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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/21

SPONSOR Scott LAST UPDATED _____ HB 164

SHORT TITLE New Liquor Dispenser Licenses SB _____

ANALYST Hanika-Ortiz

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
	Indeterminate but likely positive, see fiscal implications		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$136.6	\$136.6	\$273.2	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Bill

House Bill 164 (HB164) adds a new section of the Liquor Control Act governing the issuance of dispenser's licenses.

More specifically,

Section 1 requires on June 30 each year, the director of the Alcoholic Beverage Control (ABC) Division at RLD to determine the total number of dispenser licenses issued to date and offer new licenses in an amount equal to five percent of that number through a competitive sealed bid

process. This section details that process including how invitations are issued and winners are selected. Once a winning bid amount is placed into the general fund, the license is issued. This section also explains the process when a bidder declines an offer, fails to submit an application along with an irrevocable letter of credit or guarantee the money will be paid, or is denied a license.

Section 2 remove references to dispenser's licenses when limiting the number of retailer's licenses issued in both incorporated municipalities as well as unincorporated areas of each county.

Section 3 is revised for clarity.

Section 4 deletes language which governs the current lottery process used to issue new licenses.

Section 5 would make the effective date of this bill July 1, 2021.

FISCAL IMPLICATIONS

HB164 allows for the monies collected from the winning bidders for licenses to be placed in the general fund. It also allows the ABC division to collect 5 percent of a bid, as a fee, when a license is not granted, for any reason other than denial, with that fee also to be placed in the general fund.

RLD suggested the division would need two FTE as 2022 could have dozens of licenses available through the bid process, with the number of available licenses increasing each year thereafter.

There may also be an impact on staff and resources for the Department of Public Safety due to increased investigative and enforcement work resulting from the creation of these additional licenses.

SIGNIFICANT ISSUES

New Mexico is a quota state and has a limited number of dispenser's licenses. Dispenser's licenses are allowed to sell beer, wine, and spirits by the drink for consumption on premises, as well as in unbroken packages for consumption off premises. Licenses of this type are bought and sold for hundreds of thousands of dollars. A restaurant license, on the other hand, can only sell beer and wine and is non-transferable from person-to-person. A restaurant license fee is currently \$1,050.

NMAG noted Section 1(A) contemplates the director will offer new dispenser's licenses equal to five percent of the total number of dispenser's licenses issued. However, this section fails to specify a limitation on the number, so the number of licenses available would increase in perpetuity pending a change in legislation. According to RLD, by June 2031, there could be over 2,000 dispenser's licenses in the state. Also, there is no geographical limitation on dispenser licenses, so there is a potential that the highest bidders could inevitably end up in the largest cities. In addition, the bill does not have a limitation on how many new licenses can be issued within one district.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB 8 Liquor Delivery and Licenses, and SB6 Liquor Control Act. These are duplicate bills that amend the Liquor Control Act that includes third-party delivery of alcohol to homes.