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SENATE BILL 116

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

John Arthur Smith

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; INCREASING THE VOLUME LIMIT FOR SMALL
WINEGROWERS; INCREASING THE LIQUOR EXCISE TAX RATE FOR SMALL
WINEGROWERS PRODUCING OVER A CERTAIN AMOUNT OF WINE.

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,
aromatic bitters or any similar 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 by volume, but "alcoholic beverages" does not include

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1 medicinal bitters;

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

6 C. "cider" means an alcoholic beverage made from
7 the normal alcoholic fermentation of the juice of sound, ripe
8 apples that contains not less than one-half of one percent of
9 alcohol by volume and not more than seven percent of alcohol by
10 volume;

11 D. "department" means the taxation and revenue
12 department, the secretary of taxation and revenue or any
13 employee of the department exercising authority lawfully
14 delegated to that employee by the secretary;

15 E. "fortified wine" means wine containing more than
16 fourteen percent alcohol by volume when bottled or packaged by
17 the manufacturer, but "fortified wine" does not include:

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

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

24 (3) vermouth and sherry;

25 F. "microbrewer" means a person who produces

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1 [~~fewer~~] less than five thousand barrels of beer in a year;

2 G. "person" includes, to the extent permitted by
3 law, a federal, state or other governmental unit or subdivision
4 or an agency, department, institution or instrumentality
5 thereof;

6 H. "small winegrower" means a winegrower who
7 produces [~~fewer than nine hundred fifty thousand~~] less than one
8 million five hundred thousand liters of wine in a year;

9 I. "spirituous liquor" means alcoholic beverages,
10 except fermented beverages such as wine, beer, cider and ale;

11 J. "wholesaler" means a person holding a license
12 issued under Section 60-6A-1 NMSA 1978 or a person selling
13 alcoholic beverages that were not purchased from a person
14 holding a license issued under Section 60-6A-1 NMSA 1978;

15 K. "wine" means an alcoholic beverage other than
16 cider that is obtained by the fermentation of the natural sugar
17 contained in fruit or other agricultural products, with or
18 without the addition of sugar or other products, and that does
19 not contain more than twenty-one percent alcohol by volume; and

20 L. "winegrower" means a person licensed pursuant to
21 Section 60-6A-11 NMSA 1978."

22 SECTION 2. Section 7-17-5 NMSA 1978 (being Laws 1993,
23 Chapter 65, Section 8, as amended) is amended to read:

24 "7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

25 A. There is imposed on a wholesaler who sells

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1 alcoholic beverages on which the tax imposed by this section
2 has not been paid an excise tax, to be referred to as the
3 "liquor excise tax", at the following rates on alcoholic
4 beverages sold:

5 (1) on spirituous liquors, one dollar sixty
6 cents (\$1.60) per liter;

7 (2) on beer, except as provided in Paragraph
8 (5) of this subsection, forty-one cents (\$.41) per gallon;

9 (3) on wine, except as provided in Paragraphs
10 (4) and (6) of this subsection, forty-five cents (\$.45) per
11 liter;

12 (4) on fortified wine, one dollar fifty cents
13 (\$1.50) per liter;

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

18 (6) on wine manufactured or produced by a
19 small winegrower and sold in this state, provided that proof is
20 furnished to the department that the wine was manufactured or
21 produced by a small winegrower:

22 (a) ten cents (\$.10) per liter on the
23 first eighty thousand liters sold ~~and~~;

24 (b) twenty cents (\$.20) per liter on
25 ~~[all liters]~~ each liter sold over eighty thousand liters but

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1 ~~[less than]~~ not over nine hundred fifty thousand liters; and
2 (c) thirty cents (\$.30) per liter on
3 each liter sold over nine hundred fifty thousand liters but not
4 over one million five hundred thousand liters; and

5 (7) on cider, forty-one cents (\$.41) per
6 gallon.

7 B. The volume of wine transferred from one
8 winegrower to another winegrower for processing, bottling or
9 storage and subsequent return to the transferor shall be
10 excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable
11 volume of wine of the transferee. Wine transferred from an
12 initial winegrower to a second winegrower remains a tax
13 liability of the transferor, provided that if the wine is
14 transferred to the transferee for the transferee's use or for
15 resale, the transferee then assumes the liability for the tax
16 due pursuant to this section.

17 C. A transfer of wine from a winegrower to a
18 wholesaler for distribution of the wine transfers the liability
19 for payment of the liquor excise tax to the wholesaler upon the
20 sale of the wine by the wholesaler."

21 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
22 provisions of this act is July 1, 2013.