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HOUSE BILL 474

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

James G. Taylor

AN ACT

**RELATING TO ALCOHOLIC BEVERAGES; AMENDING THE DEFINITION OF
DISPENSER; AMENDING A SECTION OF THE NMSA 1978.**

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

**Section 1. Section 60-3A-3 NMSA 1978 (being Laws 1981,
Chapter 39, Section 3, as amended) is amended to read:**

**"60-3A-3. DEFINITIONS. --As used in the Liquor Control
Act:**

**A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, brandy, whiskey, rum, gin
and aromatic bitters bearing the federal internal revenue
strip stamps 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;**

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1 B. "beer" means [~~any~~] an alcoholic beverage
2 obtained by the fermentation of any infusion or decoction of
3 barley, ~~malt~~ and hops or other cereals in water, and includes
4 porter, beer, ale and stout;

5 C. "brewer" means [~~any~~] a person who owns or
6 operates a business for the manufacture of beer;

7 D. "club" means:

8 (1) any nonprofit group, including an
9 auxiliary or subsidiary group, organized and operated under
10 the laws of this state with a membership of not less than
11 fifty ~~members~~ who pay membership dues at the rate of not less
12 than five dollars (\$5.00) per year and who, under the
13 constitution and bylaws of the club, have all voting rights
14 and full membership privileges and which group is the owner,
15 lessee or occupant of premises used exclusively for club
16 purposes and which group the director finds:

17 (a) is operated solely for recreation,
18 social, patriotic, political, benevolent or athletic purposes;
19 and

20 (b) the proposed licensee has been
21 granted an exemption by the United States from the payment of
22 the federal income tax as a club under the provisions of
23 Section 501(a) of the Internal Revenue Code of 1986, as
24 amended or, if the applicant has not operated as a club for a
25 sufficient time to be eligible for the income tax exemption,

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1 it must execute and file with the director a sworn letter of
2 intent declaring that it will, in good faith, apply for such
3 exemption as soon as it is eligible; or

4 (2) an airline passenger membership club
5 operated by an air common carrier [~~which~~] that maintains or
6 operates a clubroom at an international airport terminal. For
7 the purposes of this paragraph, "air common carrier" means a
8 person engaged in regularly scheduled air transportation
9 between fixed termini under a certificate of public
10 convenience and necessity issued by the civil aeronautics
11 board;

12 E. "commission" means the secretary of public
13 safety when the term is used in reference to the enforcement
14 and investigatory provisions of the Liquor Control Act and
15 means the superintendent of regulation and licensing when the
16 term is used in reference to the licensing provisions of the
17 Liquor Control Act;

18 F. "department" means the special investigations
19 division of the department of public safety when the term is
20 used in reference to the enforcement and investigatory
21 provisions of the Liquor Control Act and means the
22 superintendent of regulation and licensing when the term is
23 used in reference to the licensing provisions of the Liquor
24 Control Act;

25 G. "director" means the director of the special

1 investigations division of the department of public safety
2 when the term is used in reference to the enforcement and
3 investigatory provisions of the Liquor Control Act and means
4 the superintendent of regulation and licensing when the term
5 is used in reference to the licensing provisions of the Liquor
6 Control Act;

7 H. "dispenser" means ~~[any]~~ a person licensed under
8 the provisions of the Liquor Control Act selling, offering for
9 sale or having in his possession with the intent to sell
10 alcoholic beverages both by the drink for consumption on the
11 licensed premises and in unbroken packages for consumption
12 ~~[and not for resale]~~ off the licensed premises;

13 I. "distiller" means ~~[any]~~ a person engaged in
14 manufacturing spirituous liquors;

15 J. "golf course" means a tract of land and
16 facilities used for playing golf and other recreational
17 activities that includes tees, fairways, greens, hazards,
18 putting greens, driving ranges, recreational facilities,
19 patios, pro shops, cart paths and public and private roads
20 that are located within the tract of land;

21 K. "governing body" means the board of county
22 commissioners of a county or the city council or city
23 commissioners of a municipality;

24 L. "hotel" means ~~[any]~~ an establishment or complex
25 having a resident of New Mexico as a proprietor or manager and

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1 where, in consideration of payment, meals and lodging are
2 regularly furnished to the general public. The establishment
3 or complex must maintain for the use of its guests a minimum
4 of twenty-five sleeping rooms;

5 M "licensed premises" means the contiguous areas
6 or areas connected by indoor passageways of a structure and
7 the outside dining, recreation and lounge areas of the
8 structure that are under the direct control of the licensee
9 and from which the licensee is authorized to sell, serve or
10 allow the consumption of alcoholic beverages under the
11 provisions of its license; provided that in the case of a
12 restaurant, hotel, golf course or racetrack, "licensed
13 premises" includes all public and private rooms, facilities
14 and areas in which alcoholic beverages are sold or served in
15 the customary operating procedures of the restaurant, hotel,
16 golf course or racetrack;

17 N. "local option district" means [~~any~~] a county
18 [~~which~~] that has voted to approve the sale, serving or public
19 consumption of alcoholic beverages, or any incorporated
20 municipality [~~which~~] that falls within a county [~~which~~] that
21 has voted to approve the sale, serving or public consumption
22 of alcoholic beverages, or any incorporated municipality of
23 over five thousand population [~~which~~] that has independently
24 voted to approve the sale, serving or public consumption of
25 alcoholic beverages under the terms of the Liquor Control Act

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1 or any former act;

2 O. "manufacturer" means a distiller, rectifier,
3 brewer or winer;

4 P. "minor" means [~~any~~] a person under twenty-one
5 years of age;

6 Q. "package" means [~~any~~] an immediate container of
7 alcoholic beverages [~~which~~] that is filled or packed by a
8 manufacturer or wine bottler for sale by the manufacturer or
9 wine bottler to wholesalers;

10 R. "person" means an individual, corporation,
11 firm, partnership, copartnership, association or other legal
12 entity;

13 S. "rectifier" means [~~any~~] a person who blends,
14 mixes or distills alcohol with other liquids or substances for
15 the purpose of making an alcoholic beverage for the purpose of
16 sale other than to the consumer by the drink, and includes all
17 bottlers of spirituous liquors;

18 T. "restaurant" means [~~any~~] an establishment
19 having a New Mexico resident as a proprietor or manager
20 [~~which~~] that is held out to the public as a place where meals
21 are prepared and served primarily for on-premises consumption
22 to the general public in consideration of payment and [~~which~~]
23 that has a dining room, a kitchen and the employees necessary
24 for preparing, cooking and serving meals; provided that
25 "restaurant" does not include establishments as defined in

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1 [regulations] rules promulgated by the director serving only
2 hamburgers, sandwiches, salads and other fast foods;

3 U. "retailer" means [~~any~~] a person licensed under
4 the provisions of the Liquor Control Act selling, offering for
5 sale or having in his possession with the intent to sell [~~any~~]
6 alcoholic beverages in unbroken packages for consumption and
7 not for resale off the licensed premises;

8 V. "spirituous liquors" means alcoholic beverages
9 as defined in Subsection A of this section except fermented
10 beverages such as wine, beer and ale;

11 W. "wholesaler" means [~~any~~] a person whose place
12 of business is located in New Mexico and who sells, offers for
13 sale or possesses for the purpose of sale any alcoholic
14 beverages for resale by the purchaser;

15 X. "wine" includes the words "fruit juices" and
16 means alcoholic beverages obtained by the fermentation of the
17 natural sugar contained in fruit or other agricultural
18 products, with or without the addition of sugar or other
19 products, [~~which~~] that do not contain less than one-half of
20 one percent nor more than twenty-one percent alcohol by
21 volume;

22 Y. "wine bottler" means [~~any~~] a New Mexico
23 wholesaler who is licensed to sell wine at wholesale for
24 resale only and who buys wine in bulk and bottles it for
25 wholesale resale;

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Z. "winegrower" means ~~[any]~~ a person who owns or operates a business for the manufacture of wine; and

AA. "winer" means a winegrower. "