

**NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.**

**Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.**

## FISCAL IMPACT REPORT

SPONSOR: Garcia, M.P.      DATE TYPED: 01/24/01    HB 181  
 SHORT TITLE: Consider Judgements in Liquor License Renewal      SB  
 ANALYST: Valdes

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			\$ 160.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Alcohol and Gaming Division  
 Regulation and Licensing Department

### SUMMARY

#### Synopsis of Bill

House Bill 181 proposes to amend the Liquor Control Act to require the Alcohol and Gaming Division Director to determine if a licensee, renewing a liquor license, has multiple judgements of liability predicated upon Section 41-11-1 NMSA 1978. If there are multiple judgements against the licensee, this would prevent the director from renewing the license.

#### Significant Issues

According to the department, “multiple judgements” is not defined in this bill. To illustrate the ambiguity of this language, a licensee could potentially have seven \$1,000 judgements against him or could only have one \$100,000 judgement against him. Is it the intent of this bill not to renew a liquor license because any judgement is outstanding against the licensee? Is there a minimum limit on the amount of the judgement which would prevent the director from renewing the license? This language needs to be further clarified.

There is no specific direction provided in the bill identifying the time period for which the director must conduct the search to determine if the licensee has any outstanding judgements against him. The bill should define the time period of the search for outstanding judgements.

### PERFORMANCE IMPLICATIONS

The additional responsibilities this bill requires of the Alcohol and Gaming Program will have a negative impact on their outcome performance measure intended to reduce the number of days to process applications. Performing a search on outstanding judgements for every license renewal will slow the renewal application process.

### **FISCAL IMPLICATIONS**

According to the department, the fiscal impact would be significant. A search for judgements ranges between \$15-\$50 per search. There are 1,900 in-state and 600 out-of-state licensees. To ensure that a license is not renewed because of judgements against a licensee, a number of searches for each licensee might be necessary. A judgement could be filed against an individual owner, a partnership or a corporation. A license held by a partnership or corporation might require multiple searches under the business name, then under the owners or officers names. Other expense, including one additional FTE, would be associated with this search requirement. A recurring appropriation estimated at \$160.0 would be necessary to cover these additional expenses.

### **ADMINISTRATIVE IMPLICATIONS**

Administrative impact may be significant. The department estimates at least on new FTE would be needed to conduct the searches described above. Additionally, office space, furniture and equipment would be necessary.

### **OTHER SUBSTANTIVE ISSUES**

In the opinion of the department, the intent of this bill could raise constitutional issues. Liquor licenses are real property. For example, it may be argued that taking real property without compensation is unconstitutional if a liquor license is not renewed due to judgements against the licensee.

The language in the bill provides that if there are multiple judgments against a licensee, a liquor license cannot be renewed. However, there are numerous liquor licenses that are operated by lessees. In these instances, the liquor license is operated by the lessee, and not the licensee. A liquor license that is not renewed because of judgments against a licensee and that is being operated by a lessee may raise legal issues that could involve the Division.

Judgment searches are conducted through all counties in the State. In addition, the Division licenses approximately 600 out of state licensees. To comply with the language, a national search for judgments would be required.

MFV/njw