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FISCAL IMPACT REPORT

SPONSOR:	HTRC	DATE TYPED:	02/17/00	HB	359/HTRCS
SHORT TITLE:	Amend Liquor Excise Tax Act			SB	
				ANALYST:	Eaton

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY00	FY01			
	\$ (2.5)		Recurring	General Fund
	\$ (0.9)		Recurring	Local DWI Grant

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

This bill changes the definition of "small winer or winegrower" which means any person who produces fewer than two hundred fifty thousand gallons of wine in a year. Section 7-17-5 NMSA 1978 is amended to revise the liquor excise tax on wine manufactured by a small winer or winegrower from \$0.10 per liter on the first 80,000 liters to be \$0.37 per gallon on the first 20,650 gallons. The tax on volumes between 80,000 liters and 375,000 liters is revised from \$0.20 per liter to be \$0.75 per gallon on volumes between 20,650 gallons and 250,000 gallons. Most of these changes are inconsequential, simply changing the measurements from liters to gallons, and are revenue neutral within the limits of inaccurate rounding of the conversion factor. The change from 375,000 liters to 250,000 gallons is a substantial change, raising the upper limit of wine subject to the current \$0.20 tax rate to 946,250 liters. This increase in the upper limit is made ineffective, however, since the definition of "small winer or winegrower" in Section 7-17-2, Subsection E is not similarly revised.

The federal definition of a "small domestic producer" of wine is one "who produces not more than 250,000 wine gallons of wine during the calendar year" [(IRC Sec. 5041(c)].

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) Reports that the total impact of this bill would be \$3.4.

ADMINISTRATIVE IMPLICATIONS

Minimal.

OTHER SUBSTANTIVE ISSUES

A gallon contains 3.785 liters. The numbers specified in the bill appear to have been calculated on the assumption that a gallon contains 3.7 liters.

Current Tax Rate Proposed Tax Rate Revenue Neutral Tax Rate

\$0.10 per liter \$0.37 per gallon \$0.3785 per gallon

\$0.20 per liter \$0.75 per gallon \$0.7570 per gallon

Current Volume Proposed Volume Current Volume Threshold

Threshold (\$0.10 Tax) Threshold (\$0.10 Tax) Convert to Gallons (\$0.10 Tax)

80,000 liters 20,650 gallons 21,136 gallons

The federal definition of a "small domestic producer" of wine who may claim a tax credit against federal wine excise tax is one "who produces not more than 250,000 wine gallons of wine during the calendar year". One level of credit is available "on the first 100,000 wine gallons of wine" (other than champagne and other sparkling wines), and that credit is subsequently reduced "by 1 percent for each 1,000 wine gallons of wine produced in excess of 150,000 wine gallons of wine during the calendar year". By aligning with the 250,000 gallons federal definition, administration of the tax on "small domestic producers" might be made more administrable, particularly if distributors begin to claim the preferential tax rate for wine made by out-of-state producers.

A much easier approach to accomplish the apparent aim of this bill would be to revise the references to 375,000 liters to be "946,250 liters" in Section 7-17-2, Subsection E and Section 7-17-5, Subsection F. There does not appear to be any particular reason to change all the tax rates and volume thresholds from liters to gallons.

946,250 liters, the proposed maximum volume subject to the preferential tax rate, is equivalent to 1.26 million 750ml bottles.

Approximately 408 thousand liters per year of wine is taxed under the "small winer or winegrower" category. All producers are reporting at the \$0.10 per liter tax rate, indicating that no producer is currently selling more than 80,000 liters per year.

JBE/nw:gm