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HOUSE BILL 261

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Candie G. Sweetser

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR WINE AND BEER SALES AT PRIVATE CELEBRATIONS; DEFINING "PRIVATE CELEBRATIONS"; ALLOWING WINEGROWER SUNDAY SALES TO BEGIN AT 11:00 A.M.

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

SECTION 1. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended by Laws 2015, Chapter 102, Section 4 and by Laws 2015, Chapter 105, Section 1 and also by Laws 2015, Chapter 124, Section 1) is amended to read:

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

A. A person in this state who produces wine is exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license. Except during periods of shortage or reduced availability, at least fifty percent of

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1 a winegrower's overall annual production of wine shall be
2 produced from grapes or other agricultural products grown in
3 this state pursuant to rules adopted by the director; provided,
4 however, that, for purposes of determining annual production
5 and compliance with the fifty percent New Mexico grown
6 provision of this subsection, the calculation of a winegrower's
7 overall annual production of wine shall not include the
8 winegrower's production of wine for out-of-state wine producer
9 license holders.

10 B. A person issued a winegrower's license pursuant
11 to this section may do any of the following:

12 (1) manufacture or produce wine, including
13 blending, mixing, flavoring, coloring, bottling and labeling,
14 whether the wine is manufactured or produced for a winegrower
15 or an out-of-state wine producer holding a permit issued
16 pursuant to the Federal Alcohol Administration Act and a valid
17 license in a state that authorizes the wine producer to
18 manufacture, produce, store or sell wine;

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

20 (3) sell wines to a holder of a New Mexico
21 winegrower's, wine wholesaler's, wholesaler's or wine
22 exporter's license or to a winegrower's agent;

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

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- 1 (5) deal in warehouse receipts for wine;
- 2 (6) sell wines in other states or foreign
- 3 jurisdictions to the holders of a license issued under the
- 4 authority of that state or foreign jurisdiction authorizing
- 5 the purchase of wine;
- 6 (7) buy wine or distilled wine products from
- 7 other persons, including licensees and permittees under the
- 8 Liquor Control Act, for use in blending, mixing or bottling of
- 9 wines;
- 10 (8) buy or otherwise obtain beer from a small
- 11 brewer for the purposes described in this subsection;
- 12 (9) conduct wine tastings and sell, by the
- 13 glass or by the bottle, or sell in unbroken packages for
- 14 consumption off the premises, but not for resale, wine of the
- 15 winegrower's own production, wine produced by another New
- 16 Mexico winegrower on the winegrower's premises or beer produced
- 17 and bottled by or for a small brewer pursuant to Section
- 18 [~~60-2A-26.1~~] 60-6A-26.1 NMSA 1978;
- 19 (10) at no more than three off-premises
- 20 locations, conduct wine tastings, sell by the glass and sell in
- 21 unbroken packages for consumption off premises, but not for
- 22 resale, wine of the winegrower's own production, wine produced
- 23 by another New Mexico winegrower or beer produced and bottled
- 24 by or for a small brewer pursuant to Section 60-6A-26.1 NMSA
- 25 1978 after the director has determined that the off-premises

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1 locations meet the requirements of the Liquor Control Act and
2 the department rules for new liquor license locations;

3 (11) be deemed a manufacturer for purposes of
4 the Gross Receipts and Compensating Tax Act;

5 (12) at public celebrations on or off the
6 winegrower's premises, after the winegrower has paid the
7 applicable fees and been issued the appropriate permit, to
8 conduct wine tastings, sell by the glass or the bottle, or sell
9 in unbroken packages, for consumption off premises, but not for
10 resale, wine produced by or for the winegrower;

11 (13) at private celebrations on or off the
12 winegrower's premises after the winegrower has paid the
13 applicable fees and been issued the appropriate permit, sell:

14 (a) by the glass, bottle or in unbroken
15 packages for consumption off the licensed premises, but not for
16 resale, wine produced by or for the winegrower; or

17 (b) by the glass or in unbroken packages
18 for consumption off the licensed premises, but not for resale,
19 beer produced by a small brewer pursuant to Section 60-6A-26.1
20 NMSA 1978;

21 [~~(13)~~] (14) sell wine or cider in a growler
22 for consumption off premises; and

23 [~~(14)~~] (15) in accordance with the provisions
24 of this section that relate to the sale of wine, accept and
25 fulfill an order for wine that is placed via an internet ~~[web~~

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1 ~~site]~~ website, whether the financial transaction related to the
2 order is administered by the licensee or the licensee's agent.

3 C. Sales of wine or beer as provided for in this
4 section shall be permitted between the hours of 7:00 a.m. and
5 midnight Monday through Saturday, and the holder of a
6 winegrower's license or public celebration permit may conduct
7 wine tastings and sell, by the glass or bottle, or sell in
8 unbroken packages for consumption off premises, but not for
9 resale, wine of the winegrower's own production or beer
10 produced and bottled by or for a small brewer pursuant to
11 Section 60-6A-26.1 NMSA 1978 on the winegrower's premises
12 between the hours of [~~12:00 noon~~] 11:00 a.m. and midnight on
13 Sunday.

14 D. At public and private celebrations on or off the
15 winegrower's premises in any local option district permitting
16 the sale of alcoholic beverages, the holder of a winegrower's
17 license shall pay ten dollars (\$10.00) to the alcohol and
18 gaming division of the regulation and licensing department for
19 a "winegrower's public celebration permit" or a "winegrower's
20 private celebration permit" to be issued under rules adopted by
21 the director. Upon request, the alcohol and gaming division of
22 the regulation and licensing department may issue to a holder
23 of a winegrower's license a public celebration permit for a
24 location at the public celebration that is to be shared with
25 other winegrowers and small brewers. [~~As used in this~~

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1 ~~subsection, "public celebration" includes any state or county~~
2 ~~fair, community fiesta, cultural or artistic event, sporting~~
3 ~~competition of a seasonal nature or activities held on an~~
4 ~~intermittent basis.]~~

5 E. Every application for the issuance or annual
6 renewal of a winegrower's license shall be on a form prescribed
7 by the director and accompanied by a license fee to be computed
8 as follows on the basis of total annual wine produced or
9 blended:

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

12 (2) between five thousand and one hundred
13 thousand gallons per year, one hundred dollars (\$100) per year;
14 and

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

17 F. As used in this section:

18 (1) "private celebration" means any
19 celebratory activity that is held in a private or public venue
20 not open to the general public and for which attendance is
21 subject to private invitation; and

22 (2) "public celebration" includes any state or
23 county fair, community fiesta, cultural or artistic event,
24 sporting competition of a seasonal nature or activities held on
25 an intermittent basis."

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1 SECTION 2. Section 60-6A-26.1 NMSA 1978 (being Laws 1985,
2 Chapter 217, Section 5, as amended by Laws 2015, Chapter 102,
3 Section 5 and by Laws 2015, Chapter 124, Section 2) is amended
4 to read:

5 "60-6A-26.1. SMALL BREWER'S LICENSE.--

6 A. In a local option district, a person qualified
7 pursuant to the provisions of the Liquor Control Act, except as
8 otherwise provided in the Domestic Winery, Small Brewery and
9 Craft Distillery Act, may apply for and be issued a small
10 brewer's license.

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

13 (1) manufacture or produce beer;

14 (2) package, label and export beer, whether
15 manufactured, bottled or produced by the licensee or any other
16 person;

17 (3) sell only beer that is packaged by or for
18 the licensee to a person holding a wholesaler's license or a
19 small brewer's license;

20 (4) deal in warehouse receipts for beer;

21 (5) conduct beer tastings and sell for
22 consumption on or off premises, but not for resale, beer
23 produced and bottled by, or produced and packaged for, the
24 licensee, beer produced and bottled by or for another New
25 Mexico small brewer on the small brewer's premises or wine

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1 produced by a winegrower pursuant to Section 60-6A-11 NMSA
2 1978;

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

5 (7) at public celebrations off the small
6 brewer's premises, after the small brewer has paid the
7 applicable fee for a small brewer's public celebration permit,
8 conduct tastings and sell by the glass or in unbroken packages,
9 but not for resale, beer produced and bottled by or for the
10 small brewer or wine produced by a winegrower pursuant to
11 Section 60-6A-11 NMSA 1978;

12 (8) at private celebrations on or off the
13 small brewer's premises after the small brewer has paid the
14 applicable fees for a private celebration permit, sell by the
15 glass or in unbroken packages for consumption off the licensed
16 premises, but not for resale, beer produced and bottled by or
17 for the small brewer or wine produced by a winegrower pursuant
18 to Section 60-6A-11 NMSA 1978;

19 [~~8~~] (9) buy or otherwise obtain wine from a
20 winegrower;

21 [~~9~~] (10) for the purposes described in this
22 subsection, at no more than three other locations off the small
23 brewer's premises, after the small brewer has paid the
24 applicable fee for a small brewer's off-premises permit, after
25 the director has determined that the off-premises locations

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1 meet the requirements of the Liquor Control Act and department
2 rules for new liquor license locations and after the director
3 has issued a small brewer's off-premises permit for each off-
4 premises location, conduct beer tastings and sell by the glass
5 or in unbroken packages for consumption off the small brewer's
6 off-premises location, but not for resale, beer produced and
7 bottled by or for the small brewer, beer produced and bottled
8 by or for another New Mexico small brewer or wine produced by a
9 winegrower pursuant to Section 60-6A-11 NMSA 1978;

10 [~~(10)~~] (11) allow members of the public, on
11 the licensed premises and under the direct supervision of the
12 licensee, to manufacture beer for personal consumption and not
13 for resale using the licensee's equipment and ingredients; and

14 [~~(11)~~] (12) sell beer in a growler for
15 consumption off premises.

16 C. At public and private celebrations on or off the
17 small brewer's premises in a local option district permitting
18 the sale of alcoholic beverages, the holder of a small brewer's
19 license shall pay ten dollars (\$10.00) to the alcohol and
20 gaming division of the regulation and licensing department for
21 a "small brewer's public celebration permit" or a "small
22 brewer's private celebration permit" to be issued under rules
23 adopted by the director. Upon request, the alcohol and gaming
24 division of the regulation and licensing department may issue
25 to a holder of a small brewer's license a public celebration

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1 permit for a location at the public celebration that is to be
2 shared with other small brewers and winegrowers. [~~As used in~~
3 ~~this subsection, "public celebration" includes a state or~~
4 ~~county fair, community fiesta, cultural or artistic event,~~
5 ~~sporting competition of a seasonal nature or activities held on~~
6 ~~an intermittent basis.~~]

7 D. Sales and tastings of beer or wine authorized in
8 this section shall be permitted during the hours set forth in
9 Subsection A of Section 60-7A-1 NMSA 1978 and between the hours
10 of noon and midnight on Sunday and shall conform to the
11 limitations regarding Christmas and voting-day sales found in
12 Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales
13 hours to 2:00 a.m. on January 1, when December 31 falls on a
14 Sunday.

15 E. As used in this section:

16 (1) "private celebration" means any
17 celebratory activity that is held in a private or public venue
18 not open to the general public and for which attendance is
19 subject to private invitation; and

20 (2) "public celebration" includes any state or
21 county fair, community fiesta, cultural or artistic event,
22 sporting competition of a seasonal nature or activities held on
23 an intermittent basis."