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## FISCAL IMPACT REPORT

**SPONSOR** Soules **ORIGINAL DATE** 01/24/17  
**LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Liquor License for NM-Distilled Spirits **SB** 37

**ANALYST** Amacher

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
None	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to: SB 57, SB 58, SB 124, and HB 39, HB 51, HB 56, HB 162

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Department of Public Safety (DPS)

New Mexico Municipal League (NMML)

New Mexico Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 37 amends the Restaurant License (Section 60-6A-4 NMSA 1978) and License Fees (Section 60-6A- 15 NMSA 1978) relating to liquor control allowing a local option district to hold an election regarding the sale by certain restaurant licensees of beer, wine, and spirituous liquors distilled and bottled in New Mexico. SB 37 has an effective date of July 1, 2017.

### FISCAL IMPLICATIONS

RLD anticipates that there will be increased licenses requested and issued but the quantity is difficult to estimate. Any revenue generated would be used to offset program costs.

### SIGNIFICANT ISSUES

Senate Bill 37 amends Restaurant License and License Fees relating to liquor control outlining an either/or option as determined through a local option district election; limits the geographic

locations in which those licenses are effective; and separates the licensure type and fees. SB 37 proposes a licenses fee of \$1,050 for the sale of beer and wine only; or a \$2,000 fee for licesensure to sell beer and wine and spirituous liquors distilled and bottled in New Mexico.

Section 1 of SB 37, Restaurant License (Section 60-6A-4 NMSA 1978), outlines *either* the sale of beer and wine only *or* the sale of beer and wine and of spirituous liquors distilled and bottled in New Mexico. As this is determined through a local option district election, the licenses are effective only in the following locations:

- (1) An enterprise zone, pursuant to the Enterprise Zone Act;
- (2) A tax increment development district, pursuant to the Tax increment for Development Act;
- (3) An arts and cultural district, pursuant to the Arts and Cultural District Act;
- (4) A main street, pursuant to the Main Street Act;
- (5) A business improvement district, pursuant to the Business Improvement District Act;
- (6) A frontier community; or,
- (7) Any other geographic location within a local option district that has been identified by the main street program coordinator or the relevant local government as a location in need of revitalization or economic development improvements.

Section 1 also creates confusion by allowing only an either/or position in the sale of liquor (i.e. liquor distilled and bottled in New Mexico or liquor not from the state) followed by the statement “election on either option or both options...” This is further discussed under the Other Substantive Issues section of this FIR.

Section 2, License Fees (Section 60-6A- 15 NMSA 1978), outlines a fee of \$1,050 for the sale of beer and wine only. In addition, a \$2,000 fee is established for the sale of beer and wine and spirituous liquors distilled and bottled in New Mexico.

## **ADMINISTRATIVE IMPLICATIONS**

RLD will be required to promulgate rules and make modifications to the existing forms, checklists, web site and update the licensure database. RLD states the alcohol and gaming division will need to add an additional full time staff member at an annual cost of \$55 thousand. However, the alcohol and gaming division is currently operating within budget and such costs may be absorbed.

## **OTHER SUBSTANTIVE ISSUES**

SB 37 proposes restaurant licenses may be for “*either* the sale of beer and wine only *or* for the sale of beer and wine and of spirituous liquors distilled and bottled in New Mexico by holding an election on either option or both options”, refer to Section 1, page 1, lines 20-25. This generates confusion and may potentially limit, albeit inadvertently, the business decisions as to which type of alcohol is sold. This could result in the restaurants’ business plan and operations. DPS notes the requirement that the spirituous liquors be distilled and bottled in New Mexico runs afoul of a long line of US Supreme Court interstate commerce decisions.

RLD mentions the 128 local option districts encompass the counties and the incorporated municipalities of NM. There might be a slow roll out since each local option district desiring to allow for this liquor license activity will have to hold a special election. Such costs would then

be absorbed by each local option district.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

In the event Senate Bill 37 is not enacted, licensed restaurants will continue to have the choice of which beer, wine, and spirituous liquors to sell regardless of where the products were distilled and bottled; and the fee for such licensure would remain at \$1050.

JMA/sb