

1 HOUSE BILL 339

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Stephanie Garcia Richard and Ron Griggs

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10 AN ACT

11 RELATING TO ALCOHOLIC BEVERAGES; REVISING THE LIQUOR CONTROL
12 ACT TO CREATE RETAIL RECIPROCITY BETWEEN SMALL BREWERS,
13 WINEGROWERS AND CRAFT DISTILLERS; RECONCILING CONFLICTING
14 AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2001 BY REPEALING
15 LAWS 2001, CHAPTER 248, SECTION 2.

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

18 SECTION 1. Section 60-6A-6.1 NMSA 1978 (being Laws 2011,
19 Chapter 110, Section 3) is amended to read:

20 "60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

21 A. In any local option district, a person qualified
22 [~~under~~] pursuant to the provisions of the Liquor Control Act,
23 except as otherwise provided in the Domestic Winery, Small
24 Brewery and Craft Distillery Act, may apply for and be issued a
25 craft distiller's license subject to the following conditions:

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1 (1) the applicant submits evidence to the
2 department that the applicant has a valid and appropriate
3 permit issued by the federal government to be a craft
4 distiller;

5 (2) renewal of the license shall be
6 conditioned upon:

7 (a) no less than sixty percent of the
8 gross receipts from the sale of spirituous liquors for the
9 preceding twelve months of the licensee's operation being
10 derived from the sale of spirituous liquors produced by the
11 licensee;

12 (b) the manufacture of no less than one
13 thousand proof gallons of spirituous liquors per license year
14 at the licensee's premises; and

15 (c) submission to the department by the
16 licensee of a report showing the number of proof gallons of
17 spirituous liquors manufactured by the licensee at the
18 licensee's premises and the annual gross receipts from the sale
19 of spirituous liquors produced by the licensee and from the
20 licensee's sale of distilled spirituous liquors produced by
21 other New Mexico licensed craft distillers;

22 (3) a craft distiller's license shall not be
23 transferred from person to person or from one location to
24 another;

25 (4) the provisions of Section 60-6A-18 NMSA

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1 1978 shall not apply to a craft distiller's license; and

2 (5) nothing in this section shall prevent a
3 craft distiller from receiving other licenses pursuant to the
4 Liquor Control Act.

5 B. A person to whom a craft distiller's license is
6 issued pursuant to this section may do any of the following:

7 (1) manufacture or produce spirituous liquors,
8 including aging, filtering, blending, mixing, flavoring,
9 coloring, bottling and labeling;

10 (2) store, transport, import or export
11 spirituous liquors;

12 (3) sell only spirituous liquors that are
13 packaged by or for the craft distiller to a person holding a
14 wholesaler's license, a craft distiller's license or a
15 manufacturer's license;

16 (4) deal in warehouse receipts for spirituous
17 liquors;

18 (5) buy spirituous liquors from other persons,
19 including licensees and permittees under the Liquor Control
20 Act, for use in blending, flavoring, mixing or bottling of
21 spirituous liquors;

22 (6) buy or otherwise obtain beer from a small
23 brewer or wine from a winegrower for the purposes described in
24 this subsection;

25 [~~6~~] (7) be deemed a manufacturer for

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1 purposes of the Gross Receipts and Compensating Tax Act;

2 [~~(7)~~] (8) conduct spirituous liquor tastings
3 and sell, by the glass or by the bottle, or in unbroken
4 packages for consumption off the premises but not for resale:

5 (a) spirituous liquors of the craft
6 distiller's own production [~~or~~];

7 (b) spirituous liquors produced by
8 another New Mexico craft distiller or New Mexico manufacturer
9 on the craft distiller's premises; and

10 (c) beer produced and bottled by or for
11 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 or wine
12 produced by a winegrower pursuant to Section 60-6A-11 NMSA
13 1978; provided that no more than thirty percent of the craft
14 distiller's gross receipts shall be from the sale of beer or
15 wine pursuant to this subparagraph; and

16 [~~(8)~~] (9) at no more than two other locations
17 off the craft distiller's premises, after the craft distiller
18 has paid the applicable fee for a craft distiller's
19 off-premises permit, after the director has determined that the
20 off-premises locations meet the requirements of the Liquor
21 Control Act and department rules for new liquor license
22 locations and after the director has issued a craft distiller's
23 off-premises permit for each off-premises location, conduct
24 spirituous liquor tastings and sell by the glass, or in
25 unbroken packages for consumption off premises and not for

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1 resale:

2 (a) spirituous liquors produced and
3 bottled by or for the craft distiller ~~[or]~~;

4 (b) spirituous liquors produced and
5 bottled by or for another New Mexico craft distiller or
6 manufacturer;

7 (c) beer produced and bottled by or for
8 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978; and

9 (d) wine produced by a winegrower
10 pursuant to Section 60-6A-11 NMSA 1978.

11 C. For a public celebration off the craft
12 distiller's premises in any local option district permitting
13 the sale of alcoholic beverages, a craft distiller shall pay
14 ten dollars (\$10.00) to the department for a "craft distiller's
15 public celebration permit" to be issued under rules adopted by
16 the director. Upon request, the department may issue to a
17 craft distiller a public celebration permit for a location at
18 the public celebration that is to be shared with other craft
19 distillers, small brewers and winegrowers. As used in this
20 subsection, "public celebration" includes any state or county
21 fair, community fiesta, cultural or artistic event, sporting
22 competition of a seasonal nature or other activity held on an
23 intermittent basis.

24 D. Sales and tastings of spirituous liquors, beer
25 and wine authorized in this section shall be permitted during

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1 the hours set forth in Subsection A of Section 60-7A-1 NMSA
2 1978 and between the hours of noon and midnight on Sunday and
3 shall conform to the limitations regarding Christmas day sales
4 and the expansion of Sunday sales hours to 2:00 a.m. on January
5 1, when December 31 falls on a Sunday as set forth in Section
6 60-7A-1 NMSA 1978."

7 SECTION 2. Section 60-6A-11 NMSA 1978 (being Laws 1981,
8 Chapter 39, Section 28, as amended) is amended to read:

9 "60-6A-11. WINEGROWER'S LICENSE.--

10 A. A person in this state who produces wine is
11 exempt from the procurement of any other license pursuant to
12 the terms of the Liquor Control Act, but not from the
13 procurement of a winegrower's license [~~is a person in this~~
14 ~~state who produces wine~~]. Except during periods of shortage or
15 reduced availability, at least fifty percent of a winegrower's
16 overall annual production of wine shall be produced from grapes
17 or other agricultural products grown in this state pursuant to
18 rules adopted by the director; provided, however, that, for
19 purposes of determining annual production and compliance with
20 the fifty percent New Mexico grown provision of this
21 subsection, the calculation of a winegrower's overall annual
22 production of wine shall not include the winegrower's
23 production of wine for out-of-state wine producer license
24 holders.

25 B. A person issued a winegrower's license pursuant

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1 to this section may do any of the following:

2 (1) manufacture or produce wine, including
3 blending, mixing, flavoring, coloring, bottling and labeling,
4 whether the wine is manufactured or produced for a winegrower
5 or an out-of-state wine producer holding a permit issued [~~by~~
6 ~~the federal alcohol tax unit of the internal revenue service~~]
7 pursuant to the Federal Alcohol Administration Act and a valid
8 license in a state that authorizes the wine producer to
9 manufacture, produce, store or sell wine;

10 (2) store, transport, import or export wines;

11 (3) sell wines to a holder of a New Mexico
12 winegrower's, wine wholesaler's, wholesaler's or wine
13 exporter's license or to a winegrower's agent;

14 (4) transport not more than two hundred cases
15 of wine in a calendar year to another location within New
16 Mexico by common carrier;

17 (5) deal in warehouse receipts for wine;

18 (6) sell wines in other states or foreign
19 jurisdictions to the holders of a license issued under the
20 authority of that state or foreign jurisdiction authorizing
21 the purchase of wine;

22 (7) buy wine or distilled wine products from
23 other persons, including licensees and permittees under the
24 Liquor Control Act, for use in blending, mixing or bottling of
25 wines;

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1 (8) buy or otherwise obtain beer from a small
2 brewer and spirituous liquors from a craft distiller for the
3 purposes described in this subsection;

4 ~~(8)~~ (9) conduct wine tastings and sell, by
5 the glass or by the bottle, or sell in unbroken packages for
6 consumption off the premises, but not for resale:

7 (a) wine of the winegrower's own
8 production ~~[of]~~;

9 (b) wine produced by another New Mexico
10 winegrower on the winegrower's premises; and

11 (c) beer produced and bottled by or for
12 a small brewer pursuant to Section 60-2A-26.1 NMSA 1978 or
13 spirituous liquors produced and packaged by or for a craft
14 distiller pursuant to Section 60-6A-6.1 NMSA 1978; provided
15 that no more than thirty percent of a winegrower's gross
16 receipts shall be from the sale of beer or spiritous liquors
17 pursuant to this subparagraph;

18 ~~(9)~~ (10) at no more than three off-premises
19 locations, conduct wine tastings, sell by the glass and sell in
20 unbroken packages for consumption off premises, but not for
21 resale:

22 (a) wine of the winegrower's own
23 production ~~[of]~~;

24 (b) wine produced by another New Mexico
25 winegrower;

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1 (c) beer produced and bottled by or for
2 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978; and

3 (d) spirituous liquors produced and
4 packaged by or for a craft distiller pursuant to Section
5 60-6A-6.1 NMSA 1978 after the director has determined that the
6 off-premises locations meet the requirements of the Liquor
7 Control Act and the department rules for new liquor license
8 locations;

9 [~~(10)~~] (11) be deemed a manufacturer for
10 purposes of the Gross Receipts and Compensating Tax Act; and

11 [~~(11)~~] (12) at public celebrations on or off
12 the winegrower's premises, after the winegrower has paid the
13 applicable fees and been issued the appropriate permit, to
14 conduct wine tastings, sell by the glass or the bottle, or sell
15 in unbroken packages, for consumption off premises, but not for
16 resale, wine produced by or for the winegrower.

17 C. Sales of wine, beer and spirituous liquors as
18 provided for in this section shall be permitted between the
19 hours of 7:00 a.m. and midnight Monday through Saturday, and
20 the holder of a winegrower's license or public celebration
21 permit may conduct wine tastings and sell, by the glass or
22 bottle, or sell in unbroken packages for consumption off
23 premises, but not for resale, wine of the winegrower's own
24 production on the winegrower's premises, beer or spirituous
25 liquors as provided in Paragraphs (9) and (10) of Subsection B

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1 of this section between the hours of 12:00 noon and midnight on
2 Sunday.

3 D. At public celebrations off the winegrower's
4 premises in any local option district permitting the sale of
5 alcoholic beverages, the holder of a winegrower's license shall
6 pay ten dollars (\$10.00) to the alcohol and gaming division of
7 the regulation and licensing department for a "winegrower's
8 public celebration permit" to be issued under rules adopted by
9 the director. Upon request, the alcohol and gaming division of
10 the regulation and licensing department may issue to a holder
11 of a winegrower's license a public celebration permit for a
12 location at the public celebration that is to be shared with
13 other winegrowers and small brewers. As used in this
14 subsection, "public celebration" includes any state or county
15 fair, community fiesta, cultural or artistic event, sporting
16 competition of a seasonal nature or activities held on an
17 intermittent basis.

18 E. Every application for the issuance or annual
19 renewal of a winegrower's license shall be on a form prescribed
20 by the director and accompanied by a license fee to be computed
21 as follows on the basis of total annual wine produced or
22 blended:

23 (1) less than five thousand gallons per year,
24 twenty-five dollars (\$25.00) per year;

25 (2) between five thousand and one hundred

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1 thousand gallons per year, one hundred dollars (\$100) per year;
2 and

3 (3) over one hundred thousand gallons per
4 year, two hundred fifty dollars (\$250) per year."

5 SECTION 3. Section 60-6A-26.1 NMSA 1978 (being Laws 1985,
6 Chapter 217, Section 5, as amended by Laws 2001, Chapter 248,
7 Section 2 and by Laws 2001, Chapter 260, Section 2) is amended
8 to read:

9 "60-6A-26.1. SMALL BREWER'S LICENSE.--

10 A. In any local option district, a person qualified
11 under the provisions of the Liquor Control Act, except as
12 otherwise provided in the Domestic Winery, ~~[and]~~ Small Brewery
13 and Craft Distillery Act, may apply for and be issued a small
14 brewer's license.

15 B. A small brewer's license authorizes the person
16 to whom it is issued to:

17 (1) become a manufacturer or producer of beer;

18 (2) package, label and export beer, whether
19 manufactured, bottled or produced by ~~[him]~~ the licensee or any
20 other person;

21 (3) sell only beer that is packaged by or for
22 ~~[him]~~ the licensee to a person holding a wholesaler's license
23 or a small brewer's license;

24 (4) deal in warehouse receipts for beer;

25 (5) conduct beer tastings and sell for

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1 consumption on or off premises, but not for resale:

2 (a) beer produced and bottled by, or
3 produced and packaged for, the licensee [~~or~~];

4 (b) beer produced and bottled by or for
5 another New Mexico small brewer on the small brewer's premises;
6 and

7 (c) wine produced by a winegrower
8 pursuant to Section 60-6A-11 NMSA 1978 or spirituous liquors
9 produced and packaged by or for a craft distiller pursuant to
10 Section 60-6A-6.1 NMSA 1978; provided that no more than thirty
11 percent of a small brewer's gross receipts shall be from the
12 sale of wine or spirituous liquors pursuant to this
13 subparagraph;

14 (6) be deemed a manufacturer for purposes of
15 the Gross Receipts and Compensating Tax Act;

16 (7) at public celebrations off the small
17 brewer's premises, after the small brewer has paid the
18 applicable fee for a small brewer's public celebration permit,
19 conduct tastings and sell by the glass or in unbroken packages,
20 but not for resale, beer produced and bottled by or for the
21 small brewer;

22 (8) buy or otherwise obtain wine from a
23 winegrower and spirituous liquor from a craft distiller;

24 [~~(8)~~] (9) for the purposes described in this
25 subsection, at no more than two other locations off the small

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1 brewer's premises, after the small brewer has paid the
2 applicable fee for a small brewer's off-premises permit, after
3 the director has determined that the off-premises locations
4 meet the requirements of the Liquor Control Act and department
5 rules for new liquor license locations and after the director
6 has issued a small brewer's off-premises permit for each off-
7 premises location, conduct beer tastings and sell by the glass
8 or in unbroken packages for consumption off [~~the small brewer's~~
9 ~~off-premises location~~] premises, but not for resale:

10 (a) beer produced and bottled by or for
11 the small brewer [~~or~~];

12 (b) beer produced and bottled by or for
13 another New Mexico small brewer;

14 (c) wine produced by a winegrower
15 pursuant to Section 60-6A-11 NMSA 1978; and

16 (d) spirituous liquors produced and
17 packaged by or for a craft distiller pursuant to Section
18 60-6A-6.1 NMSA 1978; and

19 [~~(9)~~] (10) allow members of the public, on the
20 licensed premises and under the direct supervision of the
21 licensee, to manufacture beer for personal consumption and not
22 for resale using the licensee's equipment and ingredients.

23 C. At public celebrations off the small brewer's
24 premises in any local option district permitting the sale of
25 alcoholic beverages, the holder of a small brewer's license

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1 shall pay ten dollars (\$10.00) to the alcohol and gaming
2 division of the regulation and licensing department for a
3 "small brewer's public celebration permit" to be issued under
4 rules adopted by the director. Upon request, the alcohol and
5 gaming division of the regulation and licensing department may
6 issue to a holder of a small brewer's license a public
7 celebration permit for a location at the public celebration
8 that is to be shared with other small brewers and winegrowers.
9 As used in this subsection, "public celebration" includes any
10 state or county fair, community fiesta, cultural or artistic
11 event, sporting competition of a seasonal nature or activities
12 held on an intermittent basis.

13 D. Sales and tastings of beer, wine and spirituous
14 liquors authorized in this section shall be permitted during
15 the hours set forth in Subsection A of Section 60-7A-1 NMSA
16 1978 and between the hours of noon and midnight on Sunday and
17 shall conform to the limitations regarding Christmas and
18 voting-day sales found in Section 60-7A-1 NMSA 1978 and the
19 expansion of Sunday sales hours to 2:00 a.m. on January 1, when
20 December 31 falls on a Sunday."

21 SECTION 4. REPEAL.--Laws 2001, Chapter 248, Section 2 is
22 repealed.

23 SECTION 5. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2015.