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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/12

SPONSOR Taylor LAST UPDATED _____ HB 175

SHORT TITLE Alcohol Server Training & Penalties SB _____

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 111

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Administrative Office of the Courts (AOC)
 New Mexico Corrections Department (NMCD)
 Regulation & Licensing (RLD)

SUMMARY

Synopsis of Bill

House Bill 175 increases the frequency with which persons who sell or serve alcohol in New Mexico must retake an approved certificate program. Currently the permit is valid for five years but this bill reduces the time period to three years.

HB 175 cleans up some language and changes the penalties for a server selling alcohol to a minor from a fourth degree felony for any offense to a graduated structure. It will be a misdemeanor for a first offense of selling alcohol to a minor, and a fourth degree felony for a second or subsequent offense.

A person, other than a server, who sells, serves or gives alcohol to a minor shall be charged with a fourth degree felony

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary will be proportional to the

enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

RLD notes there will be some increases in postage and paper for printing server certificates more frequently. The change will affect new servers and those renewing their licenses, but will not impact the expiration dates for permits already issued.

The bill should decrease felony convictions for servers by making the first offense for servers only a misdemeanor. NMCD does not normally incarcerate misdemeanor offenders, and does not usually supervise such offenders on probation. Further, misdemeanor offenders do not serve a parole term. It seems likely that servers convicted of the first offense misdemeanor would then be careful to avoid a second conviction.

The bill might then minimally reduce NMCD's prison population and probation caseloads by reducing a server's first offense from a fourth degree felony to only a misdemeanor. In any event, NMCD does not have a large number of offenders in its prisons or on probation for these types of convictions.

SIGNIFICANT ISSUES

The amendment will require that servers retake an Alcohol Server Training class every three years instead of every five years.

AGO states that the penalty for serving minors by non-certified alcohol servers is **higher** than the penalty for certified alcohol servers who commit the same offense. It seems inconsistent that persons "in the business" with training and certification would receive a lesser penalty than a person who is not trained under this act, for committing the same offense.

ADMINISTRATIVE IMPLICATIONS

The workload for Alcohol and Gaming Division will increase as the number of renewal applications will increase.

DUPLICATION

HB 175 duplicates SB 111

DW/amm:svb