

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR Burt **LAST UPDATED** _____
SHORT TITLE Direct Liquor Shipments **ORIGINAL DATE** 2/6/2024
BILL
NUMBER Senate Bill 163
ANALYST Hanika-Ortiz

REVENUE* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Alcohol Shipment Permits		Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Recurring	ABC operating
Liquor Excise Tax		Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Recurring	General Fund
Gross Receipts Tax		Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
ABC (staff workload)		Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	Other state funds

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Attorney General (NMAG)

Department of Health (DOH)

Department of Public Safety (DPS)

Regulation and Licensing Department (RLD) and its Alcoholic Beverage Division (ABC)

SUMMARY

Synopsis of Senate Bill 163

Senate Bill 163 (SB163) amends Section 60-6A-11.1 NMSA 1978 to create a direct beer or spirituous liquor shipment permit for a small brewer's or a craft distiller's licensee. The permit would be valid for one year and subject to renewal. The bill would limit shipments to two 12-quart cases of beer or up to one 10-and-one-half-liter case of spirituous liquor monthly to a New Mexico resident that is 21 years of age or older. Shipments must be for personal consumption or use only.

The permittee must register with TRD for the payment of liquor excise and gross receipts taxes due on the sale of beer or spirituous liquor; submit to the jurisdiction of New Mexico courts; and on or before the 25th day of each month following the month the permit was issued, pay to TRD the liquor excise and gross receipts taxes due. The permittee must also submit to audits by TRD.

The bill also amends Section 60-7A-3 NMSA 1978 to expand the ability of an individual or a licensee, in a state with reciprocal shipping privileges, to direct ship beer and spirituous liquors.

Finally, an annual application fee of \$50 is imposed if the applicant does not hold a winegrower's, small brewer's or craft distiller's license.

The effective date of this bill is July 1, 2024

FISCAL IMPLICATIONS

According to RLD:

- The \$50 fee per direct beer or spirituous liquor shipment permit will have minimal impact on the general fund. As of 2023, there were 11,691 wineries in the United States. There are currently 1,105 active direct wine shipment permits, approximately 9.45 percent of the number of wineries in the United States. Eleven New Mexico winegrower's licensees have a direct wine shipment permit.
- As of 2022, there were 9,709 breweries in the United States. If 9.45 percent of breweries obtain a direct beer shipment permit, it would generate approximately \$45,850 for the general fund.
- As of 2022, there were 2,230 distilleries in the United States. If 9.45 percent obtain a direct spirituous liquor shipment permit, it would generate approximately \$10,550 for the general fund.

RLD says it is difficult to predict the impact direct-to-consumer beer shipment will have on licensing fees for nonresident licensees. The nonresident fees are based on the licensees total billing to New Mexico wholesalers. The maximum fee is \$10.5 thousand for sales of \$3 million or more. By providing another avenue for nonresident licensees to get their products to New Mexico consumers, RLD cautioned that there may be a drop in sales for New Mexico wholesalers.

RLD explains, in New Mexico, the alcohol industry flows from manufacturers to distributors, to retailers, and lastly to consumers. SB163 may allow manufacturers to bypass distributors and retailers and sell directly to consumers. Two concerns for DOH are the sale of alcoholic beverages to intoxicated persons and to minors. By increasing the number of alcohol products that are available for direct-to-consumer shipment, there may be an increase in the possibility of occurrences where shipments are made to either a person who is already intoxicated or a minor.

SIGNIFICANT ISSUES

The Liquor Control Act (Act) currently allows New Mexico winegrower's licensees, as well as wineries licensed in other states, to apply for a permit to ship wine directly to New Mexico consumers. SB163 would allow New Mexico small brewer's and New Mexico craft distiller's licensees, as well as breweries and distilleries licensed in other states, to have the same privileges.

The bill would also expand reciprocal direct shipping privileges between New Mexico and other states for beer and spirituous liquors, in addition to direct shipment of wine.

As of 2023, RLD notes that 11 states and Washington D.C. permit direct-to-consumer shipment of beer. Eight states and Washington D.C. permit direct-to-consumer shipment of spirituous liquors.

ADMINISTRATIVE IMPLICATIONS

RLD can process direct shipment permits and update administrative rules with existing staff.

TECHNICAL ISSUES

The term "minor" should be replaced with "age 21 or older" in the bill.

OTHER SUBSTANTIVE ISSUES

RLD explains that two 12-quart cases of beer is equal to 64 12-oz cans of beer and one 10-and one-half liter case of spirituous liquors is equal to 14 750 ml bottles. DOH notes the federal Centers for Disease Control and Prevention's definition of heavy drinking is eight or more drinks a week for women and 15 drinks or more per week for men. DOH claims people who consume excessive alcohol may be most impacted. In 2022, the death rate from chronic liver disease in New Mexico was 210 percent higher than the national rate; for alcoholic liver disease, 119 percent higher.

DOH also believes that alcohol delivery could increase underage drinking in the state. A 2023 study found, among young people aged 18 to 25 who ordered alcohol for home delivery, 10 percent completed the purchase without having their ID checked.

(<https://pubmed.ncbi.nlm.nih.gov/37173866/>).

In 2021, DOH's *Youth Risk and Resiliency Survey* reported 19.5 percent of high school students reported alcohol use, and 17.8 percent reported having their first drink before age 13.

Since 1997, DOH notes New Mexico has the highest alcohol-related deaths in the United States.

Proponents of direct-to-consumer liquor sales suggest the bill may encourage more individuals to stay home and drink their alcohol, which could mean fewer people driving while intoxicated.