SENATE BILL 136

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY
William P. Soules

AN ACT

RELATING TO LIQUOR CONTROL; PROVIDING THAT A LOCAL OPTION DISTRICT MAY HOLD AN ELECTION TO ALLOW THE SALE BY CERTAIN RESTAURANT LICENSEES OF SPIRITUOUS LIQUORS DISTILLED AND BOTTLED IN NEW MEXICO.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 60-6A-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 21, as amended) is amended to read:

"60-6A-4. RESTAURANT LICENSE.--

A. A local option district may approve the issuance of restaurant licenses for either the sale of beer and wine only or for the sale of beer and wine and of spirituous liquors distilled and bottled in New Mexico by holding an election on [that question] either option or both options pursuant to the procedures set out in Section 60-5A-1 NMSA 1978. The election .218519.1
also may be initiated by a resolution adopted by the governing body of the local option district without a petition from qualified electors having been submitted.

**B. A local option district that approves the issuance of restaurant licenses for the sale of beer and wine and of spirituous liquors distilled and bottled in New Mexico shall limit the geographic locations in which those licenses are effective to locations designated as:**

1. an enterprise zone, pursuant to the Enterprise Zone Act;
2. a tax increment development district, pursuant to the Tax Increment for Development Act;
3. an arts and cultural district, pursuant to the Arts and Cultural District Act;
4. a main street, pursuant to the Main Street Act;
5. a business improvement district, pursuant to the Business Improvement District Act;
6. a frontier community; or
7. any other geographic location within a local option district that has been identified by the main street program coordinator or the relevant local government as a location in need of revitalization or economic development improvements.

**C. After the approval of restaurant licenses**
by the qualified electors of the local option district and upon
completion of all requirements in the Liquor Control Act for
the issuance of licenses, a restaurant located or to be located
within the local option district or within a designated
location in a local option district as provided for in
Subsection B of this section may receive a restaurant license
to sell, serve or allow the consumption of beer and wine, and
spirituous liquors distilled and bottled in New Mexico, if
applicable, subject to the following requirements and
restrictions:

(1) the applicant shall submit evidence to the
department that the applicant has a current valid food service
establishment permit;

(2) an applicant for a license to sell, serve
or allow the consumption of beer and wine and of spirituous
liquors distilled and bottled in New Mexico shall submit
evidence to the department that the applicant's restaurant is
located within the local option district's designated area, as
required in Subsection B of this section;

[(3)] (3) the applicant shall satisfy the
director that the primary source of revenue from the operation
of the restaurant will be derived from meals and not from the
sale of beer and wine, and spirituous liquors distilled and
bottled in New Mexico, if applicable;

[(4)] (4) the director shall condition renewal
upon a requirement that no less than sixty percent of gross
receipts from the preceding twelve months' operation of the
licensed restaurant was derived from the sale of meals;

[(4)] (5) upon application for renewal, the
licensee shall submit an annual report to the director
indicating the annual gross receipts from the sale of meals and
from the sale of beer and wine [sales], and spirituous liquors
distilled and bottled in New Mexico, if applicable;

[(5)] (6) restaurant licensees shall not sell
beer [and] or wine, or spirituous liquors distilled and bottled
in New Mexico, if applicable, for consumption off the licensed
premises;

[(6)] (7) all sales, services and consumption
of beer and wine, and spirituous liquors distilled and bottled
in New Mexico, if applicable, authorized by a restaurant
license shall cease at the time meal sales and services cease
or at 11:00 p.m., whichever time is earlier;

[(7)] (8) if Sunday sales have been approved
in the local option district, a restaurant licensee may serve
beer and wine, and spirituous liquors distilled and bottled in
New Mexico, if applicable, on Sundays until the time meal sales
and services cease or 11:00 p.m., whichever time is earlier;
and

[(8)] (9) a restaurant license shall not be
transferable from person to person or from one location to
another.

[D] The provisions of Section 60-6A-18 NMSA 1978 shall not apply to restaurant licenses.

[E] Nothing in this section shall prevent a restaurant licensee from receiving other licenses pursuant to the Liquor Control Act."

SECTION 2. Section 60-6A-15 NMSA 1978 (being Laws 1981, Chapter 39, Section 32, as amended) is amended to read:

"60-6A-15. LICENSE FEES.--Every application for the issuance or renewal of the following licenses shall be accompanied by a license fee in the following specified amounts:

A. manufacturer's license as a distiller, except a brandy manufacturer, three thousand dollars ($3,000);

B. manufacturer's license as a brewer, three thousand dollars ($3,000);

C. manufacturer's license as a rectifier, one thousand fifty dollars ($1,050);

D. wholesaler's license to sell all alcoholic beverages for resale only, two thousand five hundred dollars ($2,500);

E. wholesaler's license to sell spirituous liquors and wine for resale only, one thousand seven hundred fifty dollars ($1,750);

F. wholesaler's license to sell spirituous liquors
for resale only, one thousand five hundred dollars ($1,500);

G. wholesaler's license to sell beer and wine for resale only, one thousand five hundred dollars ($1,500);

H. wholesaler's license to sell beer for resale only, one thousand dollars ($1,000);

I. wholesaler's license to sell wine for resale only, seven hundred fifty dollars ($750);

J. retailer's license, one thousand three hundred dollars ($1,300);

K. dispenser's license, one thousand three hundred dollars ($1,300);

L. canopy license, one thousand three hundred dollars ($1,300);

M. restaurant license:

(1) for the sale of beer and wine only, one thousand fifty dollars ($1,050); or

(2) for the sale of beer and wine and of spirituous liquors distilled and bottled in New Mexico, two thousand dollars ($2,000);

N. club license, for clubs with more than two hundred fifty members, one thousand two hundred fifty dollars ($1,250), and for clubs with two hundred fifty members or fewer, two hundred fifty dollars ($250);

O. wine bottler's license to sell to wholesalers only, five hundred dollars ($500);
P. public service license, one thousand two hundred fifty dollars ($1,250);

Q. nonresident licenses, for a total billing to New Mexico wholesalers:

(1) in excess of:

$3,000,000 annually . . . . . . . . . . . . . . . . . . . . . . $10,500;
1,000,000 annually . . . . . . . . . . . . . . . . . . . . . .  5,250;
500,000 annually . . . . . . . . . . . . . . . . . . . . . .  3,750;
200,000 annually . . . . . . . . . . . . . . . . . . . . . .  2,700;
100,000 annually . . . . . . . . . . . . . . . . . . . . . .  1,800;

and

50,000 annually . . . . . . . . . . . . . . . . . . . . . . .  900; and

(2) of $50,000 or less . . . . . . . . . . . . . . . . . . . . . . $300;

R. wine wholesaler's license, for persons with sales of five thousand gallons of wine per year or less, twenty-five dollars ($25.00), and for persons with sales in excess of five thousand gallons of wine per year, one hundred dollars ($100); and

S. beer bottler's license, two hundred dollars ($200)."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.