, Tax & Rev assumes a price elasticity of -0.11 for beer, -0.19 for wine and for -0.20 for distilled spirits. Tax & Rev also assumes that

¹ Wagenaar Alexander C., Salois, Matthew J., Komro, Kelli A. (2009). Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies. *Journal, Addiction*, 104, 179-190; doi:10.1111/j 1 360-0443.2008.02438.x

wholesalers pass the tax on to retailers and consumers at a rate of 1.5, based on the Wagenaar, Salois and Komro study. Using 2023 third quarter data from the C2ER survey by the Council for Community and Economic Research², Tax & Rev assumes average retail prices for a 6-pack of beer and a liter of wine. An average price for a liter of spirits was agreed upon by economists from the CREG. After the initial consumption change from the rate increases, Tax & Rev assumes an average annual growth by liquor product from the last 10-years, removing the growth rates from FY21 and FY22 due to changes in consumption attributable to the COVID-19 pandemic.

The tax increases per product are large. The initial drop in liquor consumption resulting from higher prices could be higher than what is modeled, reducing positive revenue impacts forecasted to the various funds. Also, if the purchase of liquor products for consumption moves to neighboring states or to online purchasing (see Policy Issues below), then the assumed drop in liquor purchases in state could also be higher still or the growth lower in the out years. A study by Ornstein and Levy³ notes no strong evidence of substitutable products for either beer, wine or distilled spirits. Tax & Rev makes no assumption of changes in consumption patterns between liquor products. The proposed liquor rate indexing for inflation starts in FY2029 beyond the fiscal impact horizon.

Section 1: For the fiscal impact among different funds, Tax & Rev applied the new distribution percentages proposed in 7-1-6.40 NMSA 1978.

Policy Issues: The taxing nationwide of liquor products through an excise tax occurs at many different government levels: federal, state and local; and at differing points of the supply chain: manufacturer, wholesaler and retailer. Tax rates all tend to differ based on the alcohol content of the liquor category. Like other states, New Mexico taxes spirituous liquors at a higher rate than wine and beer as they contain a higher alcohol content. Similarly, wine is taxed higher than beer. And as in many other states, the tax is based on the volume of liquor sold not on the value of the product. New Mexico’s Liquor Excise Tax is imposed on wholesalers and on average currently brings in \$50 million in revenue annually with half of the revenue currently distributed to the General Fund. At the retail level, liquor sales are also subject to the Gross Receipts Tax (GRT.)

New Mexico’s liquor excise tax rates as compared to surrounding states is displayed in Table 1 below. Under the proposed rates in the bill, for beer, spirits and wine, New Mexico would rate as having the highest excise taxes in the country or in the case of spirits, the second highest (behind Washington state).

Table 1: State Rankings by state level liquor excise taxes¹

Liquor Category	New Mexico - Proposed Rates	New Mexico - Current Rates	Surrounding States				
			Arizona	Utah	Colorado	Oklahoma	Texas
Beer	1	14	36	13	46	15	31
Spirits	2	24	43	6	47	27	46
Wine	1	5	26	*	40	29	44

Source: Tax Foundation, Tax & Rev calculations

¹ Comparable state ratings based on dollars/gallon, include local rates, state-controls, differing rates by alcohol content.

* Utah has state-controlled sales of wine⁴

² See; www.c2er.org

³ Ornstein, S.I., Levy, D. (1983). Price and Income Elasticities of Demand for Alcoholic Beverages. In: , et al. Genetics Behavioral Treatment Social Mediators and Prevention Current Concepts in Diagnosis. Recent Developments in Alcoholism, vol 1. Springer, Boston, MA. https://doi.org/10.1007/978-1-4613-3617-4_18

⁴ See: [2023 State Beer Taxes: Alcohol Excise Tax Rates | \(taxfoundation.org\)](https://taxfoundation.org/state-beer-tax-rates); [Distilled Spirits Taxes by State | Liquor Taxes | Alcohol Taxes \(taxfoundation.org\)](https://taxfoundation.org/distilled-spirits-tax-rates); [State Wine Taxes | Compare 2021 Wine Tax Rates | \(taxfoundation.org\)](https://taxfoundation.org/state-wine-tax-rates)

The rate increases by liquor product as noted in the fiscal methodology are relatively substantial for the consumer and as relayed in Table 1, will place New Mexico as the highest in the nation. The increase in rates may drive some of the purchasing of products to neighboring states with lower tax rates or to online retail purchasing.

New Mexico's tax code is out of line with most states in that more complex distributions are made through the tax code. As an alternate to this proposal and revenue earmarks, the liquor excise tax could be distributed to the general fund and alcohol abuse funding needs could be provided for through general fund appropriations in HB2. The more complex the tax code's distributions are, the costlier it is for Tax & Rev to maintain the GenTax system and the more risk is involved in programming changes.

Alcohol and substance abuse are among the costliest health problems in the United States. Studies have shown that public investment reduces alcohol and substance abuse and delays abuse initiation at young ages. In that regard, the redistribution of revenue to targeted alcohol abuse funds may impact and support community programs. This would establish a consistent future fund balance for budgeting appropriations from these funds but would permanently divert gross receipts revenue from the general fund.

An assumed social policy goal in raising liquor excise taxes is to curb alcohol consumption in the state by increasing the cost of purchasing alcohol. Studies are mixed on the impact raising prices to reduce liquor consumption.⁵ Part of the inclusive correlation is due to various other factors that are used to curb consumption of alcohol as it relates to health outcomes and preventing impaired driving. In empirical studies it is hard to control for other social and legal steps that are taken to curb excessive drinking and then driving. Finally, there are studies pointing to the differences in policies and the impact by gender and race.

Technical Issues: None.

Other Issues: Proposing fixed dollar amounts for monthly distributions may cause issues in the event liquor excise tax revenue in a given month is not sufficient to cover the fixed amounts due to amended returns or late filings. If that occurs, the general fund will need to cover the difference(s) to meet the flat amounts. That would effectively cause a negative distribution to the general fund.

Revenues to the general fund and the Local DWI Grant and the Drug Court Funds are fixed amounts. These funds will not benefit in the future from the potential growth in liquor excise tax due to inflation or population growth. While a fixed distribution amount assures these funds of steady revenue for budgeting, it does not allow for any growth in revenue for future needs. Furthermore, starting in 2028 the excise taxes are indexed for inflation, but the distributions are not, thus clearly reducing the value of the funds' distribution over time.

Administrative & Compliance Impact: Tax & Rev will conduct staff training, update forms, instructions, and publications. Tax & Rev will also produce communications to impacted taxpayers, including specifications of the proposed changes to tax rates. Starting in FY2028 for new rates in FY2029, Tax & Rev will annually update forms, instructions and publications to reflect the change in indexed liquor excise tax rates.

Tax & Rev's Administrative Services Division (ASD) anticipates this bill will take approximately 120 hours between 2 full-time equivalent (FTE) staff for testing, creating new reports and establishing new

⁵ Nelson, Jon P. (2013). Does Heavy Drinking by Adults respond to Higher Alcohol Prices and Taxes? A Survey and Assessment. Economic Analysis & Policy, Vol. 43 No. 3, December 2013

revenue distributions. This will result in \$7,600 in staff workload costs

This bill will have a high impact on Tax & Rev’s Information Technology Division (ITD), approximately 750 hours or about 4 ½ months and \$165 thousand contractual costs. Tax & Rev’s Revenue Processing Division (RPD) staff will be involved with testing the new rates and working on outreach to impacted taxpayers. This will result in \$12,000 in staff workload costs.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
--	\$7.6	--	\$7.6	NR	Tax & Rev – ASD staff workload
--	\$165	--	\$165	NR	Tax & Rev – ITD contractual costs
--	\$12.0	--	\$12.0	NR	Tax & Rev – RPD staff workload

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: Duplicate of HB-179 (2024), conflicts with HB-112, HB-212 and HB-213 (2024)