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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/07

SPONSOR Silva LAST UPDATED HB 1018

SHORT TITLE Direct Wine Shipment Permits SB

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	Indeterminable	Indeterminable	Recurring	General Fund
	Indeterminable	Indeterminable	Recurring	Alcohol Board

(Parenthesis () Indicate Revenue Decreases)

Duplicates SB 1047

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Attorney General's Office (AGO)

Tax and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 1018 creates a direct shipping permit and provides for the collection of permit fees. An eligible party, defined as "a licensee with a winegrower's license or a retailer's license or a

person licensed in a state other than New Mexico that holds a winery license or a retailer's license that allows the winery or retail licensee to sell wine directly to consumers", may apply for and receive a direct wine shipment permit. The proposed permittee would be required to submit an application for permitting and would be required to renew the permit on an annual basis. The fee for the permit would be \$50.00 per year.

The direct wine shipment permit would allow shipment of not more than twenty-four nine liter cases of wine annually to a New Mexico resident who is twenty-one years of age or older, for personal consumption and not for resale. The shipments would be required to carry a label stating "CONTAINS ALCOHOL SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED FOR DELIVERY".

The permittee would be required to register with the taxation and revenue department for the payment of liquor excise taxes and gross receipts taxes; submit to New Mexico jurisdiction for legal action arising out of the shipment of wine; pay the liquor excise taxes due by July 25 of each year; pay the gross receipts taxes due by the twenty-fifth day of each month; report the amount of wine sold annually to the director and to the taxation and revenue department; and submit to an audit by taxation and revenue upon notice and during usual business hours.

HB 1018 would also amend Section 60-7A-3 of the Liquor Control Act to remove and replace paragraph E, which provides that any individual or licensee in a state that permits reciprocal shipping may ship for personal use, but not for resale, not more than two cases of wine per month, each case containing no more than nine liters, to any individual not a minor. The shipping container is required to be labeled to indicate that delivery cannot be made to a minor or to intoxicated persons. The replacement paragraph E states that the holder of a direct wine shipment permit may ship up to twenty-four nine-liter cases of wine annually to a person twenty-one years of age or older for personal consumption and not for resale.

FISCAL IMPLICATIONS

House Bill 1018 would slightly increase revenues for the Tax and Revenues Department and the Alcohol and Gaming Division. However the amount of revenue is indeterminable.

SIGNIFICANT ISSUES

HB 1018 creates a new type of permit that would allow direct shipment of wine into and out of the state of New Mexico upon submission of an application and payment of an annual fee of \$50.00.

HB 1018 creates a new section, Section 60-6A-11. In paragraph E of the new material, the definition of "eligible party" includes the holder of a retailer's license in the class of persons who would be able to apply for and receive a permit. Under current definitions in the Liquor Control Act, a retailer is a person licensed under the Liquor Control Act who sells, or offers for sale alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises. In New Mexico, holders of a retailer's license include liquor stores, grocery stores and convenience stores. The language of the bill would seem to permit liquor stores, grocery stores or convenience stores that hold a retailer's license to ship directly to the consumer both in New Mexico and to other states. The language of the bill does not prohibit a liquor store, grocery store or a convenience store from "shipping" wine to a New Mexico resident by directly

delivering the wine from the licensee's premises to the consumer's home.

New Mexico currently utilizes a three-tier system for the distribution of alcoholic beverages. The manufacturer is required to sell only to a licensed wholesaler, the wholesaler sells only to licensed dispenser's, retailers and restaurants, the dispenser's, retailers and restaurants may sell to the public. The creation of a direct shipment permit would seemingly circumvent this system although it does provide a mechanism for the collection of previously uncollected revenue in the form of liquor excise and gross receipts taxes. Revenue would also be generated through the collection of the \$50.00 annual permit fee. Exact dollar amounts generated are unknown as this would be dependent upon the number of applicants requesting licensure.

ADMINISTRATIVE IMPLICATIONS

The permit applications would need to be carefully reviewed for compliance and collection of required fees. Additionally, renewal applications would need to be generated and reviewed for compliance and collection of taxes and fees.

DUPLICATION,

SB 1047

OTHER SUBSTANTIVE ISSUES

Current law allows liquor licensees in other states to ship up to two cases of wine to New Mexico residents for their personal consumption, if the state affords New Mexico licensees equal reciprocal shipping privileges. NMSA Section 60-7A-3E. The Liquor Control Act does not apply to those shipments. This bill would repeal that section and implement a permitting requirement in order to ship properly labeled wine into New Mexico.

Current law does not appear to allow the shipment of wine within this state by New Mexico licensees. This bill would also allow New Mexico winegrower's or retailers licensees to conduct that activity pursuant to a "direct wine shipment permit".

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

POSSIBLE QUESTIONS

How will this bill affect wine consumption in New Mexico?

CS/csd