

1 HOUSE BILL 296

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Rick Little

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10 AN ACT

11 RELATING TO LIQUOR; AMENDING DISPENSER'S AND RETAILER'S LICENSE
12 PROVISIONS; REPEALING LIMITATIONS ON NUMBERS OF DISPENSER'S AND
13 RETAILER'S LICENSES; REPEALING INTER-LOCAL OPTION DISTRICT
14 TRANSFERS; REPEALING PROVISIONS FOR RESTAURANT, CLUB AND CANOPY
15 LICENSES; AMENDING OTHER SECTIONS OF THE LIQUOR CONTROL ACT
16 ACCORDINGLY.

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

19 SECTION 1. Section 60-3A-3 NMSA 1978 (being Laws 1981,
20 Chapter 39, Section 3, as amended by Laws 2016, Chapter 73,
21 Section 1 and by Laws 2016, Chapter 76, Section 1) is amended
22 to read:

23 "60-3A-3. DEFINITIONS.--As used in the Liquor Control
24 Act:

25 A. "alcoholic beverages" means distilled or

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1 rectified spirits, potable alcohol, powdered alcohol, frozen or
2 freeze-dried alcohol, brandy, whiskey, rum, gin and aromatic
3 bitters bearing the federal internal revenue strip stamps or
4 any similar alcoholic beverage, including blended or fermented
5 beverages, dilutions or mixtures of one or more of the
6 foregoing containing more than one-half percent alcohol, but
7 excluding medicinal bitters;

8 B. "beer" means an alcoholic beverage obtained by
9 the fermentation of any infusion or decoction of barley, malt
10 and hops or other cereals in water, and includes porter, beer,
11 ale and stout;

12 C. "brewer" means a person who owns or operates a
13 business for the manufacture of beer;

14 D. "cider" means an alcoholic beverage made from
15 the normal alcoholic fermentation of the juice of sound, ripe
16 apples that contains not less than one-half of one percent
17 alcohol by volume and not more than seven percent alcohol by
18 volume;

19 ~~[E. "club" means:~~

20 ~~(1) any nonprofit group, including an~~
21 ~~auxiliary or subsidiary group, organized and operated under the~~
22 ~~laws of this state, with a membership of not less than fifty~~
23 ~~members who pay membership dues at the rate of not less than~~
24 ~~five dollars (\$5.00) per year and who, under the constitution~~
25 ~~and bylaws of the club, have all voting rights and full~~

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1 membership privileges, and which group is the owner, lessee or
2 occupant of premises used exclusively for club purposes and
3 which group the director finds:

4 (a) is operated solely for recreation,
5 social, patriotic, political, benevolent or athletic purposes;
6 and

7 (b) has been granted an exemption by the
8 United States from the payment of the federal income tax as a
9 club under the provisions of Section 501(a) of the Internal
10 Revenue Code of 1986, as amended, or, if the applicant has not
11 operated as a club for a sufficient time to be eligible for the
12 income tax exemption, it must execute and file with the
13 director a sworn letter of intent declaring that it will, in
14 good faith, apply for an income tax exemption as soon as it is
15 eligible; or

16 (2) an airline passenger membership club
17 operated by an air common carrier that maintains or operates a
18 clubroom at an international airport terminal. As used in this
19 paragraph, "air common carrier" means a person engaged in
20 regularly scheduled air transportation between fixed termini
21 under a certificate of public convenience and necessity issued
22 by the federal aviation administration;

23 F.] E. "commission" means the secretary of public
24 safety when the term is used in reference to the enforcement
25 and investigatory provisions of the Liquor Control Act and

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1 means the superintendent of regulation and licensing when the
2 term is used in reference to the licensing provisions of the
3 Liquor Control Act;

4 [G.] F. "department" means the New Mexico state
5 police division of the department of public safety when the
6 term is used in reference to the enforcement and investigatory
7 provisions of the Liquor Control Act and means the director of
8 the alcohol and gaming division of the regulation and licensing
9 department when the term is used in reference to the licensing
10 provisions of the Liquor Control Act;

11 [H.] G. "director" means the chief of the New
12 Mexico state police division of the department of public safety
13 when the term is used in reference to the enforcement and
14 investigatory provisions of the Liquor Control Act and means
15 the director of the alcohol and gaming division of the
16 regulation and licensing department when the term is used in
17 reference to the licensing provisions of the Liquor Control
18 Act;

19 [I.] H. "dispenser" means a person licensed under
20 the provisions of the Liquor Control Act selling, offering for
21 sale or having in the person's possession with the intent to
22 sell alcoholic beverages [~~both~~] by the drink for consumption on
23 the licensed premises; [~~and in unbroken packages, including~~
24 ~~growlers, for consumption and not for resale off the licensed~~
25 ~~premises;~~

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1 ~~J.~~ I. "distiller" means a person engaged in
2 manufacturing spirituous liquors;

3 ~~K.~~ J. "golf course" means a tract of land and
4 facilities used for playing golf and other recreational
5 activities that includes tees, fairways, greens, hazards,
6 putting greens, driving ranges, recreational facilities,
7 patios, pro shops, cart paths and public and private roads that
8 are located within the tract of land;

9 ~~L.~~ K. "governing body" means the board of county
10 commissioners of a county or the city council or city
11 commissioners of a municipality;

12 ~~M.~~ L. "growler" means a clean, refillable,
13 resealable container that has a liquid capacity that does not
14 exceed one gallon and that is intended and used for the sale of
15 beer, wine or cider for consumption off premises;

16 ~~N.~~ M. "hotel" means an establishment or complex
17 having a resident of New Mexico as a proprietor or manager and
18 where, in consideration of payment, meals and lodging are
19 regularly furnished to the general public. The establishment
20 or complex must maintain for the use of its guests a minimum of
21 twenty-five sleeping rooms;

22 ~~O.~~ N. "licensed premises" means the contiguous
23 areas or areas connected by indoor passageways of a structure
24 and the outside dining, recreation and lounge areas of the
25 structure and the grounds and vineyards of a structure that is

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1 a winery that are under the direct control of the licensee and
2 from which the licensee is authorized to sell, serve or allow
3 the consumption of alcoholic beverages under the provisions of
4 its license; provided that [~~in the case of a restaurant~~]
5 "licensed premises" includes a [~~restaurant, that has operated~~
6 ~~continuously in two separate structures since July 1, 1987 and~~
7 ~~that is located in a local option district that has voted to~~
8 ~~disapprove the transfer of liquor licenses into that local~~
9 ~~option district~~] hotel, golf course, ski area or racetrack and
10 all public and private rooms, facilities and areas in which
11 alcoholic beverages are sold or served in the customary
12 operating procedures of the [~~restaurant~~] hotel, golf course,
13 ski area or racetrack; [~~"Licensed premises" also includes rural~~
14 ~~dispenser licenses located in the unincorporated areas of a~~
15 ~~county with a population of less than thirty thousand, located~~
16 ~~in buildings in existence as of January 1, 2012, that are~~
17 ~~within one hundred fifty feet of one another and that are under~~
18 ~~the direct control of the license holder;~~

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

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1 consumption of alcoholic beverages under the terms of the
2 Liquor Control Act or any former act;

3 [Q.] P. "manufacturer" means a distiller,
4 rectifier, brewer or winer;

5 [R.] Q. "minor" means a person under twenty-one
6 years of age;

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

11 [T.] S. "person" means an individual, corporation,
12 firm, partnership, copartnership, association or other legal
13 entity;

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

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

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1 ~~establishments as defined in rules promulgated by the director~~
2 ~~servng only hamburgers, sandwiches, salads and other fast~~
3 ~~foods;~~

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

9 ~~[X.]~~ V. "ski area" means a tract of land and
10 facilities for the primary purpose of alpine skiing,
11 snowboarding or other snow sports with trails, parks and at
12 least one chairlift with uphill capacity and may include
13 facilities necessary for other seasonal or year-round
14 recreational activities;

15 ~~[Y.]~~ W. "spirituous liquors" means alcoholic
16 beverages as defined in Subsection A of this section except
17 fermented beverages such as wine, beer and ale;

18 ~~[Z.]~~ X. "wholesaler" means a person whose place of
19 business is located in New Mexico and who sells, offers for
20 sale or possesses for the purpose of sale any alcoholic
21 beverages for resale by the purchaser;

22 ~~[AA.]~~ Y. "wine" includes the words "fruit juices"
23 and means alcoholic beverages obtained by the fermentation of
24 the natural sugar contained in fruit or other agricultural
25 products, with or without the addition of sugar or other

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1 products, that do not contain less than one-half percent nor
2 more than twenty-one percent alcohol by volume;

3 ~~[BB.]~~ Z. "wine bottler" means a New Mexico
4 wholesaler who is licensed to sell wine at wholesale for resale
5 only and who buys wine in bulk and bottles it for wholesale
6 resale;

7 ~~[GG.]~~ AA. "winegrower" means a person who owns or
8 operates a business for the manufacture of wine;

9 ~~[DD.]~~ BB. "winer" means a winegrower; and

10 ~~[EE.]~~ CC. "winery" means a facility in which a
11 winegrower manufactures and stores wine."

12 **SECTION 2.** Section 60-6A-2 NMSA 1978 (being Laws 1981,
13 Chapter 39, Section 19) is amended to read:

14 "60-6A-2. RETAILER'S LICENSE.--

15 A. In any local option district, a person qualified
16 under the provisions of the Liquor Control Act may apply for
17 and be issued a retailer's license for the retail sale of
18 alcoholic beverages.

19 B. A retailer's license ~~[when issued]~~ shall only be
20 used by the person to whom the license is issued and shall only
21 be used within the licensed premises, pursuant to provisions of
22 the Liquor Control Act.

23 C. A retailer's license shall only entitle the
24 retailer to sell alcoholic beverages in unbroken packages on
25 the licensed premises. Retailers shall not serve or permit the

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1 consumption of alcoholic beverages on the licensed premises
2 unless the retailer also holds a dispenser's license.

3 D. A retailer's license shall not be transferable
4 from person to person and shall not be leased.

5 E. A retailer's license shall not be transferable
6 from one location to another, except within the local option
7 district in which the retailer is licensed and in accordance
8 with the provisions of the Liquor Control Act.

9 F. Nothing in this section shall prevent a retailer
10 from holding other licenses pursuant to the Liquor Control
11 Act."

12 SECTION 3. Section 60-6A-3 NMSA 1978 (being Laws 1981,
13 Chapter 39, Section 20) is amended to read:

14 "60-6A-3. DISPENSER'S LICENSE.--

15 A. In any local option district, a person qualified
16 under the provisions of the Liquor Control Act may apply for
17 and be issued a dispenser's license for the sale of alcoholic
18 beverages.

19 B. A dispenser's license [~~when issued~~] shall only
20 be used by the person to whom the license is issued and shall
21 only be used within the licensed premises, pursuant to
22 provisions of the Liquor Control Act.

23 C. A dispenser's license shall only entitle the
24 dispenser to sell, serve or permit the consumption of alcoholic
25 beverages by the drink on the licensed premises. Dispensers

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1 shall not sell alcoholic beverages in unbroken packages unless
2 the dispenser also holds a retailer's license.

3 D. A dispenser's license shall not be transferable
4 from person to person and shall not be leased.

5 E. A dispenser's license shall not be transferable
6 from one location to another, except within the local option
7 district in which the dispenser is licensed and in accordance
8 with the provisions of the Liquor Control Act.

9 F. Nothing in this section shall prevent a
10 dispenser from holding other licenses pursuant to the Liquor
11 Control Act."

12 SECTION 4. Section 60-6A-15 NMSA 1978 (being Laws 1981,
13 Chapter 39, Section 32, as amended) is amended to read:

14 "60-6A-15. LICENSE FEES.--Every application for the
15 issuance or renewal of the following licenses shall be
16 accompanied by a license fee in the following specified
17 amounts:

18 A. manufacturer's license as a distiller, except a
19 brandy manufacturer, three thousand dollars (\$3,000);

20 B. manufacturer's license as a brewer, three
21 thousand dollars (\$3,000);

22 C. manufacturer's license as a rectifier, one
23 thousand fifty dollars (\$1,050);

24 D. wholesaler's license to sell all alcoholic
25 beverages for resale only, two thousand five hundred dollars

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1 (\$2,500);

2 E. wholesaler's license to sell spirituous liquors
3 and wine for resale only, one thousand seven hundred fifty
4 dollars (\$1,750);

5 F. wholesaler's license to sell spirituous liquors
6 for resale only, one thousand five hundred dollars (\$1,500);

7 G. wholesaler's license to sell beer and wine for
8 resale only, one thousand five hundred dollars (\$1,500);

9 H. wholesaler's license to sell beer for resale
10 only, one thousand dollars (\$1,000);

11 I. wholesaler's license to sell wine for resale
12 only, seven hundred fifty dollars (\$750);

13 J. retailer's license, one thousand three hundred
14 dollars (\$1,300);

15 K. dispenser's license, one thousand three hundred
16 dollars (\$1,300);

17 ~~L. canopy license, one thousand three hundred~~
18 ~~dollars (\$1,300);~~

19 ~~M. restaurant license, one thousand fifty dollars~~
20 ~~(\$1,050);~~

21 ~~N. club license, for clubs with more than two~~
22 ~~hundred fifty members, one thousand two hundred fifty dollars~~
23 ~~(\$1,250), and for clubs with two hundred fifty members or~~
24 ~~fewer, two hundred fifty dollars (\$250);~~

25 ~~0.]~~ L. wine bottler's license to sell to

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1 wholesalers only, five hundred dollars (\$500);

2 [P-] M. public service license, one thousand two
3 hundred fifty dollars (\$1,250);

4 [Q-] N. nonresident licenses, for a total billing
5 to New Mexico wholesalers:

- 6 (1) in excess of:
- 7 \$3,000,000 annually \$10,500;
- 8 1,000,000 annually 5,250;
- 9 500,000 annually 3,750;
- 10 200,000 annually 2,700;
- 11 100,000 annually 1,800;

12 and

- 13 50,000 annually 900;

14 and

- 15 (2) of \$50,000 or less \$300;

16 [R-] O. wine wholesaler's license, for persons with
17 sales of five thousand gallons of wine per year or less,
18 twenty-five dollars (\$25.00), and for persons with sales in
19 excess of five thousand gallons of wine per year, one hundred
20 dollars (\$100); and

21 [S-] P. beer bottler's license, two hundred dollars
22 (\$200)."

23 SECTION 5. Section 60-6A-16 NMSA 1978 (being Laws 2015,
24 Chapter 86, Section 1) is amended to read:

25 "60-6A-16. PRORATION OF FEES.--

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1 A. License fees for new licenses issued after the
2 beginning of the license year shall be prorated.

3 B. Dispenser, retailer [~~restaurant, club~~] and
4 public service license fees shall be prorated as follows:

5 (1) licenses issued in the first quarter of
6 the license year for each license type shall be subject to the
7 full amount of the annual license fee;

8 (2) licenses issued in the second quarter of
9 the license year for each license type shall be subject to
10 three-fourths of the annual license fee;

11 (3) licenses issued in the third quarter of
12 the license year for each license type shall be subject to one-
13 half of the annual license fee; and

14 (4) licenses issued in the fourth quarter of
15 the license year for each license type shall be subject to one-
16 fourth of the annual license fee.

17 C. License fees for all new licenses not provided
18 for in Subsection B of this section, except nonresident
19 licenses and common carrier registrations, shall not be
20 prorated but shall be subject to payment of the full amount of
21 the annual license fee.

22 D. Nonresident licenses and common carrier
23 registrations shall be issued for a three-year period. The
24 three-year license for nonresident licenses and for common
25 carrier registrations begins July 1, 2013 and every third year

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1 subsequently. Nonresident licenses and common carrier
2 registrations issued at any time during the:

3 (1) first license year shall be subject to
4 payment of the full amount of the three-year license fee;

5 (2) second license year shall be subject to
6 payment of two-thirds of the three-year license fee; and

7 (3) third license year shall be subject to
8 payment of one-third of the three-year license fee."

9 SECTION 6. Section 60-6A-19 NMSA 1978 (being Laws 1981,
10 Chapter 39, Section 36, as amended) is amended to read:

11 "60-6A-19. NO PROPERTY RIGHT IN LICENSE--EXCEPTION.--[A.]
12 The holder of [~~any~~] a license issued under the Liquor Control
13 Act or any former act has no vested property right in the
14 license, which is the property of the state; provided that
15 retailer's licenses and dispenser's licenses [~~and canopy~~
16 ~~licenses that were replaced by dispenser's licenses pursuant to~~
17 ~~Section 60-6B-16 NMSA 1978:--(1)] shall be considered property
18 subject to execution, attachment, a security transaction,
19 liens, receivership and [~~all~~] other incidents of tangible
20 personal property under the laws of this state, except as
21 otherwise provided in the Liquor Control Act~~

22 [~~(2) may be assigned, transferred from person~~
23 ~~to person or leased, provided all requirements of the Liquor~~
24 ~~Control Act and department regulations are fulfilled; and~~

25 [~~(3) shall be transferred as personal property~~

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1 ~~upon attachment, execution, repossession by a secured party or~~
2 ~~lienor, foreclosure by a creditor, appointment of a receiver~~
3 ~~for the licensee, death of the licensee, filing of a petition~~
4 ~~of bankruptcy by or for the licensee, incapacity of the~~
5 ~~licensee or dissolution of the licensee. The director may, by~~
6 ~~rule or regulation, determine any application or notice~~
7 ~~requirement for a person who temporarily holds a license~~
8 ~~pursuant to this subsection.~~

9 ~~B. Any license issued under the Liquor Control Act~~
10 ~~may be transferred to any location not otherwise contrary to~~
11 ~~law within the same local option district where the license is~~
12 ~~then located, provided all requirements of the Liquor Control~~
13 ~~Act and department regulations are fulfilled]."~~

14 SECTION 7. Section 60-6B-2 NMSA 1978 (being Laws 1981,
15 Chapter 39, Section 38, as amended) is amended to read:

16 "60-6B-2. APPLICATIONS FOR NEW LICENSES--APPROVAL OF
17 APPROPRIATE GOVERNING BODY.--

18 A. Before a new license authorized by the Liquor
19 Control Act may be issued by the director, the applicant for
20 the license shall:

21 (1) submit to the director a written
22 application for the license under oath, in the form prescribed
23 by and stating the information required by the director,
24 together with a nonrefundable application fee of two hundred
25 dollars (\$200);

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1 (2) submit to the director [~~for approval~~] a
2 description, including floor plans, in a form prescribed by the
3 director, that shows the proposed licensed premises for which
4 the license application is submitted. The area represented by
5 the approved description shall become the licensed premises;

6 (3) if the applicant is not an individual,
7 submit the name and street address of a New Mexico resident who
8 is not a felon, who has power of attorney and authority to bind
9 the applicant to matters related to liquor sales and operations
10 and upon whom the director may serve any notice related to
11 ownership or operation of the license, including any notice of
12 charge pursuant to Chapter 60, Article 6C NMSA 1978; and

13 (4) if the applicant holds or has held a
14 license for sale of alcoholic beverages of any kind or in any
15 form to the public, the application shall include a sworn
16 affidavit by the applicant that all wholesalers who are or were
17 creditors of the applicant have been paid or that satisfactory
18 arrangements have been made between the applicant and the
19 wholesaler for the payment of such debts. An applicant who
20 submits a false affidavit shall be denied a license. When the
21 director determines that a false affidavit has been submitted,
22 the director shall refer the matter to the attorney general or
23 district attorney for prosecution of perjury.

24 B. Applicants that are not individuals shall submit
25 the following information:

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1 (1) if the applicant is a corporation, [be
2 ~~required to~~] the applicant shall submit [~~as part of its~~
3 ~~application the following~~]:

4 (a) a certified copy of its articles of
5 incorporation or, if a foreign corporation, a certified copy of
6 its certificate of authority;

7 (b) the names and addresses of all
8 officers and directors and those stockholders owning ten
9 percent or more of the voting stock of the corporation and the
10 amounts of stock held by each stockholder; provided, however, a
11 corporation may not be licensed if an officer, manager,
12 director or holder of more than a ten percent interest in the
13 applicant entity would not be eligible to hold a license
14 pursuant to the Liquor Control Act; and

15 (c) such additional information
16 regarding the corporation as the director may require to assure
17 full disclosure of the corporation's structure and financial
18 responsibility;

19 [~~(5)~~] (2) if the applicant is a limited
20 partnership, the applicant shall submit [~~as part of its~~
21 ~~application the following~~]:

22 (a) a certified copy of its certificate
23 of limited partnership;

24 (b) the names and addresses of all
25 general partners and of all limited partners contributing ten

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1 percent or more of the total value of contributions made to the
2 limited partnership or entitled to ten percent or more of the
3 profits earned or other income paid by the limited partnership.

4 A limited partnership shall not receive a license if a partner
5 or holder of a ten percent or greater interest in the applicant
6 entity designated in this subsection would not be eligible to
7 hold a license issued pursuant to the Liquor Control Act; and

8 (c) such additional information
9 regarding the limited partnership as the director may require
10 to assure full disclosure of the limited partnership's
11 structure and financial responsibility;

12 [~~(6)~~] (3) if the applicant is a limited
13 liability company, the applicant shall submit [~~as part of its~~
14 ~~application the following~~]:

15 (a) a copy of the articles of
16 organization, with a copy of the certificate of filing with the
17 public regulation commission;

18 (b) the [~~name~~] names and addresses of
19 all the managing members and all of the nonmanaging members
20 that own a greater than ten percent interest in the limited
21 liability company. Any direct or indirect parent entity of the
22 limited liability company with an interest of ten percent or
23 more in the applicant entity shall submit application forms and
24 qualify to hold a license; and

25 (c) such additional information

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1 regarding the limited liability company as the director may
2 require to assure full disclosure of the limited liability
3 company's structure and financial responsibility; and

4 ~~[(7)]~~ (4) if the applicant is a trust, the
5 applicant shall submit ~~[as part of its application]:~~

6 (a) the names and addresses of the
7 trustees;

8 (b) the names and addresses of any
9 beneficiaries having control over the property of the trust or
10 receiving regular and substantial distributions of principal
11 and income from the trust. Any beneficiary receiving regular
12 and substantial distributions from the trust shall qualify to
13 hold a license. The director may request a copy of the trust
14 agreement for review, which trust agreement need not become
15 part of the application. Affidavits as to the operation and
16 distribution of the principal and income may be requested in
17 lieu of, or in addition to, the copy of the trust agreement
18 that is supplied for review by the department; and

19 (c) such additional information
20 regarding the trust as the director may require to assure full
21 disclosure of the trust's structure and financial
22 responsibility. ~~[and~~

23 ~~(8) obtain approval for the issuance from the~~
24 ~~governing body of the local option district in which the~~
25 ~~proposed licensed premises are to be located in accordance with~~

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1 ~~the provisions of the Liquor Control Act.~~

2 B.] C. Except for individual officers, directors,
3 shareholders, members or partners of entities that are publicly
4 traded on a national stock exchange and for individuals who
5 have been fingerprinted for another New Mexico license and had
6 no prior criminal or arrest record, every applicant for a new
7 license [~~or for a transfer of ownership of a license~~] shall
8 [~~file with the application~~] submit for each of the following
9 individuals two complete sets of fingerprints taken under the
10 supervision of and certified to by an officer of the New Mexico
11 state police, a county sheriff, a municipal chief of police, a
12 police officer in a foreign country or an individual qualified
13 to take fingerprints by virtue of training or experience, [~~for~~
14 ~~each of the following individuals~~] except that if an applicant
15 is not a resident of New Mexico, fingerprints may be taken
16 under supervision and certification of comparable officers in
17 the state of residence of the applicant:

18 (1) if the applicant is [~~a person~~] an
19 individual, for the applicant;

20 (2) if the applicant or the holder of a ten
21 percent or greater interest in the applicant entity is a
22 corporation, for each principal officer, for each member of the
23 board of directors and for each stockholder with a ten percent
24 or greater interest in the applicant entity;

25 (3) if the applicant or the holder of a ten

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1 percent or greater interest in the applicant entity is a
2 general partnership, for each partner;

3 (4) if the applicant or the holder of a ten
4 percent or greater interest in the applicant entity is a
5 limited partnership, for each general partner, for each limited
6 partner holding a ten percent or greater interest in the
7 applicant entity and for any principal officers of the limited
8 partnership;

9 (5) if the applicant or the holder of a ten
10 percent or greater interest in the applicant entity is a
11 limited liability company, for each managing member, for each
12 member who owns a ten percent or greater interest in the
13 applicant entity and for any principal officer of the limited
14 liability company; and

15 (6) if the applicant is a trust, for each
16 trustee and for each beneficiary who has control over trust
17 property and income or who receives substantial and regular
18 distributions from the trust.

19 ~~[G. Upon submission of a sworn affidavit from each~~
20 ~~person] D. Each individual who is required to ~~[file]~~ submit~~

21 fingerprints shall submit a sworn affidavit stating that the
22 ~~[person]~~ individual has not been convicted of a felony in any
23 jurisdiction. ~~[and pending the results of background~~
24 ~~investigations, a temporary license for ninety days may be~~
25 ~~issued. The temporary license may be extended by the director~~

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1 ~~for an additional ninety days if the director determines there~~
2 ~~is not sufficient time to complete the background investigation~~
3 ~~or obtain reviews of fingerprints from appropriate agencies. A~~
4 ~~temporary license shall be surrendered immediately upon order~~
5 ~~of the director.~~

6 D.] An applicant who files a false affidavit shall
7 be denied a license. When the director determines a false
8 affidavit has been filed, the director shall refer the matter
9 to the attorney general or district attorney for prosecution of
10 perjury.

11 ~~[E. If an applicant is not a resident of New~~
12 ~~Mexico, fingerprints may be taken under supervision and~~
13 ~~certification of comparable officers in the state of residence~~
14 ~~of the applicant.~~

15 ~~F. Before issuing a license]~~ E. Upon receipt of an
16 application, the director shall cause a notice of the
17 application for the license to be posted conspicuously, on a
18 sign not smaller than thirty inches by forty inches, on the
19 outside of the front wall or front entrance of the immediate
20 premises for which the license is sought or, if no building or
21 improvements exist on the premises, the notice shall be posted
22 at the front entrance of the immediate premises for which the
23 license is sought, on a billboard not smaller than five feet by
24 five feet. The contents of the notice shall be in the form
25 prescribed by the department, and such posting shall be over a

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1 continuous period of twenty days prior to preliminary approval
2 of the license. The director shall prescribe the manner in
3 which the posting may be accomplished.

4 F. All costs of publication and posting shall be
5 paid by the applicant.

6 G. It is unlawful for a person to remove or deface
7 a notice posted in accordance with Subsection E of this
8 section. A person convicted of a violation of this subsection
9 shall be punished by a fine of not more than three hundred
10 dollars (\$300) or by imprisonment in the county jail for not
11 more than one hundred twenty days or by both.

12 H. The department shall hold a public hearing
13 within thirty days after receipt of the application to
14 determine whether to grant preliminary approval of the issuance
15 of a license. [~~pursuant to Subsection K of this section.~~

16 ~~G. An application for transfer of ownership shall~~
17 ~~be filed with the department no later than thirty days after~~
18 ~~the date a person acquired an ownership interest in a license.~~
19 ~~It shall contain the actual date of sale of the license and~~
20 ~~shall be accompanied by a sworn affidavit from the owner of~~
21 ~~record of the license agreeing to the sale of the license to~~
22 ~~the applicant as well as attesting to the accuracy of the~~
23 ~~information required by this section to be filed with the~~
24 ~~department. A license shall not be transferred unless it will~~
25 ~~be placed into operation in an actual location within one~~

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1 ~~hundred twenty days of issuance of the license, unless for good~~
2 ~~cause shown the director grants an additional extension for a~~
3 ~~length of time determined by the director.~~

4 ~~H. Whenever it appears to the director that there~~
5 ~~will be more applications for new licenses than the available~~
6 ~~number of new licenses during any time period, a random~~
7 ~~selection method for the qualification, approval and issuance~~
8 ~~of new licenses shall be provided by the director. The random~~
9 ~~selection method shall allow each applicant an equal~~
10 ~~opportunity to obtain an available license, provided that all~~
11 ~~dispenser's and retailer's licenses issued in a calendar year~~
12 ~~shall be issued to residents of the state. For the purposes of~~
13 ~~random selection, the director shall also set a reasonable~~
14 ~~deadline by which applications for the available licenses shall~~
15 ~~be filed. A person shall not file more than one application~~
16 ~~for each available license and no more than three applications~~
17 ~~per calendar year.~~

18 ~~I. After the deadline set in accordance with~~
19 ~~Subsection H of this section, no more than ten applications per~~
20 ~~available license shall be selected at random for priority of~~
21 ~~qualification and approval. Within thirty days after the~~
22 ~~random selection for the ten priority positions for each~~
23 ~~license, a hearing pursuant to Subsection K of this section~~
24 ~~shall be held to determine the qualifications of the applicant~~
25 ~~having the highest priority for each available license. If~~

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1 necessary, such a hearing shall be held on each selected
2 application by priority until a qualified applicant for each
3 available license is approved. Further random selections for
4 priority positions shall also be held pursuant to this section
5 as necessary.

6 J. All applications submitted for a license shall
7 expire upon the director's final approval of a qualified
8 applicant for that available license.

9 K.] I. The director shall notify the applicant by
10 certified mail of the date, time and place of the hearing. The
11 hearing shall be held in Santa Fe. The director may designate
12 a hearing officer to take evidence at the hearing. The
13 director or the hearing officer shall have the power to
14 administer oaths.

15 [L.] J. In determining whether [~~a license shall be~~
16 ~~issued~~] preliminary approval of issuance of a license shall be
17 granted, the director shall take into consideration all
18 requirements of the Liquor Control Act. [~~In the issuance of a~~
19 ~~license~~] The director shall specifically consider the nature
20 and number of prior violations of the Liquor Control Act by the
21 applicant or of any citations issued within the prior five
22 years against a license held by the applicant or in which the
23 applicant had an ownership interest required to be disclosed
24 under the Liquor Control Act. The director shall disapprove
25 the [~~issuance~~] application or give preliminary approval of the

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1 issuance of the license based upon a review of all
2 documentation submitted and any investigation deemed necessary
3 by the director.

4 ~~[M. Before a new license is issued for a location,~~
5 ~~the director shall cause a notice of the application for the~~
6 ~~license to be posted conspicuously, on a sign not smaller than~~
7 ~~thirty inches by forty inches, on the outside of the front wall~~
8 ~~or front entrance of the immediate premises for which the~~
9 ~~license is sought or, if no building or improvements exist on~~
10 ~~the premises, the notice shall be posted at the front entrance~~
11 ~~of the immediate premises for which the license is sought, on a~~
12 ~~billboard not smaller than five feet by five feet. The~~
13 ~~contents of the notice shall be in the form prescribed by the~~
14 ~~department, and such posting shall be over a continuous period~~
15 ~~of twenty days prior to preliminary approval of the license.~~
16 ~~The director shall prescribe the manner in which the posting~~
17 ~~may be accomplished by the licensee, the licensee's~~
18 ~~representative or the director's designee.~~

19 ~~N. A license shall not be issued until the posting~~
20 ~~requirements of Subsection M of this section have been met.~~

21 ~~O. All costs of publication and posting shall be~~
22 ~~paid by the applicant.~~

23 ~~P. It is unlawful for a person to remove or deface~~
24 ~~a notice posted in accordance with this section. A person~~
25 ~~convicted of a violation of this subsection shall be punished~~

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1 ~~by a fine of not more than three hundred dollars (\$300) or by~~
2 ~~imprisonment in the county jail for not more than one hundred~~
3 ~~twenty days or by both.]~~

4 K. Upon granting preliminary approval, the director
5 shall notify the governing body of the local option district in
6 which the license will be located of the director's preliminary
7 approval of the issuance of the license. Notice to the
8 governing body shall be by certified mail.

9 L. A governing body that has received a notice of
10 preliminary approval of the issuance of a license from the
11 department may approve or disapprove the issuance of the
12 license in accordance with the provisions of this section.

13 M. Within forty-five days after receipt of a notice
14 of preliminary approval from the department, the governing body
15 shall hold a public hearing on the question of whether the
16 department should approve the issuance of the license.

17 N. The governing body shall give notice of the
18 public hearing, and the notice shall:

19 (1) be published at least twice, with the
20 initial notice published at least thirty days before the
21 hearing in a newspaper of general circulation within the
22 territorial limits of the governing body;

23 (2) in addition to the required print
24 publication, be published on a local option district's website,
25 if the district has a website;

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- 1 (3) set forth:
2 (a) the date, time and place of the
3 hearing;
4 (b) the name and address of the
5 applicant;
6 (c) the department's preliminary
7 approval of the issuance of the license;
8 (d) the location of the applicant's
9 proposed licensed premises; and
10 (e) such other information as may be
11 required by the department; and

12 (4) be sent by certified mail to the
13 applicant.

14 O. The governing body may designate a hearing
15 officer to conduct the hearing. A record shall be made of the
16 hearing.

17 P. The governing body may disapprove the issuance
18 of the license if:

19 (1) the proposed location is within an area
20 where the sale of alcoholic beverages is prohibited by the laws
21 of New Mexico;

22 (2) the issuance would be in violation of a
23 zoning or other ordinance of the governing body; or

24 (3) the issuance would be detrimental to the
25 public health, safety or morals of the residents of the local

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1 option district.

2 Q. Within thirty days after the public hearing, the
3 governing body shall notify the department as to whether the
4 governing body has approved or disapproved the proposed
5 issuance of the license. If the governing body fails to either
6 approve or disapprove the issuance of the license within thirty
7 days after the public hearing, the director may give final
8 approval to the issuance of the license.

9 R. If the governing body disapproves the issuance
10 of the license, it shall notify the department within thirty
11 days setting forth the reasons for the disapproval. A copy of
12 the minutes of the public hearing shall be provided to the
13 department by the governing body with the notice of
14 disapproval. If the governing body disapproves of the issuance
15 of the license, the director shall disapprove the issuance of
16 the license.

17 S. If the governing body approves the issuance of
18 the license, it shall notify the department within thirty days
19 of its approval. If the governing body approves of the
20 issuance of the license, the director shall approve the
21 issuance of the license.

22 T. After preliminary approval by the department and
23 approval by the governing body and pending the results of
24 background investigations, a temporary license for ninety days
25 may be issued. The temporary license may be extended by the

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1 director for an additional ninety days if the director
2 determines that there is not sufficient time to complete the
3 background investigation or obtain reviews of fingerprints from
4 appropriate agencies. A temporary license shall be surrendered
5 immediately upon order of the director.

6 [Q-] U. A person aggrieved by a decision made by
7 the director as to the approval or disapproval of the issuance
8 of a license may appeal to the district court pursuant to the
9 provisions of Section 39-3-1.1 NMSA 1978. If the disapproval
10 is based upon local option district disapproval [~~pursuant to~~
11 ~~Subsection H of Section 60-6B-4 NMSA 1978~~], the governing body
12 of the local option district shall be a necessary party to an
13 appeal. The decision of the director shall continue in force,
14 pending a reversal or modification by the district court,
15 unless otherwise ordered by the court."

16 SECTION 8. Section 60-6B-4 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 40, as amended) is amended to read:

18 "60-6B-4. [~~ISSUANCE OR~~] TRANSFER OF LOCATION OF A LICENSE
19 WITHIN A LOCAL OPTION DISTRICT--APPROVAL OF APPROPRIATE
20 GOVERNING BODY.--

21 [~~A. Prior to the approval of the issuance of a new~~
22 ~~license, and prior to the approval of a transfer permitted by~~
23 ~~Section 60-6B-3 or 60-6B-12 NMSA 1978]~~

24 A. A retailer or dispenser may apply to the
25 department for transfer of location of a retailer's or

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1 dispenser's license within the local option district for which
2 the license is approved by submitting to the director a written
3 application, in the form prescribed by and stating the
4 information required by the director, together with a
5 nonrefundable application fee of two hundred dollars (\$200).

6 B. The application shall include, in addition to
7 such other information required by the director, a description,
8 including floor plans, in a form prescribed by the director,
9 that shows the proposed licensed premises for which the
10 application is submitted. The area represented by the approved
11 description shall become the licensed premises.

12 C. The application for transfer of location of a
13 retailer's or dispenser's license shall include a sworn
14 affidavit of the licensee that all wholesalers who are
15 creditors of the licensee have been paid or that satisfactory
16 arrangements have been made between the licensee and the
17 wholesaler for the payment of such debts. A licensee who
18 submits a false affidavit shall be denied approval to transfer
19 the location of the license. When the director determines that
20 a false affidavit has been submitted, the director shall refer
21 the matter to the attorney general or district attorney for
22 prosecution of perjury.

23 D. Upon receipt of a complete application for
24 transfer of location of a license, the director shall cause a
25 notice of the application for the license to be posted

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1 conspicuously, on a sign not smaller than thirty inches by
2 forty inches, on the outside of the front wall or front
3 entrance of the immediate premises for which the license is
4 sought or, if no building or improvements exist on the
5 premises, the notice shall be posted at the front entrance of
6 the immediate premises for which the license is sought, on a
7 billboard not smaller than five feet by five feet. The
8 contents of the notice shall be in the form prescribed by the
9 department, and such posting shall be over a continuous period
10 of twenty days prior to preliminary approval of the license.
11 The director shall prescribe the manner in which the posting
12 may be accomplished.

13 E. All costs of publication and posting shall be
14 paid by the licensee.

15 F. It is unlawful for a person to remove or deface
16 a notice posted in accordance with Subsection D of this
17 section. A person convicted of a violation of this subsection
18 shall be punished by a fine of not more than three hundred
19 dollars (\$300) or by imprisonment in the county jail for not
20 more than one hundred twenty days or by both.

21 G. Upon receipt of a complete application for
22 transfer of location of a license within a local option
23 district and posting of the notice of the application, the
24 director shall notify the governing body of the local option
25 district of the [director's preliminary approval of]

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1 application for the [~~issuance or~~] transfer of location of the
2 license. Notice to the governing body shall be by certified
3 mail.

4 [~~B.~~] H. A governing body that has received a notice
5 of [~~preliminary approval of the issuance or~~] application for
6 transfer of location of a license from the department may
7 approve or disapprove the [~~issuance or~~] transfer of the
8 license. [~~in accordance with the provisions of this section.~~

9 [~~G.~~] I. Within forty-five days after receipt of a
10 notice [~~of preliminary approval~~] from the department of an
11 application for transfer of location of a license, the
12 governing body shall hold a public hearing on the question of
13 whether [~~the department should~~] to approve the proposed
14 [~~issuance or~~] transfer.

15 [~~D.~~] J. The governing body shall give notice of the
16 public hearing, [~~as required by Subsection C of this section~~]
17 and the notice shall:

18 (1) be published at least twice, with the
19 initial notice published at least thirty days before the
20 hearing, in a newspaper of general circulation within the
21 territorial limits of the governing body;

22 (2) in addition to required print publication,
23 be published on a local option district's [~~web site~~] website,
24 if the district has a [~~web site~~] website;

25 (3) set forth:

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- 1 (a) the date, time and place of the
2 hearing;
- 3 (b) the name and address of the
4 licensee;
- 5 ~~[(c) the action proposed to be taken by~~
6 ~~the department;~~
- 7 ~~(d)]~~ (c) the location of the licensee's
8 current and proposed licensed premises; and
- 9 ~~[(e)]~~ (d) such other information as may
10 be required by the ~~[department]~~ governing body; and
- 11 (4) be sent by certified mail to the
12 ~~[applicant]~~ licensee.

13 ~~[E.]~~ K. The governing body may designate a hearing
14 officer to conduct the hearing. A record shall be made of the
15 hearing.

16 ~~[F.]~~ L. The governing body may disapprove the
17 ~~[issuance or]~~ transfer of location of the license if:

18 (1) the proposed location is within an area
19 where the sale of alcoholic beverages is prohibited by the laws
20 of New Mexico;

21 (2) the ~~[issuance or]~~ transfer would be in
22 violation of a zoning or other ordinance of the governing body;
23 or

24 (3) the ~~[issuance or]~~ transfer would be
25 detrimental to the public health, safety or morals of the

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1 residents of the local option district.

2 ~~[G.]~~ M. Within thirty days after the public
3 hearing, the governing body shall notify the department as to
4 whether the governing body has approved or disapproved the
5 proposed ~~[issuance or]~~ transfer of location of the license. If
6 the governing body fails to either approve or disapprove the
7 ~~[issuance or]~~ transfer of location of the license within thirty
8 days after the public hearing, the director may give final
9 approval to the ~~[issuance or]~~ transfer of location of the
10 license.

11 ~~[H.]~~ N. If the governing body disapproves the
12 ~~[issuance or]~~ transfer of location of the license, it shall
13 notify the department within ~~[the time required by Subsection G~~
14 ~~of this section]~~ thirty days setting forth the reasons for the
15 disapproval. A copy of the minutes of the public hearing shall
16 be ~~[submitted]~~ provided to the department by the governing body
17 with the notice of disapproval. If the governing body
18 disapproves of the ~~[issuance or]~~ transfer of location of the
19 license, the director shall disapprove the ~~[issuance or]~~
20 transfer of location of the license.

21 ~~[I.]~~ O. If the governing body approves the
22 ~~[issuance or]~~ transfer of location of the license, it shall
23 notify the department within ~~[the time required by Subsection G~~
24 ~~of this section]~~ thirty days of its approval. If the governing
25 body approves of the ~~[issuance or]~~ transfer of location of the

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1 license, the director shall approve the [~~issuance or~~] transfer
2 of location of the license."

3 SECTION 9. Section 60-6B-5 NMSA 1978 (being Laws 2015,
4 Chapter 86, Section 2) is amended to read:

5 "60-6B-5. EXPIRATION AND RENEWAL OF LICENSES.--

6 A. All licenses provided for in the Liquor Control
7 Act, except for nonresident licenses and common carrier
8 registrations, shall be issued for a one-year period except for
9 new licenses issued after the beginning of the license year.
10 Nonresident licenses and common carrier registrations shall be
11 issued for a three-year period.

12 B. The license year for [~~dispenser, retailer and~~
13 ~~canopy~~] dispenser's and retailer's licenses shall end on June
14 30 of each year. All [~~dispenser, retailer and canopy~~]
15 dispenser's and retailer's licenses shall expire on June 30
16 unless renewed. The annual renewal application and renewal fee
17 are due on April 1 of each year.

18 C. The license year for [~~restaurant, club~~]
19 wholesaler and manufacturer licenses shall end on October 31 of
20 each year. All [~~restaurant, club~~] wholesaler and manufacturer
21 licenses shall expire on October 31 unless renewed. The annual
22 renewal application and renewal fee are due on August 1 of each
23 year.

24 D. All licenses not provided for in Subsections B
25 and C of this section, except nonresident licenses and common

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1 carrier registrations, shall expire on February 28 of each
2 year. The annual renewal application and renewal fee are due
3 on December 1 of each year.

4 E. Nonresident licenses and common carrier
5 registrations shall expire on June 30 every three years. The
6 renewal application and renewal fee are due on April 1 of each
7 third year.

8 F. A license shall not be issued or renewed if the
9 applicant or licensee is delinquent in payment of any taxes
10 administered by the taxation and revenue department.

11 G. The renewal of any license shall not be approved
12 until the director is satisfied that all wholesalers who are
13 creditors of the licensee have been paid or that satisfactory
14 arrangements have been made between the licensee and the
15 wholesaler for the payment of such debts. Such debts shall
16 constitute a lien on the license, and the lien shall be deemed
17 to have arisen on the date when the debt was originally
18 incurred.

19 [~~G.~~] H. The director shall also determine whether
20 there exists any other reason why a license should not be
21 renewed.

22 [~~H.~~] I. If the director determines that the license
23 should not be renewed, the director shall enter an order
24 requiring the licensee, after notice, to show cause why the
25 license should be renewed, and the director shall conduct a

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1 hearing on the matter. If, after the hearing, the director
2 finds that no reason exists why the license should not be
3 renewed, the director shall renew the license."

4 SECTION 10. Section 60-6B-9 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 75) is amended to read:

6 "60-6B-9. DISCONTINUANCE OF BUSINESS OR DEATH OF
7 LICENSEE--JUDICIAL SALES.--

8 A. If a retailer, dispenser [~~canopy licensee,~~
9 ~~restaurant licensee, club licensee~~] or governmental licensee
10 [~~or its lessee~~] discontinues business for any reason or the
11 licensee dies, the stock of alcoholic beverages owned at the
12 time of the discontinuation of business or the death of the
13 licensee may be sold in whole or in part to any other retailer,
14 dispenser [~~canopy licensee, restaurant licensee, club licensee~~]
15 or governmental licensee [~~or its lessee~~] or to a New Mexico
16 wholesaler without the seller incurring criminal or civil
17 liability under the provisions of the Liquor Control Act.

18 B. If the stock of alcoholic beverages is sold
19 under execution or attachment or by order of a court, the stock
20 shall be sold only to other New Mexico retailers, dispensers
21 [~~canopy licensees, restaurant licensees, club licensees~~] or
22 governmental licensees [~~or their lessees~~] or to a New Mexico
23 wholesaler."

24 SECTION 11. Section 60-7A-11 NMSA 1978 (being Laws 1981,
25 Chapter 39, Section 77, as amended) is amended to read:

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1 "60-7A-11. OFFENSES BY RETAILERS.--It is a violation of
2 the Liquor Control Act for [~~any~~] a retailer to:

3 A. allow or permit [~~any~~] alcoholic beverages to be
4 consumed on [~~his~~] the retailer's licensed premises unless the
5 retailer also holds a dispenser's license;

6 B. maintain or keep in close proximity to the
7 licensed premises [~~any~~] a place for the consumption of
8 alcoholic beverages purchased from [~~him~~] the retailer unless
9 the retailer also holds a dispenser's license;

10 C. sell [~~any~~] alcoholic beverages at [~~any~~] a place
11 other than [~~his~~] the retailer's licensed premises;

12 D. sell or possess for the purpose of sale or to
13 have, possess or keep on [~~his~~] the retailer's licensed premises
14 alcoholic beverages not contained in the unopened, original
15 package unless the retailer also holds a dispenser's license;

16 E. buy or receive [~~any~~] alcoholic beverages from
17 [~~any~~] a person other than a [~~duly~~] licensed New Mexico
18 wholesaler or wine wholesaler for the purpose of or with the
19 intent of reselling the alcoholic beverages; [~~or~~]

20 F. directly, indirectly or through [~~any~~] a
21 subterfuge own, operate or control [~~any~~] an interest in [~~any~~] a
22 wholesale liquor establishment or liquor manufacturing or wine
23 bottling firm; provided that this subsection shall not prevent
24 a retailer from owning stock in [~~any~~] a corporation [~~which~~]
25 that wholesales, manufactures or bottles alcoholic beverages

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1 when [he] the retailer owns the stock for investment purposes
2 only;

3 G. employ or engage a person to sell alcoholic
4 beverages if the person has not received alcohol server
5 training within thirty days of employment; or

6 H. employ or engage a person to sell alcoholic
7 beverages during a period when the server permit of that person
8 is suspended or revoked."

9 SECTION 12. Section 60-7A-12 NMSA 1978 (being Laws 1981,
10 Chapter 39, Section 78, as amended) is amended to read:

11 "60-7A-12. OFFENSES BY DISPENSERS [~~CANOPY LICENSEES,~~
12 ~~RESTAURANT LICENSEES~~] OR GOVERNMENTAL LICENSEES [~~OR THEIR~~
13 ~~LESSEES AND CLUBS~~].--It is a violation of the Liquor Control
14 Act for [~~any~~] a dispenser [~~canopy licensee, restaurant~~
15 ~~licensee~~] or governmental licensee [~~or its lessee or club~~] to:

16 A. receive any alcoholic beverages for the purpose
17 or with the intent of reselling the alcoholic beverages from
18 any person unless the person is [~~duly~~] licensed to sell
19 alcoholic beverages to dispensers for resale;

20 B. sell, possess for the purpose of sale, or bottle
21 bulk wine for sale other than by the drink for immediate
22 consumption on its licensed premises unless the dispenser also
23 holds a retailer's license;

24 C. directly, indirectly or through subterfuge, own,
25 operate or control any interest in a wholesale liquor

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1 establishment or liquor manufacturing or wine bottling firm;
2 provided that this section shall not prevent:

3 (1) a dispenser from owning an interest in a
4 legal entity, directly or indirectly or through an affiliate,
5 that wholesales alcoholic beverages and that operates or
6 controls an interest in an establishment operating pursuant to
7 the provisions of Subsection B of Section 60-7A-10 NMSA 1978;
8 or

9 (2) a small brewer or winegrower licensed
10 pursuant to the Domestic Winery, Small Brewery and Craft
11 Distillery Act from holding an interest in a legal entity,
12 directly or indirectly or through an affiliate, that holds a
13 [~~restaurant or a~~] dispenser's license and a small brewer and
14 winegrower limited wholesaler's license issued pursuant to the
15 Liquor Control Act;

16 D. sell or possess for the purpose of sale any
17 alcoholic beverages at any location or place except its
18 licensed premises or the location permitted pursuant to the
19 provisions of Section 60-6A-12 NMSA 1978;

20 E. employ or engage a person to sell, serve or
21 dispense alcoholic beverages if the person has not received
22 alcohol server training within thirty days of employment; or

23 F. employ or engage a person to sell, serve or
24 dispense alcoholic beverages during a period when the server
25 permit of that person is suspended or revoked."

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1 SECTION 13. Section 60-7B-10 NMSA 1978 (being Laws 1981,
2 Chapter 39, Section 90, as amended) is amended to read:

3 "60-7B-10. MINORS IN LICENSED PREMISES--REGULATIONS.--

4 A. Any person licensed pursuant to the provisions
5 of the Liquor Control Act or any employee or agent [~~or lessee~~]
6 of that person who permits a minor to enter and remain in any
7 area of a licensed premises that is prohibited to the use of
8 minors is guilty of a violation of the Liquor Control Act.

9 B. A minor shall not enter or attempt to enter any
10 area of a licensed premises that is posted or otherwise
11 identified as being prohibited to the use of minors, except as
12 authorized by regulation or as necessitated by an emergency. A
13 person who violates the provisions of this subsection is guilty
14 of a petty misdemeanor and shall be punished pursuant to the
15 provisions of Section 31-19-1 NMSA 1978.

16 C. The director of the alcohol and gaming division
17 of the regulation and licensing department shall adopt
18 regulations classifying the types of licensed premises or areas
19 of licensed premises where minors may be present. The director
20 shall require that signs issued by the division be posted by
21 licensees to inform the public, including minors, of the areas
22 in licensed premises that are open to minors. The regulations
23 may allow minors in those areas of licensed premises where:

24 (1) the consumption of alcoholic beverages is
25 the primary activity, when a minor is accompanied by a parent,

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1 adult spouse or legal guardian; or

2 (2) there is no consumption of alcoholic
3 beverages."

4 SECTION 14. Section 60-7B-11 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 91, as amended) is amended to read:

6 "60-7B-11. EMPLOYMENT OF MINORS.--

7 A. Except as provided in Subsection B of this
8 section, it is a violation of the Liquor Control Act for any
9 person licensed pursuant to the provisions of the Liquor
10 Control Act or for any employee or agent [~~or lessee~~] of that
11 person knowingly to employ or use the service of any minor in
12 the sale and service of alcoholic beverages.

13 B. A person holding a dispenser's [~~restaurant or~~
14 ~~club~~] license may employ persons nineteen years of age or older
15 to sell or serve alcoholic beverages in an establishment that
16 is held out to the public as a place where meals are prepared
17 and served and the primary source of revenue is food, and where
18 the sale or consumption of alcoholic beverages is not the
19 primary activity, except that a person under [~~the age of 21~~]
20 twenty-one years of age shall not be employed as a bartender."

21 SECTION 15. Section 60-8A-1 NMSA 1978 (being Laws 1981,
22 Chapter 39, Section 60, as amended) is amended to read:

23 "60-8A-1. UNFAIR COMPETITION--EXCLUSIVE OUTLET--TIED
24 HOUSE--CONSIGNMENT SALES.--It is unlawful for an importer,
25 manufacturer, nonresident licensee or any kind or class of

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1 wholesaler, directly or indirectly, or through an affiliate:

2 A. to require by agreement or otherwise that a
3 wholesaler, retailer, dispenser [~~canopy licensee, restaurant~~
4 ~~licensee, club licensee~~] or governmental licensee [~~or its~~
5 ~~lessee engaged in the sale of alcoholic beverages in the state~~]
6 purchase alcoholic beverages from that person to the exclusion
7 in whole or in part of alcoholic beverages sold or offered for
8 sale by other persons;

9 B. to induce through any of the following means, a
10 wholesaler, retailer, dispenser [~~canopy licensee, restaurant~~
11 ~~licensee, club licensee~~] or governmental licensee [~~or its~~
12 ~~lessee engaged in the sale of any kind or class of alcoholic~~
13 ~~beverages~~] to purchase alcoholic beverages from that person to
14 the exclusion in whole or in part of alcoholic beverages sold
15 or offered for sale by other persons:

16 (1) by acquiring or holding, after the
17 expiration of an existing license, an interest in a license
18 with respect to the premises of the wholesaler, retailer,
19 dispenser [~~canopy licensee, restaurant licensee, club licensee~~]
20 or governmental licensee [~~or its lessee~~];

21 (2) by acquiring an interest in real or
22 personal property owned, occupied or used by a wholesaler,
23 retailer, dispenser [~~restaurant licensee or club~~] or
24 governmental licensee in the conduct of the buying
25 wholesaler's, retailer's, dispenser's [~~canopy licensee's,~~

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1 ~~restaurant licensee's, club licensee's~~ or governmental
2 licensee's [~~or its lessee's~~] business, subject to exceptions
3 that the director may prescribe, having due regard for the free
4 flow of commerce, the purposes of this subsection and
5 established trade customs not contrary to the public interest;

6 (3) by furnishing, giving, renting, lending or
7 selling to a wholesaler, retailer, dispenser [~~canopy licensee,~~
8 ~~restaurant licensee, club licensee~~] or governmental licensee
9 [~~or its lessee~~] equipment, fixtures, signs, supplies, money,
10 services or other thing of value, subject to exceptions that
11 the director may by regulation prescribe, having due regard for
12 public health and welfare, the quantity and value of the
13 articles involved and established trade customs not contrary to
14 the public interest and the purposes of this subsection;

15 (4) by paying or crediting the wholesaler,
16 retailer, dispenser [~~canopy licensee, restaurant licensee, club~~
17 ~~licensee~~] or governmental licensee [~~or its lessee~~] for
18 advertising, display or distribution services;

19 (5) by requiring a wholesaler, retailer,
20 dispenser [~~canopy licensee, restaurant licensee, club licensee~~]
21 or governmental licensee [~~or its lessee~~] to take and dispose of
22 a certain quota or combination of alcoholic beverages; or

23 (6) by commercial bribery by offering or
24 giving a bonus, premium or compensation to an officer,
25 employee, agent or representative of a wholesaler, retailer,

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1 dispenser [~~canopy licensee, restaurant licensee, club licensee~~]
2 or governmental licensee [~~or its lessee~~]; or

3 C. to sell, offer for sale or contract to sell to a
4 retailer, dispenser [~~canopy licensee, restaurant licensee, club~~
5 ~~licensee~~] or governmental licensee [~~or its lessee~~] alcoholic
6 beverages of any kind or class on consignment or under a
7 conditional sale or on a basis other than a bona fide sale;
8 provided that this subsection shall not apply to transactions
9 involving solely the bona fide return of alcoholic beverages
10 for ordinary and usual commercial reasons arising after the
11 alcoholic beverages have been sold, including a return of
12 alcoholic beverages that are at or near spoilage or expiration
13 date or that were damaged by the wholesaler, but not including
14 a return of alcoholic beverages that were damaged by any other
15 licensee or any other licensee's employees or customers."

16 SECTION 16. Section 60-8A-3 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 70) is amended to read:

18 "60-8A-3. INVOICES.--Whenever a New Mexico wholesaler
19 delivers [~~any item of~~] alcoholic beverages to a New Mexico
20 retailer, dispenser [~~canopy licensee, restaurant licensee, club~~
21 ~~licensee~~] or governmental licensee [~~or its lessee~~], the
22 delivery shall be accompanied by an invoice [~~which~~] that
23 accurately and clearly shows the date of the sale and the
24 quantity of each item of merchandise delivered. The retailer,
25 dispenser [~~canopy licensee, restaurant licensee, club licensee~~]

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1 or governmental licensee [~~or its lessee~~] receiving the
2 alcoholic beverages shall retain the invoice for a period of
3 two years. The invoices shall be open for inspection and
4 examination by [~~any~~] an employee of the department or the
5 taxation and revenue department during all usual business
6 hours."

7 SECTION 17. REPEAL.--Sections 60-6A-4, 60-6A-5, 60-6A-18,
8 60-6B-3, 60-6B-12, 60-6B-14 through 60-6B-16 and 60-7A-13 NMSA
9 1978 (being Laws 1981, Chapter 39, Sections 21, 22 and 35, Laws
10 1991, Chapter 257, Section 2, Laws 1981, Chapter 39, Section
11 113, Laws 1988, Chapter 12, Sections 2 through 4 and Laws 1981,
12 Chapter 39, Section 79, as amended) are repealed.