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FISCAL IMPACT REPORT

SPONSOR Ryan **ORIGINAL DATE** 1/27/16 **LAST UPDATED** 2/12/16 **HB** _____

SHORT TITLE Segregated Sale of Growlers **SB** 163/aSCORC/aSFl#1

ANALYST Liu/McIntyre

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
	\$7.0	\$12.0	Recurring	State General Fund
	\$5.0	\$9.0	Recurring	Local General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 47, SB 94, SB 147, SB 175, SB 193

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Attorney General’s Office (AGO)

SUMMARY

Synopsis of SFl#1 Amendment

Senate Floor amendment number 1 to Senate Bill 163 strikes the SCORC amendment and strikes references to “wine” from the bill introduction and rules for segregated sales of alcohol packaged in a growler. “Wine” is still included in the definition for “growler” on page 5, line 10.

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to Senate Bill 163 strikes all references to cider and wine. According to RLD, the changes will allow only licensed New Mexico small brewers and winegrowers to fill growlers with wine or cider. Dispenser and retailer licensees referenced in the bill will be able to fill growlers, but only with beer.

Synopsis of Original Bill

Senate Bill 163 would permit liquor license holders with package rights (rights to sell by the bottle for off-premise consumption) to fill and sell growlers of beer, cider, and wine. The bill allows the director of the Alcohol and Gaming Division of the Regulation and Licensing Department to develop rules for retailers and dispensers on segregated sales and filling that is packaged in a growler.

FISCAL IMPLICATIONS

According to RLD, there are no significant fiscal implications to the operating budget. It is difficult to determine how many retailers will choose to sell growlers and how many would be sold, upon passage of this bill. Currently, the microbrewery industry in the United States is growing exponentially, indicating the market for consumption of fresh, local beer on tap is not close to saturation. Microbrewery production share in New Mexico was 5 percent in 2014 and is increasing about 0.5 percent per year. If 10 percent of liquor license holders with package rights install growler packaging equipment, by FY18 retail growler sales may reach \$1.6 million. This would result in additional gross receipts taxes generating about \$12 thousand in general fund revenues for the state and \$9 thousand in general fund revenues for local government.

SIGNIFICANT ISSUES

RLD provided the following:

Under current law, it is unclear whether or not the act of filling a growler is “bottling” or is instead considered solely to be a package sale. If it is interpreted as “bottling,” it may require that the license holder have the right to bottle alcohol. The definition of “package” in the Liquor Control Act seems to preclude the filling of growlers since it states that “package” means an immediate container of alcoholic beverages that is filled or packed by a manufacturer or wine bottler for sale by the manufacturer or wine bottler to wholesalers.

Small manufacturing license holders, winegrowers, and craft distillers have the right to bottle and label their product. Bottling and labeling are not specifically delineated under the definition of “dispenser” nor are such activities referred to under Section 60-6A-2 NMSA 1978, relating to retailer licenses, or Section 60-6A-3 NMSA 1978, relating to dispenser licenses. Both dispensers and retailers can already sell 40-ounce containers of beer, six-packs, 30-packs, and kegs of beer, so the size of the growler is not the issue but rather the filling of an empty container by the licensee. This bill would allow certain non-manufacturer licensees to fill and sell growlers for off-premise consumption.

The types of businesses that would be allowed to fill and sell growlers under this bill would include hotels, convenience stores, grocery stores, bars, restaurants holding a full liquor license, package stores, pharmacies and big box stores such as Wal-Mart.

RELATIONSHIP

HB 47, SB 94, SB 147, SB 175, SB 193, and this bill all relate to liquor control. HB 47 allows governmental liquor licenses to be leased and operated at certain qualifying facilities not owned

or operated by governmental entities. SB 94 provides local option districts the option of holding an election to allow the sale of New Mexico-produced distilled spirits by restaurant licensees. SB 147 allows for governmental licenses to be issued to the Spaceport Authority. SB 175 allows a dispenser licensee to lease certain license rights. And SB 193 allows the sale, service, delivery, or consumption of alcoholic beverages on the grounds of ski areas.

POSSIBLE QUESTIONS

Since the definition of “growler” is not specific, would growlers filled by dispensers and retailers be limited solely to beer and wine manufactured by New Mexico small brewers and wineries or include national brands, such as Budweiser or Coors?

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