

**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: Taylor, J.G. DATE TYPED: 03/01/01 HB 757  
SHORT TITLE: Minimum Percent Markup for Package Liquor SB \_\_\_\_\_  
ANALYST: Valdes

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			\$ 100.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Alcohol and Gaming Division, Regulation and Licensing Department

### SUMMARY

#### Synopsis of Bill

House Bill 757 proposes to enact a new section of the Liquor Control Act to require a minimum markup of 20 percent above wholesale price in the sale of alcoholic beverages in unbroken packages.

#### Significant Issues

The bill would require retailers and wholesalers to retain purchase and sales records of all alcoholic beverages sold in unbroken package for two years following the sale of the time. Information identifying the contents, brand, lot and purchase and sale prices of the item is required to be clearly set forth on the records.

### PERFORMANCE IMPLICATIONS

This will not impact the division's measures.

### FISCAL IMPLICATIONS

Based on the administrative implications noted below, it is estimated that an additional FTE with associated costs would require approximately \$100.0 in the first year of operations.

### ADMINISTRATIVE IMPLICATIONS

Unknown, however may be significant. The requirement that the Alcohol and Gaming Division audit the records of those affected by the bill would most likely require at least one additional FTE to accomplish this task. Additionally, the position would require funding, office space, equipment and travel budget.

**OTHER SUBSTANTIVE ISSUES**

The Alcohol and Gaming Division provided the following information regarding this bill:

Section (A) of the bill states that **“no licensee”** shall sell alcoholic beverages in unbroken packages at retail for less than twenty percent above the wholesale price paid by the licensee for the alcoholic beverage. Section (B), however, only requires **“a retailer”** to retain purchase and sales records of all alcoholic beverages sold in unbroken packages. Currently there are approximately 78 licensed retailers in the State. There are other types of licensees, however, that have the ability to sell alcoholic beverages in unbroken packages. It is unclear whether the intent of the bill is to require all licensees that have the ability to sell alcoholic beverages in unbroken packages to retain the records provided for in the bill.

Moreover, there is no clear indication from the contents of the bill what is expected to be accomplished by this requirement. Additionally, the minimum mark-up provision of the bill may be unconstitutional pursuant to previous federal court decisions. Brown-Forman Crp v. N.M. Department of ABC, 672 F. Supp 1383 (D.M.M. 1987)

MV/ar