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FISCAL IMPACT REPORT

SPONSOR Sweetser ORIGINAL DATE 2/21/19
LAST UPDATED _____ HB 549
SHORT TITLE Removal of Partially Consumed Wine SB _____
ANALYST Gaussoin

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total				NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB306.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Attorney General (NMAG)

Department of Public Safety (DPS)

No Response Received

Municipal League

SUMMARY

Synopsis of Bill

House Bill 549 would allow winery customers to take one bottle of partially consumed wine with them when they leave, something already allowed for certain bar and restaurant customers.

The bill amends the Liquor Control Act, 60-3A-12 NMSA 1978, to allow the removal of a bottle of wine if the licensee or an employee reseals the bottle by reinserting the cork, seals the bottle in a tamper-proof bag, and attaches the customer receipt issued for the bottle.

Currently, dispenser and restaurant licensees may permit the removal of a partially consumed bottle of wine that was purchased with a meal with the requirements for recorking and tamper proofing. The meal requirement would not apply to wineries.

FISCAL IMPLICATIONS

The bill has no fiscal impact.

SIGNIFICANT ISSUES

The National Conference of State Legislatures in a review of state laws from 2013 reported 39 states allow patrons to remove partially consumed bottles of wine from restaurants. The organization did not have more recent figures or information on states that permit the removal of partially consumed bottles of wine from other licensed premises.

Winedoggybag.com, which sells tamper-proof bags for wine, reports almost all states allow the removal of partially consumed bottles of wine, with 33 states specifically requiring the wine be served with a meal or at a restaurant and 17 states either allowing it for wine from any liquor-license holder or with no specific rules except those for open liquor containers in a vehicle. However, the site warns its list was not prepared by a lawyer or other professional and laws change.

The company lists 20 states that require the wine be placed in a tamper-proof bag and 12 states that require recorking or resealing the bottle but no bag. The site quotes the New Jersey Division of Alcoholic Beverage Control as saying allowing patrons to take unfinished bottles with them is consistent with the agency's policy to "encourage moderation in the consumption of alcoholic beverages. Permitting a diner to take home an unfinished portion of the bottle of wine furthers that policy."

A blog entry on the website for Freakonomics, a project of the controversial economist Steven D. Levitt, notes allowing the removal of a partially consumed bottle of wine promotes the purchase of the whole bottle rather than just a glass – a benefit to the seller – and promotes more responsible drinking because the consumer is not compelled to finish the bottle.

DPS said the bill would have no impact on the department.

ADMINISTRATIVE IMPLICATIONS

The bill would have little impact on the administrative process for licensing of wineries. Rules concerning training for alcohol servers would need to be updated.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB306 would extend the authority granted to winegrowers and small brewers allowing them to serve at public celebrations to also allow them to serve at private celebrations, with the restriction that their wine, cider, or beer could only be sold by the glass.

NMAG says numerous bills have been introduced amending the Liquor Control Act but none conflict with HB549.

TECHNICAL ISSUES

RLD notes on page 2, lines 9 and 11, the bill uses the term "winery licensee." In the Liquor Control Act, the proper term is "winegrower."

HFG/al