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FISCAL IMPACT REPORT

ORIGINAL DATE 2/10/09

SPONSOR Vigil LAST UPDATED _____ HB 527

SHORT TITLE Prohibit Liquor Licenses Near Highways SB _____

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	None		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non- Rec	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

House Bill 527 is related to House Bill 526 and House Bill 555. See the narrative section.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 Regulation and Licensing Department (RLD)
 Department of Public Safety (DPS)

No Response

New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Bill 526 will amend the Liquor Control Act to insert new material related to the definition of licensed premises. "Licensed premises" would now be defined to exclude the sale of alcohol

at gas stations, or establishments that sell gasoline for public consumption. Specifically, HB 526 provides that licensed premises shall exclude locations where motor fuel or liquefied petroleum gases or compressed natural gases are sold for the generation of power in an internal combustion engine.

House Bill 526 further provides that licensees who currently hold licenses that are located at gas stations or establishments that sell gasoline for public consumption may renew the license in an inactive status, without penalty of cancellation, until July 1, 2011. During the grace period from July 1, 2009 to July 1, 2011, the licensee may seek to transfer, assign, sell or lease the license to a premise that qualifies as a licensed premise. If the license has not been transferred, sold, leased or assigned by the end of the grace period, the Director of the Alcohol and Gaming Division may extend the inactive period for good cause shown.

FISCAL IMPLICATIONS

House Bill 527 makes no appropriations, but the RLD observes that the bill requires that the Director of the Alcohol and Gaming Division provide for reimbursement of moving expenses for those licenses located within the one-half mile zone described in the bill. It is unknown at this time how many licenses would be affected or what reasonable costs for re-location would be.

The RLD also comments that House Bill 526 could have some currently undetermined revenue implications. Licenses currently held at gas stations or locations where gas is sold will be required to pay a \$200.00 fee to transfer the license or a \$250.00 fee to lease the license. When a license is placed into voluntary temporary suspension, the licensee is required to pay a \$20.00 fee.

SIGNIFICANT ISSUES

The AGO presented the following concerns about House Bill 527.

House Bill 527 may create ambiguities within the current laws regarding the transfer of liquor licenses. Currently, in order to transfer a retail license to another local option district within the state, certain conditions must be met. See NMSA 1978, § 60-6B-12 (1981, as amended through 1997). For example, the transfer of a retail license to another district must not lower the number of retailer's licenses below the number allowed in the local option district from which the license will be transferred. NMSA 1978, § 60-6B-12(A)(1) (1981, as amended through 1997).

The bill does not limit the transfer of current licensed locations to a location that is within the same local option district. Thus, a licensee may wish to transfer its location to an area outside the local option district where it currently sits. In this situation, it is unclear if the current limitations surrounding inter-local option district transfers would apply.

It should also be noted that while the bill will apply retroactively, by requiring current licensees to relocate, other provisions of the Liquor Control Act that also prohibit the issuance of liquor licenses in certain areas do not apply retroactively. The prohibition on the issuance of liquor licenses near churches or schools and near military installations both apply only prospectively from the date of their enactment. See NMSA 1978, §§ 60-6B-10 and 60-6B-11 (1981, as amended through 1997). In addition, these provisions delineate how measurements will be taken to determine the precise distance between the location of a proposed licensed establishment and a church, school, or military installation. *Id.* The bill does not contain a similar measurement provision.

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The RLD notes that Interstate 40 and Interstate 25 run through the heart of Albuquerque, Las Cruces and a number of other cities and towns. In Albuquerque alone, numerous hotels and restaurants line the frontage roads and sides of the highways. These businesses, as well as convenience stores would be affected, and would be required to re-locate or sell their licenses under this bill. The economic impact of this bill could run into the millions.

RELATIONSHIP

House Bill 527 is related to House Bill 526 and House Bill 555. House Bill 526 proposes to prohibit the sale of alcohol at gas stations. House Bill 555 proposes to permit the sale of New Mexico wines and beers in gift shops, subject to the local option district holding an election on the question.

OTHER SUBSTANTIVE ISSUES

CH/mc