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SENATE BILL 137

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Don Kidd

AN ACT

RELATING TO BUSINESS LICENSES; AMENDING THE LIQUOR CONTROL ACT
TO PROVIDE FOR SUNDAY SALES AT RESORTS.

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 an alcoholic beverage obtained by
2 the fermentation of any infusion or decoction of barley, malt
3 and hops or other cereals in water, and includes porter, beer,
4 ale and stout;

5 C. "brewer" means a person who owns or operates a
6 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 that maintains or operates a
6 clubroom at an international airport terminal. For the
7 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~~] secretary of transportation;

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 director of
22 the alcohol and gaming division of the regulation and
23 licensing department when the term is used in reference to the
24 licensing provisions of the Liquor Control Act;

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

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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 director of the alcohol and gaming division of the
5 regulation and licensing department when the term is used in
6 reference to the licensing provisions of the Liquor Control
7 Act;

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

14 I. "distiller" means a person engaged in
15 manufacturing spirituous liquors;

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

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

25 L. "hotel" means an establishment or complex

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

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

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

. 139726. 1

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1 the Liquor Control Act or any former act;

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

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

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

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

13 S. "rectifier" means a person who blends, mixes or
14 distills alcohol with other liquids or substances for the
15 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. "resort" means an establishment, having a
19 resident of New Mexico as a proprietor or manager, that:

20 (1) furnishes meals and lodging to the
21 general public;

22 (2) maintains for the use of its guests a
23 minimum of one hundred sleeping rooms or recreational vehicle
24 and camping spaces; and

25 (3) provides at least two resort facilities

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1 such as facilities for golf, tennis, water sports, horseback
2 riding, skiing, fishing, hunting or sport shooting or is
3 adjacent to or within a national park, monument or forest or
4 state park or monument;

5 [F-] U. "restaurant" means an establishment having
6 a New Mexico resident as a proprietor or manager that is held
7 out to the public as a place where meals are prepared and
8 served primarily for on-premises consumption to the general
9 public in consideration of payment and that has a dining room,
10 a kitchen and the employees necessary for preparing, cooking
11 and serving meals; provided that "restaurant" does not include
12 establishments as defined in rules promulgated by the director
13 serving only hamburgers, sandwiches, salads and other fast
14 foods;

15 [H-] V. "retailer" means a person licensed under
16 the provisions of the Liquor Control Act selling, offering for
17 sale or having in his possession with the intent to sell
18 alcoholic beverages in unbroken packages for consumption and
19 not for resale off the licensed premises;

20 [V-] W. "spirituous liquors" means alcoholic
21 beverages as defined in Subsection A of this section except
22 fermented beverages such as wine, beer and ale;

23 [W-] X. "wholesaler" means a person whose place of
24 business is located in New Mexico and who sells, offers for
25 sale or possesses for the purpose of sale any alcoholic

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1 beverages for resale by the purchaser;

2 [X-] Y. "wine" includes the words "fruit juices"
3 and means alcoholic beverages obtained by the fermentation of
4 the natural sugar contained in fruit or other agricultural
5 products, with or without the addition of sugar or other
6 products, that do not contain less than one-half of one
7 percent nor more than twenty-one percent alcohol by volume;

8 [Y-] Z. "wine bottler" means a New Mexico
9 wholesaler who is licensed to sell wine at wholesale for
10 resale only and who buys wine in bulk and bottles it for
11 wholesale resale;

12 [Z-] AA. "winegrower" means a person who owns or
13 operates a business for the manufacture of wine; and

14 [AA-] BB. "winer" means a winegrower. "

15 Section 2. Section 60-7A-2 NMSA 1978 (being Laws 1981,
16 Chapter 39, Section 48) is amended to read:

17 "60-7A-2. SUNDAY SALES AT RACETRACKS AND RESORTS. --

18 Notwithstanding other provisions of the Liquor Control Act, it
19 is lawful for a dispenser, whose licensed premises are located
20 on a:

21 A. public horseracing track licensed by the state
22 racing commission, to sell, serve or permit the consumption of
23 alcoholic beverages by the drink on Sunday during the racing
24 season between the hours of 12:00 noon and 11:00 p.m ; and

25 B. resort to sell, serve or permit the consumption

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1 of alcoholic beverages by the drink on Sunday from immediately
2 after midnight Saturday until 2:00 a.m. Sunday and from 12:00
3 noon until midnight on Sunday. "

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