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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/02/09

SPONSOR SPAC LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Gift Shop Alcohol Sales SB 403/SPACS

ANALYST Wilson

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$300.0	\$260.0	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$60.0	\$60.0		Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
 Department of Public Safety (DPS)  
 Regulation & Licensing (RLD)

### SUMMARY

#### Synopsis of Bill

The Senate Public Affairs Committee substitute for Senate Bill 403 creates a specialty license for gift shops to permit sales of New Mexico wines and beers in unbroken packages to increase tourist trade.

The bill requires that local option districts approve gift shop licenses by holding an election on the question.

Gift shop licensees will have the following requirements & restrictions:

- the person granted the license shall not serve food or beverages except for limited food samples during beer and wine sampling;
- shall not own, lease or manage another liquor license;
- shall not sell gasoline from the premises;
- the premises cannot be licensed under another license;
- shall submit reports annually as required by the director of total annual gross receipts and gross receipts from beer & wine sales, including separate reporting of sales of beer and wine shipped from the gift shop licensee's premises by common carrier;
- shall only sell beer and wine in unbroken packages produced in New Mexico by a licensed winegrower or small brewer that is for consumption off the licensed premises;
- a gift shop license shall not be transferable from person to person or from one location to another and shall have a term of one year, expiring each June 30 following issuance;
- no more than the equivalent of four six packs of 12 ounce containers of beer or twelve 750 milliliter bottles of wine may be sold to any one customer in one 24 hour period;
- no more than the equivalent of four six-packs of 12 ounce containers of beer or twelve 750 milliliter bottles of wine to any address or to any single purchaser in any one 24-hour period;
- wine and beer sold on the licensed premises shall be held at room temperature and not chilled;
- beer and wine shall not be available for consumption on the premises of a gift shop licensee;
- employees of the gift shop licensee shall be twenty-one years of age or older to sell wine and beer on the premises of a gift shop licensee; and
- shall pay liquor excise tax.

The total annual gross receipts from sales from the licensed premises and the total gross receipts from the sale of wine and beer shall be reported in the annual report. The sales of wine and beer shall not exceed 20 percent of the total annual gross receipts of the gift shop licensee, except that gross receipts from sales of wine and beer shipped from the gift shop licensee's premises by common carrier shall not be included in the calculation of the 20 percent wine and beer sales from the licensed premises.

If a gift shop licensee that reports sales of wine and beer in its annual report of greater than 20 percent of the gift shop licensee's gross receipts, the license to sell beer and wine, issued pursuant to the Liquor Control Act, shall be revoked and the gift shop licensee may not apply for a new gift shop license for 24 months.

A holder of a current small brewer's, retailer's or gift shop license is authorized to ship by common carrier from its premises beer produced and bottled in New Mexico by the holder of a small brewer's license and wine produced and bottled in New Mexico by the holder of a winegrower's license to those jurisdictions in the United States that permit the receipt of those shipments by retail purchasers.

The effective date of the provisions of this act is July 1, 2009.

### **FISCAL IMPLICATIONS**

The Alcohol and Gaming Division (AGD) states that they do not know how many licenses will be issued, but they estimate there will be approximately 200.

The application fee for a gift shop license is \$200. The application fee should bring in \$40,000 in FY2010.

The license and renewal fee for a gift shop is \$1,300. The annual fee should bring in \$260,000 yearly.

As the bill contains language regarding quarterly reporting, AGD estimates that it will need at least one FTE auditor to audit the reports and conduct on-site audits of the business records to ensure reporting compliance at an estimated cost of \$60,000.

### **SIGNIFICANT ISSUES**

The Tourism Department supports legislation that promotes tourism to the state. New Mexico's wine-growing and specialty beer-brewing industries are growing at a phenomenal rate, and their products are recognized around the country for quality and attention to detail. Giving local wineries and brewers the opportunity to sell their products to an appreciative out-of-state visitor who is unable to purchase them elsewhere would not only increase the income of those craftsmen and other local merchants; it would augment the already positive impact the tourism industry has on the state's economy.

This substitute bill appears to address all of the concerns raised by the AGO, DPS and RLD related to the original bill.

### **ADMINISTRATIVE IMPLICATIONS**

RLD will require additional staff time to process license applications, audit reports and to ensure compliance.

DPS's Special Investigations Division will have to provide criminal and administrative regulatory enforcement for an increased number of licensees.

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