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AN ACT

RELATING TO LIQUOR CONTROL; REQUIRING RULEMAKING TO ALLOW
SEGREGATED SALES OF BEER OR CIDER PACKAGED IN GROWLERS AND TO
ESTABLISH PROCEDURES RELATED TO REFILLING GROWLERS.

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 by Laws 2015, Chapter 3,
Section 28 and by Laws 2015, Chapter 102, Section 2) 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, powdered alcohol, frozen
or freeze-dried 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 percent
alcohol, but excluding medicinal bitters;

B. "beer" means an 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;

C. "brewer" means a person who owns or operates a

1 business for the manufacture of beer;

2 D. "cider" means an alcoholic beverage made from
3 the normal alcoholic fermentation of the juice of sound, ripe
4 apples that contains not less than one-half of one percent
5 alcohol by volume and not more than seven percent alcohol by
6 volume;

7 E. "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
19 purposes; and

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

1 file with the director a sworn letter of intent declaring
2 that it will, in good faith, apply for an income tax
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
6 a clubroom at an international airport terminal. As used in
7 this paragraph, "air common carrier" means a person engaged
8 in regularly scheduled air transportation between fixed
9 termini under a certificate of public convenience and
10 necessity issued by the federal aviation administration;

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

17 G. "department" means the New Mexico state police
18 division of the department of public safety when the term is
19 used in reference to the enforcement and investigatory
20 provisions of the Liquor Control Act and means the director
21 of the alcohol and gaming division of the regulation and
22 licensing department when the term is used in reference to
23 the licensing provisions of the Liquor Control Act;

24 H. "director" means the chief of the New Mexico
25 state police division of the department of public safety when

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

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

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

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

25 M. "growler" means a clean, refillable, resealable

1 container that has a liquid capacity that does not exceed one
2 gallon and that is intended and used for the sale of beer,
3 wine or cider for consumption off premises;

4 N. "hotel" means an establishment or complex
5 having a resident of New Mexico as a proprietor or manager
6 and where, in consideration of payment, meals and lodging are
7 regularly furnished to the general public. The establishment
8 or complex must maintain for the use of its guests a minimum
9 of twenty-five sleeping rooms;

10 O. "licensed premises" means the contiguous areas
11 or areas connected by indoor passageways of a structure and
12 the outside dining, recreation and lounge areas of the
13 structure and the grounds and vineyards of a structure that
14 is a winery that are under the direct control of the licensee
15 and from which the licensee is authorized to sell, serve or
16 allow the consumption of alcoholic beverages under the
17 provisions of its license; provided that in the case of a
18 restaurant, "licensed premises" includes a restaurant that
19 has operated continuously in two separate structures since
20 July 1, 1987 and that is located in a local option district
21 that has voted to disapprove the transfer of liquor licenses
22 into that local option district, hotel, golf course or
23 racetrack and all public and private rooms, facilities and
24 areas in which alcoholic beverages are sold or served in the
25 customary operating procedures of the restaurant, hotel, golf

1 course or racetrack. "Licensed premises" also includes rural
2 dispenser licenses located in the unincorporated areas of a
3 county with a population of less than thirty thousand,
4 located in buildings in existence as of January 1, 2012, that
5 are within one hundred fifty feet of one another and that are
6 under the direct control of the license holder;

7 P. "local option district" means a county that has
8 voted to approve the sale, serving or public consumption of
9 alcoholic beverages, or an incorporated municipality that
10 falls within a county that has voted to approve the sale,
11 serving or public consumption of alcoholic beverages, or an
12 incorporated municipality of over five thousand population
13 that has independently voted to approve the sale, serving or
14 public consumption of alcoholic beverages under the terms of
15 the Liquor Control Act or any former act;

16 Q. "manufacturer" means a distiller, rectifier,
17 brewer or winer;

18 R. "minor" means a person under twenty-one years
19 of age;

20 S. "package" means an immediate container of
21 alcoholic beverages that is filled or packed by a
22 manufacturer or wine bottler for sale by the manufacturer or
23 wine bottler to wholesalers;

24 T. "person" means an individual, corporation,
25 firm, partnership, copartnership, association or other legal

1 entity;

2 U. "rectifier" means a person who blends, mixes or
3 distills alcohol with other liquids or substances for the
4 purpose of making an alcoholic beverage for the purpose of
5 sale other than to the consumer by the drink, and includes
6 all bottlers of spirituous liquors;

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

17 W. "retailer" means a person licensed under the
18 provisions of the Liquor Control Act selling, offering for
19 sale or having in the person's possession with the intent to
20 sell alcoholic beverages in unbroken packages, including
21 growlers, for consumption and not for resale off the licensed
22 premises;

23 X. "spirituous liquors" means alcoholic beverages
24 as defined in Subsection A of this section except fermented
25 beverages such as wine, beer and ale;

1 Y. "wholesaler" means a person whose place of
2 business is located in New Mexico and who sells, offers for
3 sale or possesses for the purpose of sale any alcoholic
4 beverages for resale by the purchaser;

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

11 AA. "wine bottler" means a New Mexico wholesaler
12 who is licensed to sell wine at wholesale for resale only and
13 who buys wine in bulk and bottles it for wholesale resale;

14 BB. "winegrower" means a person who owns or
15 operates a business for the manufacture of wine;

16 CC. "winer" means a winegrower; and

17 DD. "winery" means a facility in which a
18 winegrower manufactures and stores wine."

19 SECTION 2. Section 60-6B-19 NMSA 1978 (being Laws 1993,
20 Chapter 68, Section 36, as amended) is amended to read:

21 "60-6B-19. RETAILERS AND DISPENSERS--SEGREGATED
22 SALES--TABLE WINES EXCEPTED.--

23 A. Except as provided in Subsection B of this
24 section, the director shall by rule develop procedures for
25 segregated alcohol sales by every retailer or dispenser who

1 sells alcoholic beverages in unbroken packages for
2 consumption and not for resale off the licensed premises and
3 whose sales are less than sixty percent of their total sales,
4 giving serious consideration to the potentially adverse
5 impact of segregated sales on different sizes of the
6 establishments of the retailer or dispenser. The rules shall
7 include:

8 (1) a provision to allow segregated sales of
9 beer or cider that is packaged in a growler;

10 (2) a procedure by which a retailer or
11 dispenser may fill or refill a growler and allow the growler
12 to be removed from the licensed premises after the growler is
13 sealed with a tamper-proof seal and the customer's sales
14 receipt is attached to the growler; and

15 (3) a requirement that a retailer or
16 dispenser shall sterilize a growler provided by a customer
17 before the growler is refilled and sealed.

18 B. There shall not be segregated sales of table
19 wine by retailers or dispensers who sell alcoholic beverages
20 in the manner described in Subsection A of this section.

21 C. For purposes of this section, "table wine"
22 means wine containing fourteen percent or less alcohol by
23 volume when bottled or packaged by the manufacturer, but may
24 also include:

25 (1) wine that is sealed or capped by cork

1 closure and aged two years or more;

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

6 (3) vermouth and sherry."

7 SECTION 3. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2016. _____

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