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FISCAL IMPACT R/E P O R T

ORIGINAL DATE 02/09/17

SPONSOR Sapien **LAST UPDATED** _____ **HB** _____

SHORT TITLE Salon Liquor License **SB** 201

ANALYST Amacher

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	Unknown	Unknown		See Fiscal Impacts

(Parenthesis () Indicate Revenue Decreases)

Relates to: SB 37, SB 57, SB 58, SB 124, SB 211, SB 300 and HB 39, HB 51, HB 56, HB 262, HB 296

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department (EDD)
 Department of Public Safety (DPS)
 Office of the Attorney General (OAG)
 Regulation & Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 201 amends the Liquor Control Act by creating a new license, a salon license, to sell beer and wine as permitted in a local option district election. Senate Bill 201, if enacted, will become effective June 16, 2017.

FISCAL IMPLICATIONS

SB 201 does not identify a fee for the license. All other licenses in the Liquor Control Act outline a fee in statute by which RLD may issue. These fees can often be used to cover the costs of administering licensing programs. The amount of revenue to be realized (either gain or loss) is unknown without identifying: 1) a fee, and 2) the number of applications for this specific license from interested salons.

SIGNIFICANT ISSUES

Senate Bill 201 amends the Liquor Control Act by providing for a salon license to sell beer and wine as permitted in a local option district election. Consistent with Chapter 60-5A-1 NMSA 1978, a local option district wishing to issue a liquor license to salons may hold an election on the question. The question must be approved by a majority of voters to proceed with licensing for those salons located within the local option district to apply for licensure to serve beer and wine.

Requirements for licensure application include submitting a current valid business license; and assurance that the primary source of revenue will be based on the operation of the salon, not from sales of beer and wine. The license may be renewed upon the condition that no less than sixty percent (60%) of the gross receipts from the preceding twelve months' operation of the licensed salon were from salon services or goods and not beer and wine sales.

The annual sales of beer and wine must accompany the renewal application. SB 201 states beer and wine must not be sold off the licensed premise. The salons may not sell after 11:00 p.m. If the salon is located in a local option district that has approved Sunday sales, the salon may serve beer and wine until the time other sales or services stop or 11:00 p.m., whichever time is earlier.

SB 201 outlines that a salon license is not transferable from person to person or from one location to another. Salon licenses are exempted from the limitation on number of licenses (Chapter 60-6A-18 NMSA 1978).

SB 201 defines “salon” as a business that offers hair, skin, nail care, or body care such as massages, wraps and waxing.

ADMINISTRATIVE IMPLICATIONS

RLD indicated the number of applications for issuance of license could be significant. Currently, there are approximately 2,400 establishments licensed by the Board of Barbers and Cosmetologists. RLD processes applications and renewals, issue licenses and process citations for violations of the Liquor Control Act. Depending on demand for this license type, there could be a need for additional staff.

OTHER SUBSTANTIVE ISSUES

The Office of the Attorney General (OAG) and the Economic Development Department (EDD) commented that current state law requires persons who serve alcohol to receive special training and to receive an alcohol server's license. Prior to the issuance of the salon license, all requirements of the Liquor Control Act must be satisfied. For example, the provisions of the Alcohol Server Education Article (Chapter 60-6D-1 through 60-6D-8 NMSA 1978) must be followed. This represents an additional cost to the employer or employee. Furthermore, some salons would not be allowed to serve beer or wine depending on the business' distance from schools and/or churches. EDD also indicates that the sale of alcohol at salons could increase the number of driving while intoxicated offenses.

RLD suggests that to maintain consistency with the definition of other license types, such as restaurants, the definition of a “salon” be included into the definitions section of the Liquor

Control Act (Chapter 60-3A-1 NMSA 1978). Also, an amendment to the language indicating that the business holds a license issued by the Board of Barbers and Cosmetologists should be considered. This would provide further clarification and support for those providing salon services.

RLD recommends the following areas be considered for clarifying amendments, and accordance with current law:

- issuing a liquor license to a business is different than issuing a license to premises or part of premises; it is suggested that this needs to be made clear (see page 3, lines 14 and 15); it is made clear that the salon services for which alcohol may be served is on the premises of the business;
- the Alcohol and Gaming Division of RLD suggests, that based on its knowledge of the industry, the scope of a salon license could be more narrowly tailored to wine only, instead of beer and wine, which may lessen the potential for abuse of the license outside its intent;
- on page 2, line 14 - the bill requires sixty percent (60%) of sales of the business to be related to non-alcoholic sales; if the intent of the bill is to limit the availability of this license to premises where sixty percent of gross receipts are related to salon commercial activities, this provision of the bill should be amended so that sixty percent of the gross receipts of the premises must be derived from the *salon*, not just from non-alcoholic sales;
- on page 2, line 14 – the Alcohol and Gaming Division suggests that requiring only sixty percent (60%) may be a low figure if the intent of the bill is to allow the incidental sale or service of alcohol when salon services are provided; a figure of eighty percent (80%) from non-alcohol sales may be more appropriate in this setting, especially if the alcohol will often be provided without a separate fee; furthermore, the bill does not specify that the price of the alcohol may be included in the price of the salon services; otherwise, restrictions on price sales will need to be enforced that may be against the intent of this bill to allow a “complementary” drink;
- on page 3, line 15 – “services” should be qualified to add “non-medical” so that traditional health care providers (i.e., dermatologists providing “skin care”, or any other medical providers providing “body care”) are not within the scope of this license;
- for clarity, the bill could state that the premises of a licensed salon should be subject to the same limitations that exist for all “retailers” which require all purchases of alcohol from a licensed wholesaler.

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