

<b>LFC Requester:</b>	<b>Noah Montano</b>
-----------------------	---------------------

**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**Analysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:  
**Original**        **Amendment**      
**Correction**        **Substitute**   

**Date** January 29, 2025  
**Bill No:** SB 159

**Sponsor:** Leo Jaramillo  
Independent Theater Beer &  
Wine Licenses  
**Short Title:** \_\_\_\_\_

**Agency Name and Code**    Regulation and Licensing  
**Number:**    Department - 420  
**Person Writing**    Phillip A. Sanchez  
**Email**  
**Phone:** 505-263-7150 :    Phillip.Sanchez2@rld.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
<1	<1	<1	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	40			40	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: Senate Bill 159 (SB159) creates a new type of license under the Liquor Control Act (the Act), creating the Special Independent Theater Dispensing License, with an effective date of July 1, 2025.

- The Special Independent Theater Dispensing License (the License) will be issued by the Alcoholic Beverage Control Division (ABC) of the Regulation and Licensing Department (RLD).
  - An independent theater may apply for the License by submitting a one hundred dollar (\$100) fee and any information the director may require. The License shall be valid for one (1) year from the date it is issued and may be renewed for a fee of one hundred dollars (\$100).
  - The License will allow the independent theater to dispense wine or beer to customers in conjunction with movie screenings or other events.
    - Service of beer or wine is limited to two (2) twelve-ounce (12oz) servings of beer or two (2) six-ounce (6oz) servings of wine per customer for each event.
- Similar to other licenses issued pursuant to the Act, the License will be subject to local option district approval.
- The License will not be transferable from person to person or from one location to another.
- SB159 defines “independent theater” as a business establishment that: (1) is operated primarily for the purpose of exhibiting movies and hosting events; (2) is in a single location; (3) is owned and operated by a New Mexico resident or is a business or organization registered in New Mexico; and (4) has been in existence for at least one (1) year.

**FISCAL IMPLICATIONS**

The RLD will need to add this new license type as an option in online electronic licensing system known as NM-PLUS that is utilized by the ABC for all licensing and permitting operations for licenses issued under the Liquor Control Act. This will require the software for the licensing to be programmed with application requirements for this particular type of license. Based on prior experience with making changes and additions to the NM-PLUS online licensing system, the RLD estimates the costs of developing, programing, testing, and implementation to be approximately forty thousand dollars (\$40,000). In order to have this new licensing option

available for applications to be received on or about July 1, 2025, the appropriation of \$40,000 to the RLD for software development and implementation must take place in FY25.

## **SIGNIFICANT ISSUES**

SB159 requires that the business be in existence for a period of one (1) year before qualifying for a license. This may create conflict with the dormant commerce clause, as US Federal Courts have deemed residency requirements as unconstitutional, see *Tennessee Wine and Spirits Retailers Association v. Thomas*, 588 U.S. 504, 139 S.Ct. 2449 (2019).

Section D states that “Service of beer or wine *with food* (emphasis added) to customers of an independent theater shall be limited...”. This is the only reference to a food requirement, so it is unclear whether beer & wine may only be served with food or if it can be served without food.

## **PERFORMANCE IMPLICATIONS**

Existing ABC staff will be able to handle any increase in initial license and renewal applications the SB159 may cause.

## **ADMINISTRATIVE IMPLICATIONS**

RLD will need to update the NM-PLUS licensing and permitting system to include the License. [Please see description in the “Fiscal Implications” section, above.]

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Theaters wishing to sale, serve, and allow for consumption of alcoholic beverages at their facilities will need to either obtain a dispenser’s license or another license (restaurant license, small brewer’s license, etc.) currently offered under the Liquor Control Act.

## **AMENDMENTS**