

AN ACT

RELATING TO TAXATION; AMENDING THE DEFINITION OF SMALL WINEGROWERS; AMENDING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 7-17-2 NMSA 1978 (being Laws 1966, Chapter 49, Section 2, as amended) is amended to read:

"7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol, but excluding medicinal bitters:

(1) "spirituous liquors" means alcoholic beverages, except fermented beverages such as wine, beer, cider and ale;

(2) "beer" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water and includes porter, beer, ale and stout;

(3) "cider" means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples that contains not less than one-half of one percent of alcohol by volume and not more than seven

percent of alcohol by volume;

(4) "fortified wine" means wine containing more than fourteen percent alcohol by volume when bottled or packaged by the manufacturer, but does not include:

(a) wine that is sealed or capped by cork closure and aged two years or more;

(b) wine that contains more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and has not been produced with the addition of wine spirits, brandy or alcohol; or

(c) vermouth and sherry; and

(5) "wine" includes the words "fruit juices" and means alcoholic beverages, other than cider, obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, that do not contain less than one-half of one percent nor more than twenty-one percent alcohol by volume;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "microbrewer" means any person who produces fewer than five thousand barrels of beer in a year;

D. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other association; "person" also means, to the extent

permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

E. "small winer or winegrower" means any person who produces fewer than five hundred sixty thousand liters of wine in a year; and

F. "wholesaler" means any person holding a license issued under Section 60-6A-1 NMSA 1978 or any person selling alcoholic beverages that were not purchased from a person holding a license issued under Section 60-6A-1 NMSA 1978."

Section 2. That version of Section 7-17-5 NMSA 1978 (being Laws 1993, Chapter 65, Section 8, as amended) effective on July 1, 2000, is amended to read:

"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.-- There is imposed on any wholesaler who sells alcoholic beverages on which the tax imposed by this section has not been paid an excise tax, to be referred to as the "liquor excise tax", at the following rates on alcoholic beverages sold:

A. on spirituous liquors, one dollar sixty cents (\$1.60) per liter;

B. on beer, except as provided in Subsection E of this section, forty-one cents (\$.41) per gallon;

C. on wine, except as provided in Subsections D and F of this section, forty-five cents (\$.45) per liter;

D. on fortified wine, one dollar fifty cents (\$1.50) per liter;

E. on beer manufactured or produced by a microbrewer and sold in this state, provided that proof is furnished to the department that the beer was manufactured or produced by a microbrewer, eight cents (\$.08) per gallon;

F. on wine manufactured or produced by a small winer or winegrower and sold in this state, provided that proof is furnished to the department that the wine was manufactured or produced by a small winer or winegrower, ten cents (\$.10) per liter on the first eighty thousand liters sold and twenty cents (\$.20) per liter on all liters sold over eighty thousand liters but less than five hundred sixty thousand liters; and

G. on cider, forty-one cents (\$.41) per gallon."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____