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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/21

SPONSOR Griggs LAST UPDATED _____ HB _____

SHORT TITLE New Liquor License Types SB 320

ANALYST Hanika-Ortiz

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
	Indeterminate, but positive		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Alcoholic Beverage Control		Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund
DPS- State Police		\$91.9 - \$459.5	\$91.9 - \$459.5	\$183.8 - \$919.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

Senate Bill 320 amends the Liquor Control Act (Act) Section 60-3A-3 NMSA *et seq.* to create new types of liquor licenses and alter the requirements and powers conferred by certain liquor licenses.

More specifically,

Section 1-3 replaces the term “retailer” with “package licensee” and makes technical adjustments.

Sections 4-7 reclassify “retailer” licenses as class A, B or C package licenses. Class A would be issued to valid retailers June 30, 2021; allow package sales of beer, wine and spirits from 7 am to 2 am; and would be transferable from one local option district (LOD) to another, and from one licensee to another. Class B would allow for package sales from 11 am to 12 midnight in a LOD with a population below ten thousand and would be transferable within a LOD, but not from one licensee to another. Class C would allow for package sales of beer and wine only from 11 am and 12 midnight and would also be transferable within a LOD, but not from one licensee to another.

Sections 8-13 reclassify “dispenser licenses” as class A, B, C, D or E dispenser licenses. Class A would be issued to valid retailers June 30, 2021; allow package sales and sales by the drink 7 am to 2 am; allow licensees to open two separate locations in the same LOD, one for package sale and one for sales by the drink; and would be transferrable from one LOD to another. Class B allows sales by the drink 7 am to 2 am. This license would be transferrable within the LOD, between LODs, and if transferred outside the LOD only for package sale purposes, the hours of operation would change to 11 am to 12 midnight. Class C are for LOD’s with a population under ten thousand; limited to sales by the drink 7 am to 12 midnight; and transferrable only within the existing LOD. Class D are only for liquor sales by the drink 11 am to 12 midnight and are not transferrable. Class E are only for operators of a hotel and their guests and are not transferable.

Section 14 creates class a and class b restaurant licenses. Class A allows the sale of beer, wine, and spirits. Class b allows beer and wine only. Both licenses restrict hours of operation to when food service ends, or 10 pm, whichever is earlier and allow for counter service of no more than five unless the licensed premises is in a building included in the national register of historic places.

Section 15-17 suggests fees for the new license types (detailed under fiscal implications), and does not change the maximum number of certain licenses per population issued in the state.

The rest of the bill is made to conform with the proposed changes in other sections and also amends Section 60-6B-12 to remove restrictions on the amount of licenses that could transfer into a LOD; require that a dispenser or a package license lose its package privileges if it moves out of an LOD; and further allows rural dispensing and retailer licenses to move anywhere within its LOD.

Finally, the bill repeals Section 60-A-34 NMSA for bed and breakfast dispensing licenses.

The effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

All revenue collected by Alcoholic Beverage Control (ABC) pursuant to the Liquor Control Act is transferred to the general fund. Each year, the General Appropriation Act includes a direct appropriation from the general fund for ABC’s operations. The bill creates new liquor license types for ABC to process and issue which may result in higher general fund appropriation requests.

Fees for the new liquor license types are as follows:

1. Dispenser’s licenses: A \$3,000; B and C \$2,000; and D \$5,000
2. Package licenses: A \$7,500; B \$50,000, renewal \$5,000; C \$10,000, renewal \$3,000
3. Restaurant licenses: A \$3,000, and renewal \$2,500; B \$3,000, and renewal \$2,000

DPS commented the creation of new liquor license types, whether or not they result in an increase in the number of licensees under the Liquor Control Act, will require some additional investigative and enforcement work on the part of the New Mexico State Police Special Investigations Unit. In 2021, the cost of adding one new investigator is an estimated \$91.9 thousand annually. If the bill passes, it could require an additional increase of five investigators over the next three years.

SIGNIFICANT ISSUES

RLD's comments included the following:

- the bill creates new dispenser licenses but does not amend the quota, N.M. has not issued new dispensing type licenses because it's over quota (1 dispenser per 2,000 people);
- page 14 line 2-3 "recipient licenses shall maintain all the rights conferred by the license" is vague;
- page 14, line 1-3 is unclear if Class A, B or C dispenser's licenses are transferable from person to person;
- there is no mention of inter-local licenses being grandfathered in or converting to one of the classes of dispenser's licenses;
- Class B dispenser's licenses are created for on premises only, it's unclear the purpose of an inter-local being able to convert to package by moving out of the LOD but not within;
- Class E (hotel) licenses are left up to ABC rulemaking and do not have a renewal fee; and
- it is unclear why the bill is repealing the bed and breakfast statute.

PERFORMANCE IMPLICATIONS

New Mexico law currently allows for three types of dispenser licenses; retailer, dispenser, and inter-local. Retailer licenses are for package service only. Dispenser licenses are for package, liquor by the drink "on-premises," or both. Inter-local dispensers are for "on-premises" liquor by the drink only, as they lost their package privileges when they moved from one LOD to another.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 6 Liquor Control Act
Senate Bill 136 Local Option for Restaurants
House Bill 8 Liquor Delivery & Licenses
House Bill 164 New Liquor Dispenser Licenses
House Bill 255 Alcohol Deliveries

OTHER SUBSTANTIVE ISSUES

In most states, liquor licenses can be obtained for a relatively small fee. In quota states, however, establishments can pay hundreds of thousands of dollars for a license. Establishments in quota states that already have licenses often resist efforts to raise the number of licenses permitted or eliminate quotas because it would increase the number of establishments they would compete with.