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FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/07

SPONSOR Trujillo, CA **LAST UPDATED** _____ **HB** 56

SHORT TITLE No Below Cost Liquor Sales **SB** _____

ANALYST Amacher

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
None	None		

(Parenthesis () Indicate Expenditure Decreases)

SB 37, SB 57, SB 58, SB 124, SB 201, SB 211 and HB 39, HB 51, HB 162, HB 262

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Economic Development Department (EDD)

New Mexico Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 56 amends the Liquor Control Act by prohibiting the retail package sale of spirituous liquors and wine at below the wholesale cost. If enacted, House Bill 56 would become effective June 16, 2017.

FISCAL IMPLICATIONS

No known fiscal impact.

SIGNIFICANT ISSUES

House Bill 56 amends Offenses by Retailers (Section 60-7A-11 NMSA 1978) by removing the word “any” and other conforming changes ensuring what makes a violation by a retailer(s) is clear. HB 56 adds a new violation of selling spirituous liquors or wine for less than the price paid to a wholesaler, or a wine wholesaler, for the same spirituous liquors.

ADMINISTRATIVE IMPLICATIONS

The Alcohol and Gaming Division would have to process any additional citations and/or warnings issued by the Special Investigations Unit (SIU), from the Department for Public Safety, for violations of the below-cost sales prohibition.

OTHER SUBSTANTIVE ISSUES

RLD notes that under current law, there is no prohibition on below-cost sales of any alcoholic beverage, or is there any requirement to post or affirm prices. The New Mexico Liquor control Act grants very limited authority regarding the pricing of alcoholic beverages. The current prohibitions are against advertising or offering free drinks, except on an occasion as a gesture of goodwill and friendship. The other prohibition is against selling drinks for less than half their usual and customary price. Below-cost prices on alcohol are sometimes used as loss leaders, usually by chain stores who can afford to absorb the cost (and who have much lower costs because of their ability to buy in bulk and receive a volume discount) or balance it through pricing strategies on other non-alcoholic products.

RLD further notes that there is no reference to beer, thereby having no impact on below-cost sales for beer.

Enforcement of the Liquor Control Act is by the SIU and would determine whether a retailer is selling spirituous liquor or wine at below cost. SIU agents would review retailers' invoice reflecting the price paid and compare that with the retailers' sales price for the wine and/or spirits.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Sales at below cost may continue by a retailer.

JMA/jle