BILL # SB 1236 **TITLE:** wine shipment; limited allocation

SPONSOR: Leff **STATUS:** As Introduced

REQUESTED BY: Senate **PREPARED BY:** Shelli Carol

FISCAL ANALYSIS

Description

SB 1236 allows an in-state or out-of-state limited production winery, defined as a producer of less than 5,000 cases per year, to fulfill orders of not more than two cases per Arizona customer per year, placed through the telephone, mail, or internet. Currently, these limited allocation wines can be purchased only at the winery, in person.

Estimated Impact

This bill's fiscal impact cannot be determined with certainty. The overall effect on state revenues, however, is unlikely to be significant. The bill will facilitate sales of limited allocation wine to Arizona consumers. If their new ability to make remote purchases increases overall demand from Arizona consumers, luxury and transaction privilege tax revenues would increase.

This bill would also permit Arizona residents to remotely purchase out-of-state wines. The likely result is that some wine demand from Arizona would transfer out of state. Although the level of this change cannot be determined, any shift would represent a decrease in overall revenues to the state and would offset in-state demand increases.

Analysis

Wine transactions are subject to several taxes. Wholesalers who retail wine within Arizona and all Arizona wineries pay a luxury tax of $0.84 per gallon on most wines and $0.25 per 8 ounces on high alcohol content wines. Luxury tax proceeds support Arizona wine promotional efforts, drug treatment and education, the Corrections Fund, and the General Fund. Meanwhile, all retail sales of wine from Arizona retailers and wineries to Arizona consumers are subject to a 5.6% transaction privilege tax. Lastly, Arizona customers importing wine from other states owe a use tax of 5.6%. Transaction privilege and use tax proceeds for wine go to the General Fund.

This bill facilitates sales of Arizona limited allocation wines to Arizona residents. Currently, all of Arizona's 16 wineries qualify as limited production wineries under the provisions of this bill. By gallons sold, they account for 0.32% of the wine market in Arizona. They generate, conservatively, $33,600 in luxury taxes and $174,000 in transaction privilege taxes per year. As this bill simplifies purchases of Arizona wine, it could slightly increase demand. From this bill, the Arizona Winegrowers Association estimates sales increases of between 10% and 35%, or $290,000 to $1,015,000. A 10% increase would generate an additional $3,400 in luxury taxes and $17,400 in transaction privilege taxes. A 35% increase would generate an additional $11,800 in luxury taxes and $60,900 in transaction privilege taxes. However, overall tax revenues will expand only if overall demand increases, rather than shifts from one source of wine to another.

Furthermore, Arizona wineries now cannot sell in 13 states with so-called "reciprocity" statutes, which prohibit outgoing direct wine shipments from states that limit incoming shipments. Reciprocity states interpret Arizona's current statute, requiring wine consumers to be physically present at the winery to place an order, as a trade barrier. By allowing remote orders from limited production wineries, this bill might eliminate shipping prohibitions on Arizona wine exports into some of the states concerned. Nevertheless, because Arizona's lower-production wineries usually find sufficient demand within state and because out-of-state interest in Arizona wines is limited, this bill is not likely to increase Arizona wine exports.

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Analysis (Cont'd)

This bill will also facilitate imports of out-of-state limited allocation wines by Arizona residents. Liquor wholesalers and retailers currently account for over 99%, by gallons, of wine sales in Arizona. Wholesalers and retailers, due to the prohibitive costs of carrying limited allocation wines, are not in direct competition with limited production wineries. Connoisseurship represents a mostly distinct market from general wine consumption. Nonetheless, any increase in imports would likely shift revenues away from the retail wine industry. Direct imports of wine from other states are not subject to Arizona luxury taxes. Furthermore, although Arizona's use and transaction privilege tax duties are equal, use taxes historically suffer from lower compliance rates. Wholesalers and retailers in Arizona are unable to estimate the possible extent of this shift in demand, but any change will reduce Arizona's overall tax income.

Additionally, to the extent that the limitations set forth in this bill may not be enforceable, non-qualifying wineries could also pose some competition. Existing statute prevents all limited production wineries from shipping to customers that have never been on their premises, so very few, if any, out-of-state limited production wineries currently sell wine to Arizona residents. With the 5th largest wine market in the country, Arizona provides an attractive consumer base. Since this bill would permit limited production out-of-state wineries to ship wine directly to Arizona consumers, non-qualifying wineries, possibly above the production limit, could also attempt to ship any number of cases of wine into Arizona. Moreover, Arizona customers might choose out-of-state merchants to avoid being taxed. Such competition scenarios could create an uncertain amount of competition for wineries, wholesalers, and retailers operating within Arizona. Luxury and transaction privilege tax revenues would decline by a related, but also uncertain, amount.

Finally, in the past, Arizona's limitations on wine commerce have resulted in litigation. This bill, if enacted, could avert future litigation and associated costs.

Local Government Impact

This bill's impact on local governments cannot be determined with certainty. Counties and incorporated cities and towns receive a percentage of state transaction privilege taxes. Local jurisdictions would experience a proportional impact to the extent that this bill either decreases or increases state transaction privilege tax collections. Local jurisdictions do not share in either the state luxury tax or use tax.

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