

HOUSE BILL 182

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Matthew McQueen

AN ACT

RELATING TO LIQUOR CONTROL; CREATING A NEW NONTRANSFERABLE
DISPENSER'S LICENSE; ESTABLISHING PROCEDURES FOR ISSUANCE;
ESTABLISHING FEES; MAKING CONFORMING AMENDMENTS TO SECTIONS OF
THE NMSA 1978.

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

SECTION 1. A new section of the Liquor Control Act is
enacted to read:

"[NEW MATERIAL] NONTRANSFERABLE DISPENSER'S LICENSE--
PROCEDURE FOR ISSUANCE.--

A. Beginning January 1, 2021, in any local option
district, a person qualified under the provisions of the Liquor
Control Act may apply for and be issued a nontransferable
dispenser's license for the sale of alcoholic beverages;
provided that the licensed premises shall not be located within

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1 ten miles driving distance from the boundary of a municipality
2 with a population of more than ten thousand according to the
3 most recent federal decennial census.

4 B. A nontransferable dispenser's license shall not
5 be transferable from person to person or from one location to
6 another, shall only be used by the person to whom the license
7 is issued and shall only be used within the licensed premises,
8 pursuant to provisions of the Liquor Control Act.

9 C. Beginning January 1, 2021, the director shall
10 issue twenty-five new nontransferable dispenser's licenses in
11 each calendar year for years 2021 through 2028.

12 D. If a license issued pursuant to this section is
13 revoked or canceled pursuant to Section 60-6B-7 NMSA 1978 or
14 otherwise returned to the department, the director may reissue
15 the nontransferable dispenser's license to a person qualified
16 under the provisions of the Liquor Control Act. The reissuance
17 of a nontransferable dispenser's license shall not reduce the
18 number of new nontransferable dispenser's licenses required to
19 be issued pursuant to this section.

20 E. The director shall issue or reissue
21 nontransferable dispenser's licenses on a first-come, first-
22 served basis."

23 **SECTION 2.** Section 60-3A-3 NMSA 1978 (being Laws 1981,
24 Chapter 39, Section 3, as amended by Laws 2019, Chapter 29,
25 Section 2 and by Laws 2019, Chapter 229, Section 3) is amended

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1 to read:

2 "60-3A-3. DEFINITIONS.--As used in the Liquor Control
3 Act:

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

12 B. "beer" means an alcoholic beverage obtained by
13 the fermentation of any infusion or decoction of barley, malt
14 and hops or other cereals in water, and includes porter, beer,
15 ale and stout;

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

18 D. "cider" means an alcoholic beverage made from
19 the normal alcoholic fermentation of the juice of sound, ripe
20 apples or pears that contains not less than one-half of one
21 percent alcohol by volume and not more than eight and one-half
22 percent alcohol by volume;

23 E. "club" means:

24 (1) any nonprofit group, including an
25 auxiliary or subsidiary group, organized and operated under the

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1 laws of this state, with a membership of not less than fifty
2 members who pay membership dues at the rate of not less than
3 five dollars (\$5.00) per year and who, under the constitution
4 and bylaws of the club, have all voting rights and full
5 membership privileges, and which group is the owner, lessee or
6 occupant of premises used exclusively for club purposes and
7 which group the director finds:

8 (a) is operated solely for recreation,
9 social, patriotic, political, benevolent or athletic purposes;
10 and

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

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

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1 by the federal aviation administration;

2 F. "commission" means the secretary of public
3 safety when the term is used in reference to the enforcement
4 and investigatory provisions of the Liquor Control Act and
5 means the superintendent of regulation and licensing when the
6 term is used in reference to the licensing provisions of the
7 Liquor Control Act;

8 G. "department" means the New Mexico state police
9 division of the department of public safety when the term is
10 used in reference to the enforcement and investigatory
11 provisions of the Liquor Control Act and means the director of
12 the alcoholic beverage control division of the regulation and
13 licensing department when the term is used in reference to the
14 licensing provisions of the Liquor Control Act;

15 H. "director" means the chief of the New Mexico
16 state police division of the department of public safety when
17 the term is used in reference to the enforcement and
18 investigatory provisions of the Liquor Control Act and means
19 the director of the alcoholic beverage control division of the
20 regulation and licensing department when the term is used in
21 reference to the licensing provisions of the Liquor Control
22 Act;

23 I. "dispenser" means a person licensed under the
24 provisions of the Liquor Control Act selling, offering for sale
25 or having in the person's possession with the intent to sell

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1 alcoholic beverages both by the drink for consumption on the
2 licensed premises and in unbroken packages, including growlers,
3 for consumption and not for resale off the licensed premises;

4 J. "distiller" means a person engaged in
5 manufacturing spirituous liquors;

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

12 L. "governing body" means the board of county
13 commissioners of a county or the city council or city
14 commissioners of a municipality;

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

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

25 O. "licensed premises" means the contiguous areas

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

22 P. "local option district" means a county that has
23 voted to approve the sale, serving or public consumption of
24 alcoholic beverages, or an incorporated municipality that falls
25 within a county that has voted to approve the sale, serving or

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1 public consumption of alcoholic beverages, or an incorporated
2 municipality of over five thousand population that has
3 independently voted to approve the sale, serving or public
4 consumption of alcoholic beverages under the terms of the
5 Liquor Control Act or any former act;

6 Q. "manufacturer" means a distiller, rectifier,
7 brewer or winer;

8 R. "minor" means a person under twenty-one years of
9 age;

10 S. "nontransferable dispenser" means a person
11 licensed under the provisions of the Liquor Control Act
12 selling, offering for sale or having in the person's possession
13 with the intent to sell alcoholic beverages by the drink for
14 consumption on the licensed premises;

15 [~~S-~~] T. "package" means an immediate container of
16 alcoholic beverages that is filled or packed by a manufacturer
17 or wine bottler for sale by the manufacturer or wine bottler to
18 wholesalers;

19 [~~F-~~] U. "person" means an individual, corporation,
20 firm, partnership, copartnership, association or other legal
21 entity;

22 [~~U-~~] V. "rectifier" means a person who blends,
23 mixes or distills alcohol with other liquids or substances for
24 the purpose of making an alcoholic beverage for the purpose of
25 sale other than to the consumer by the drink, and includes all

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1 bottlers of spirituous liquors;

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

12 [~~W.~~] X. "retailer" means a person licensed under
13 the provisions of the Liquor Control Act selling, offering for
14 sale or having in the person's possession with the intent to
15 sell alcoholic beverages in unbroken packages, including
16 growlers, for consumption and not for resale off the licensed
17 premises;

18 [~~X.~~] Y. "ski area" means a tract of land and
19 facilities for the primary purpose of alpine skiing,
20 snowboarding or other snow sports with trails, parks and at
21 least one chairlift with uphill capacity and may include
22 facilities necessary for other seasonal or year-round
23 recreational activities;

24 [~~Y.~~] Z. "spirituous liquors" means alcoholic
25 beverages as defined in Subsection A of this section except

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1 fermented beverages such as wine, beer, cider and ale;

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

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

12 [~~BB.~~] CC. "wine bottler" means a New Mexico
13 wholesaler who is licensed to sell wine at wholesale for resale
14 only and who buys wine in bulk and bottles it for wholesale
15 resale;

16 [~~CC.~~] DD. "winegrower" means a person who owns or
17 operates a business for the manufacture of wine or cider;

18 [~~DD.~~] EE. "winer" means a winegrower; and

19 [~~EE.~~] FF. "winery" means a facility in which a
20 winegrower manufactures and stores wine or cider."

21 **SECTION 3.** Section 60-3A-12 NMSA 1978 (being Laws 2007,
22 Chapter 78, Section 1, as amended) is amended to read:

23 "60-3A-12. PARTIALLY CONSUMED BOTTLE OF WINE--LICENSED
24 PREMISES.--

25 A. Notwithstanding any other provision of law, a

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1 nontransferable dispenser, dispenser, canopy licensee or
2 restaurant licensee may permit a customer of the licensee to
3 remove from the licensed premises one opened bottle of
4 partially consumed wine; provided that:

5 (1) the customer has purchased a full-course
6 meal and a bottle of wine and consumed a portion of the bottle
7 of wine with the meal on the licensed premises; and

8 (2) the nontransferable dispenser, dispenser,
9 canopy licensee or restaurant licensee or an agent or employee
10 of the nontransferable dispenser, dispenser, canopy licensee or
11 restaurant licensee attaches the customer receipt issued for
12 the bottle of wine and reseals the bottle of partially consumed
13 wine by reinserting a cork and sealing the bottle in a tamper-
14 proof bag.

15 B. Notwithstanding any other provision of law, a
16 winery licensee may permit a customer of the licensee to remove
17 from the licensed premises one opened bottle of partially
18 consumed wine; provided that the winery licensee or an agent or
19 employee of the winery licensee attaches the customer receipt
20 issued for the bottle of wine and reseals the bottle of
21 partially consumed wine by reinserting a cork and sealing the
22 bottle in a tamper-proof bag.

23 C. When operating a motor vehicle, the customer
24 shall possess and transport the partially consumed bottle of
25 wine in accordance with Section 66-8-138 NMSA 1978."

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1 SECTION 4. Section 60-6A-1 NMSA 1978 (being Laws 1981,
2 Chapter 39, Section 18, as amended) is amended to read:

3 "60-6A-1. WHOLESALER'S LICENSE.--

4 A. In any local option district, a person qualified
5 under the provisions of the Liquor Control Act may apply for
6 and be issued a license as a wholesaler of alcoholic beverages.

7 B. No wholesaler shall sell, offer for sale or ship
8 alcoholic beverages not received at and shipped from the
9 premises specified in the wholesaler's license. As used in
10 this section, "received at and shipped from" means that all
11 alcoholic beverages shall be unloaded at the wholesaler's
12 licensed premises and placed into inventory before being sold
13 and shipped to a licensed retailer.

14 C. No wholesaler shall sell or offer for sale
15 alcoholic beverages to any person other than the holder of a
16 New Mexico wholesaler's, retailer's, dispenser's,
17 nontransferable dispenser's, canopy, restaurant or club
18 license, a governmental licensee or its lessee or an enterprise
19 owned, operated or licensed by an Indian nation, tribe or
20 pueblo within the state in conformity with an ordinance duly
21 adopted by the Indian nation, tribe or pueblo having
22 jurisdiction over the situs of the transaction within the area
23 of Indian country, certified by the secretary of the interior,
24 published in the federal register, according to the laws of the
25 United States."

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1 SECTION 5. Section 60-6A-7 NMSA 1978 (being Laws 1981,
2 Chapter 39, Section 24, as amended) is amended to read:

3 "60-6A-7. NONRESIDENT LICENSE.--

4 A. A nonresident manufacturer or wholesaler who
5 qualifies may apply for and be issued a nonresident license.

6 B. No nonresident wholesaler or manufacturer shall,
7 directly or indirectly or through an affiliate or subsidiary,
8 apply for, be granted or hold a license under the provisions of
9 the Liquor Control Act as a New Mexico wholesaler,
10 manufacturer, nontransferable dispenser, dispenser or retailer;
11 provided that a nonresident wholesaler may be granted and hold
12 a New Mexico wholesaler's license only if the business
13 operated, and the New Mexico wholesaler's license, was
14 purchased from an existing wholesaler and is operated as a
15 separate and distinct business from all other businesses of the
16 nonresident wholesaler, including for the purpose of Section
17 60-8A-6 NMSA 1978, and no alcoholic beverages are transshipped
18 between any of the other businesses and the business operated
19 under that license.

20 C. Nonresident licensees may sell, offer for sale
21 or ship into the state alcoholic beverages only to licensed New
22 Mexico manufacturers and wholesalers.

23 D. Every nonresident licensee or every New Mexico
24 wholesaler or rectifier selling or shipping alcoholic beverages
25 to a New Mexico wholesaler shall mail to the department one

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1 duplicate invoice covering all shipments into or sales in the
2 state, stating the prices, together with all terms,
3 concessions, allowances, forbearances and deductions. In cases
4 of shipments, a copy of the bill of lading or ~~[way bill]~~
5 waybill shall accompany the invoice mailed to the department.
6 On each invoice for alcoholic beverages, the total number of
7 cases and the total number of liters of alcoholic beverage
8 shall also be noted by the shipper or vendor. The invoice of
9 all shipments or sales shall also state the brand, labels and
10 size of containers of each item, unless shipped or sold in bulk
11 to be bottled by a licensed rectifier or wine bottler using
12 ~~[his]~~ the licensed rectifier's or wine bottler's own label and
13 brand; provided, however, this section shall not apply to
14 intrastate sales and shipments from one New Mexico wholesaler
15 to another wholesaler.

16 E. The director may suspend or revoke the license
17 of a nonresident licensee or wholesaler who does not comply
18 with the provisions of Subsections B through D of this
19 section."

20 SECTION 6. Section 60-6A-12 NMSA 1978 (being Laws 1981,
21 Chapter 39, Section 29, as amended) is amended to read:

22 "60-6A-12. SPECIAL DISPENSER'S PERMITS--STATE AND LOCAL
23 FEES.--

24 A. ~~[Any]~~ A person holding a nontransferable
25 dispenser's or dispenser's license in ~~[any]~~ a local option

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1 district where a public celebration is to be held may dispense
2 alcoholic beverages at the public celebration upon receiving
3 written approval from the governing body in charge of the
4 public celebration and upon the payment of fifty dollars
5 (\$50.00) to the department for a special dispenser's permit.

6 B. As used in this section, "public celebration"
7 includes any state fair, county fair, community fiesta,
8 cultural or artistic performance or professional athletic
9 competition of a seasonal nature or activities held on an
10 intermittent basis.

11 C. In addition to the state fee and if previously
12 provided for by ordinance, the governing body of the local
13 option district in which the public celebration is held may
14 charge an additional fee not to exceed twenty-five dollars
15 (\$25.00) per day for each day the permittee dispenses alcoholic
16 beverages. The permittee shall be subject to all state laws
17 and regulations and all local regulations regulating
18 nontransferable dispenser's or dispenser's privileges and
19 disabilities. All fees collected by the governing body of the
20 local option district may be used to fund free ride home
21 programs.

22 D. ~~Any~~ A person holding a nontransferable
23 dispenser's or dispenser's license may be issued a special
24 dispenser's permit by the director allowing the dispensing of
25 alcoholic beverages at a function catered by that business,

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1 provided the governing body of the local option district has
2 given the person seeking the permit written approval to
3 dispense alcoholic beverages at the catered function. The
4 permit shall be valid for no more than twelve hours. To apply
5 for the permit, the holder of a nontransferable dispenser's or
6 dispenser's license shall submit a fee of twenty-five dollars
7 (\$25.00) together with such information as the director may
8 require. The permittee shall be subject to all state laws and
9 regulations and all local regulations except that the permittee
10 shall not be required to suspend the dispensing of alcoholic
11 beverages at the licensed premises solely because of the
12 issuance of the special dispenser's permit.

13 E. The person holding a nontransferable dispenser's
14 or dispenser's license and [~~his~~] the person's employees shall
15 be the only persons permitted to dispense alcohol during the
16 function for which the permit was sought. Issuance of the
17 special dispenser's permit is within the director's discretion
18 and is subject to any reasonable requirements imposed by the
19 director.

20 F. [~~Any~~] A person holding a nontransferable
21 dispenser's or dispenser's license in a local option district
22 in which Sunday sales of alcoholic beverages are not otherwise
23 permitted pursuant to the Liquor Control Act may dispense beer
24 and wine on Sunday at [~~any~~] a public celebration for which it
25 has received a concession from the governing body in charge of

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1 the public celebration, provided the governing body of that
2 local option district has by resolution expressly permitted
3 ~~[such]~~ beer and wine sales on Sunday at that public celebration
4 in accordance with the provisions of this section.

5 G. ~~[Any]~~ A person holding a nontransferable
6 dispenser's or dispenser's license who dispenses alcoholic
7 beverages at a church's public celebration under a special
8 dispenser's permit pursuant to this section may donate to the
9 church holding the public celebration any portion of the
10 profits from the sale of alcoholic beverages at that public
11 celebration. Employees of that nontransferable dispenser or
12 dispenser or other individuals who have completed a certified
13 alcohol server training program may donate to the church
14 holding a public celebration their services as servers of
15 alcoholic beverages at that public celebration."

16 SECTION 7. Section 60-6A-15 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 32, as amended) is amended to read:

18 "60-6A-15. LICENSE FEES.--Every application for the
19 issuance or renewal of the following licenses shall be
20 accompanied by a license fee in the following specified
21 amounts:

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

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

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

3 D. wholesaler's license to sell all alcoholic
4 beverages for resale only, two thousand five hundred dollars
5 (\$2,500);

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

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

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

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

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

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

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

21 L. canopy license, one thousand three hundred
22 dollars (\$1,300);

23 M. restaurant license, one thousand fifty dollars
24 (\$1,050);

25 N. club license, for clubs with more than two

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1 hundred fifty members, one thousand two hundred fifty dollars
2 (\$1,250), and for clubs with two hundred fifty members or
3 fewer, two hundred fifty dollars (\$250);

4 O. wine bottler's license to sell to wholesalers
5 only, five hundred dollars (\$500);

6 P. public service license, one thousand two hundred
7 fifty dollars (\$1,250);

8 Q. nonresident licenses, for a total billing to New
9 Mexico wholesalers:

- 10 (1) in excess of:
- | | |
|-----------------------------------|-----------|
| 11 \$3,000,000 annually | \$10,500; |
| 12 1,000,000 annually | 5,250; |
| 13 500,000 annually | 3,750; |
| 14 200,000 annually | 2,700; |
| 15 100,000 annually | 1,800; |

16 and

- 17 50,000 annually 900;

18 and

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

20 R. wine wholesaler's license, for persons with
21 sales of five thousand gallons of wine per year or less,
22 twenty-five dollars (\$25.00), and for persons with sales in
23 excess of five thousand gallons of wine per year, one hundred
24 dollars (\$100); ~~and~~

25 S. beer bottler's license, two hundred dollars

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1 (\$200); and

2 T. nontransferable dispenser's license, ten
3 thousand dollars (\$10,000); provided that an applicant for a
4 nontransferable dispenser's license may provide an irrevocable
5 letter of credit or similar guarantee acceptable to the
6 director ensuring that the fee shall be paid upon issuance of
7 the license."

8 SECTION 8. Section 60-6A-16 NMSA 1978 (being Laws 2015,
9 Chapter 86, Section 1) is amended to read:

10 "60-6A-16. PRORATION OF FEES.--

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

13 B. Nontransferable dispenser, dispenser, retailer,
14 restaurant, club and public service license fees shall be
15 prorated as follows:

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

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

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

25 (4) licenses issued in the fourth quarter of

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1 the license year for each license type shall be subject to one-
2 fourth of the annual license fee.

3 C. License fees for all new licenses not provided
4 for in Subsection B of this section, except nonresident
5 licenses and common carrier registrations, shall not be
6 prorated but shall be subject to payment of the full amount of
7 the annual license fee.

8 D. Nonresident licenses and common carrier
9 registrations shall be issued for a three-year period. The
10 three-year license for nonresident licenses and for common
11 carrier registrations begins July 1, 2013 and every third year
12 subsequently. Nonresident licenses and common carrier
13 registrations issued at any time during the:

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

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

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

20 SECTION 9. Section 60-6A-24 NMSA 1978 (being Laws 1983,
21 Chapter 280, Section 5, as amended) is amended to read:

22 "60-6A-24. WINE BLENDER'S LICENSE.--

23 A. In any local option district, a person qualified
24 under the provisions of the Liquor Control Act, except as
25 otherwise provided in the Domestic Winery, [~~and~~] Small Brewery

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1 and Craft Distillery Act, may apply for and be issued a wine
2 blender's license.

3 B. A wine blender's license authorizes the person
4 to whom it is issued to:

5 (1) package, rectify, blend, mix, flavor,
6 color, label and export wine, whether manufactured or produced
7 by [~~him~~] the person or any other person;

8 (2) sell only wine packaged by or for [~~him~~]
9 the person to a person holding a New Mexico wine wholesaler's,
10 wholesaler's, winegrower's or wine exporter's license or to a
11 winegrower's agent;

12 (3) deal in warehouse receipts for wine; and

13 (4) be deemed a manufacturer for purposes of
14 the Gross Receipts and Compensating Tax Act.

15 C. A wine blender's license does not authorize the
16 person to whom it is issued:

17 (1) to crush, ferment and produce wine from
18 grapes, berries and other fruits;

19 (2) to obtain or be issued a winer's license,
20 a retailer's license, nontransferable dispenser's license or a
21 dispenser's license;

22 (3) to buy, sell, receive or deliver wine from
23 persons other than authorized licensees; or

24 (4) to conduct wine tastings or sell for
25 consumption off premises, at retail, or to sponsor wine

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1 tastings, either on or off the wine blender's premises."

2 SECTION 10. Section 60-6A-33 NMSA 1978 (being Laws 2013,
3 Chapter 148, Section 1, as amended) is amended to read:

4 "60-6A-33. TASTING PERMIT--FEES.--

5 A. The director is authorized to issue a tasting
6 permit to a licensed nontransferable dispenser, dispenser,
7 retailer, resident manufacturer, nonresident manufacturer,
8 wholesaler or winegrower or an agent of any such licensed
9 entity to conduct tastings of wine, beer, cider or spirituous
10 liquor on a licensed premises in accordance with rules
11 promulgated by the director to protect public health and
12 safety. A person serving wine, beer, cider or spirituous
13 liquor at a tasting event permitted pursuant to this section
14 shall have a server permit.

15 B. To apply for a tasting permit, the holder of a
16 license described in Subsection A of this section shall submit
17 to the department a tasting permit fee of one hundred dollars
18 (\$100) and such information as the director may require. A
19 tasting permit shall be valid for one year from the date that
20 it is issued and may be renewed upon application to the
21 department and payment of the tasting permit fee of one hundred
22 dollars (\$100). A person permitted to hold tastings pursuant
23 to this section shall notify the director no less than forty-
24 eight hours before a tasting event of the person's intent to
25 hold the event. Notification shall include the times and

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1 locations of, and the types of products to be included in, the
2 tasting event. Upon receipt of notification, the director
3 shall forward the notice to the appropriate staff member of the
4 [~~special investigations~~] New Mexico state police division of
5 the department of public safety.

6 C. The director may impose the following
7 administrative penalties on a person who holds a tasting permit
8 for violations of the Liquor Control Act that occur during
9 tastings conducted pursuant to the person's tasting permit:

10 (1) for a first violation, a fine no greater
11 than one thousand dollars (\$1,000) or a restriction on issuance
12 of tasting permits to the person for a period of two months, or
13 both;

14 (2) for a second violation within a year of
15 the first violation, a fine no greater than two thousand
16 dollars (\$2,000) or a restriction on issuance of tasting
17 permits to the person for a period of six months, or both; and

18 (3) for a third violation within a year of the
19 first violation, a citation against the license held by the
20 person, a fine no greater than five thousand dollars (\$5,000)
21 and a restriction on issuance of tasting permits to the person
22 for a period of one year."

23 SECTION 11. Section 60-6A-35 NMSA 1978 (being Laws 2015,
24 Chapter 113, Section 2) is amended to read:

25 "60-6A-35. SMALL BREWER AND WINEGROWER LIMITED

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1 WHOLESALER'S LICENSE.--In any local option district, a small
2 brewer or a winegrower that is licensed pursuant to the
3 Domestic Winery, Small Brewery and Craft Distillery Act and
4 that also holds a restaurant license, nontransferable
5 dispenser's license or a dispenser's license may apply for and
6 be issued a small brewer and winegrower limited wholesaler's
7 license. A small brewer that holds a small brewer and
8 winegrower limited wholesaler's license shall only sell, offer
9 for sale or ship beer manufactured by the small brewer. A
10 winegrower that holds a small brewer and winegrower limited
11 wholesaler's license shall only sell, offer for sale or ship
12 wine manufactured by the winegrower."

13 SECTION 12. Section 60-6B-2 NMSA 1978 (being Laws 1981,
14 Chapter 39, Section 38, as amended) is amended to read:

15 "60-6B-2. APPLICATIONS.--

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

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

24 (2) submit to the director for approval a
25 description, including floor plans, in a form prescribed by the

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1 director, that shows the proposed licensed premises for which
2 the license application is submitted. The area represented by
3 the approved description shall become the licensed premises;

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

11 (4) if the applicant is a corporation, be
12 required to submit as part of its application the following:

13 (a) a certified copy of its articles of
14 incorporation or, if a foreign corporation, a certified copy of
15 its certificate of authority;

16 (b) the names and addresses of all
17 officers and directors and those stockholders owning ten
18 percent or more of the voting stock of the corporation and the
19 amounts of stock held by each stockholder; provided, however, a
20 corporation may not be licensed if an officer, manager,
21 director or holder of more than a ten percent interest in the
22 applicant entity would not be eligible to hold a license
23 pursuant to the Liquor Control Act; and

24 (c) such additional information
25 regarding the corporation as the director may require to assure

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1 full disclosure of the corporation's structure and financial
2 responsibility;

3 (5) if the applicant is a limited partnership,
4 submit as part of its application the following:

5 (a) a certified copy of its certificate
6 of limited partnership;

7 (b) the names and addresses of all
8 general partners and of all limited partners contributing ten
9 percent or more of the total value of contributions made to the
10 limited partnership or entitled to ten percent or more of the
11 profits earned or other income paid by the limited partnership.

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

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

20 (6) if the applicant is a limited liability
21 company, submit as part of its application the following:

22 (a) a copy of the articles of
23 organization, with a copy of the certificate of filing with the
24 public regulation commission;

25 (b) the ~~[name]~~ names and addresses of

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1 all the managing members and all of the nonmanaging members
2 that own a greater than ten percent interest in the limited
3 liability company. Any direct or indirect parent entity of the
4 limited liability company with an interest of ten percent or
5 more in the applicant entity shall submit application forms and
6 qualify to hold a license; and

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

11 (7) if the applicant is a trust, submit as
12 part of its application:

13 (a) the names and addresses of the
14 trustees;

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

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1 (c) such additional information
2 regarding the trust as the director may require to assure full
3 disclosure of the trust's structure and financial
4 responsibility; and

5 (8) obtain approval for the issuance from the
6 governing body of the local option district in which the
7 proposed licensed premises are to be located in accordance with
8 the provisions of the Liquor Control Act.

9 B. Except for individual officers, directors,
10 shareholders, members or partners of entities that are publicly
11 traded on a national stock exchange and for individuals who
12 have been fingerprinted for another New Mexico license and had
13 no prior criminal or arrest record, every applicant for a new
14 license or for a transfer of ownership of a license shall file
15 with the application two complete sets of fingerprints taken
16 under the supervision of and certified to by an officer of the
17 New Mexico state police, a county sheriff, a municipal chief of
18 police, a police officer in a foreign country or an individual
19 qualified to take fingerprints by virtue of training or
20 experience, for each of the following individuals:

21 (1) if the applicant is a person, for the
22 applicant;

23 (2) if the applicant or the holder of a ten
24 percent or greater interest in the applicant entity is a
25 corporation, for each principal officer, for each member of the

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1 board of directors and for each stockholder with a ten percent
2 or greater interest in the applicant entity;

3 (3) if the applicant or the holder of a ten
4 percent or greater interest in the applicant entity is a
5 general partnership, for each partner;

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

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

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

22 C. Upon submission of a sworn affidavit from each
23 person who is required to file fingerprints stating that the
24 person has not been convicted of a felony in any jurisdiction
25 and pending the results of background investigations, a

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

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

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

16 F. Before issuing a license, the department shall
17 hold a public hearing within thirty days after receipt of the
18 application pursuant to Subsection K of this section.

19 G. An application for transfer of ownership shall
20 be filed with the department no later than thirty days after
21 the date a person acquired an ownership interest in a license.
22 It shall contain the actual date of sale of the license and
23 shall be accompanied by a sworn affidavit from the owner of
24 record of the license agreeing to the sale of the license to
25 the applicant as well as attesting to the accuracy of the

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1 information required by this section to be filed with the
2 department. A license shall not be transferred unless it will
3 be placed into operation in an actual location within one
4 hundred twenty days of issuance of the license, unless for good
5 cause shown the director grants an additional extension for a
6 length of time determined by the director.

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

23 I. After the deadline set in accordance with
24 Subsection H of this section, no more than ten applications per
25 available license shall be selected at random for priority of

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1 qualification and approval. Within thirty days after the
2 random selection for the ten priority positions for each
3 license, a hearing pursuant to Subsection K of this section
4 shall be held to determine the qualifications of the applicant
5 having the highest priority for each available license. If
6 necessary, such a hearing shall be held on each selected
7 application by priority until a qualified applicant for each
8 available license is approved. Further random selections for
9 priority positions shall also be held pursuant to this section
10 as necessary.

11 J. All applications submitted for a license shall
12 expire upon the director's final approval of a qualified
13 applicant for that available license.

14 K. The director shall notify the applicant by
15 certified mail of the date, time and place of the hearing. The
16 hearing shall be held in Santa Fe. The director may designate
17 a hearing officer to take evidence at the hearing. The
18 director or the hearing officer shall have the power to
19 administer oaths.

20 L. In determining whether a license shall be
21 issued, the director shall take into consideration all
22 requirements of the Liquor Control Act. In the issuance of a
23 license, the director shall specifically consider the nature
24 and number of prior violations of the Liquor Control Act by the
25 applicant or of any citations issued within the prior five

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1 years against a license held by the applicant or in which the
2 applicant had an ownership interest required to be disclosed
3 under the Liquor Control Act. The director shall disapprove
4 the issuance or give preliminary approval of the issuance of
5 the license based upon a review of all documentation submitted
6 and any investigation deemed necessary by the director.

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

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

24 O. All costs of publication and posting shall be
25 paid by the applicant.

.215990.3

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1 P. It is unlawful for a person to remove or deface
2 a notice posted in accordance with this section. A person
3 convicted of a violation of this subsection shall be punished
4 by a fine of not more than three hundred dollars (\$300) or by
5 imprisonment in the county jail for not more than one hundred
6 twenty days or by both.

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

17 **SECTION 13.** Section 60-6B-5 NMSA 1978 (being Laws 2015,
18 Chapter 86, Section 2) is amended to read:

19 "60-6B-5. EXPIRATION AND RENEWAL OF LICENSES.--

20 A. All licenses provided for in the Liquor Control
21 Act, except for nonresident licenses and common carrier
22 registrations, shall be issued for a one-year period except for
23 new licenses issued after the beginning of the license year.
24 Nonresident licenses and common carrier registrations shall be
25 issued for a three-year period.

.215990.3

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1 B. The license year for nontransferable dispenser,
2 dispenser, retailer and canopy licenses shall end on June 30 of
3 each year. All nontransferable dispenser, dispenser, retailer
4 and canopy licenses shall expire on June 30 unless renewed.
5 The annual renewal application and renewal fee are due on April
6 1 of each year.

7 C. The license year for restaurant, club,
8 wholesaler and manufacturer licenses shall end on October 31 of
9 each year. All restaurant, club, wholesaler and manufacturer
10 licenses shall expire on October 31 unless renewed. The annual
11 renewal application and renewal fee are due on August 1 of each
12 year.

13 D. All licenses not provided for in Subsections B
14 and C of this section, except nonresident licenses and common
15 carrier registrations, shall expire on February 28 of each
16 year. The annual renewal application and renewal fee are due
17 on December 1 of each year.

18 E. Nonresident licenses and common carrier
19 registrations shall expire on June 30 every three years. The
20 renewal application and renewal fee are due on April 1 of each
21 third year.

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

25 G. The director shall also determine whether there

.215990.3

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1 exists any other reason why a license should not be renewed.

2 H. If the director determines that the license
3 should not be renewed, the director shall enter an order
4 requiring the licensee, after notice, to show cause why the
5 license should be renewed, and the director shall conduct a
6 hearing on the matter. If, after the hearing, the director
7 finds that no reason exists why the license should not be
8 renewed, the director shall renew the license."

9 SECTION 14. Section 60-6B-9 NMSA 1978 (being Laws 1981,
10 Chapter 39, Section 75) is amended to read:

11 "60-6B-9. DISCONTINUANCE OF BUSINESS OR DEATH OF
12 LICENSEE--JUDICIAL SALES.--

13 A. If a retailer, nontransferable dispenser,
14 dispenser, canopy licensee, restaurant licensee, club licensee
15 or governmental licensee or its lessee discontinues business
16 for any reason or the licensee dies, the stock of alcoholic
17 beverages owned at the time of the discontinuation of business
18 or the death of the licensee may be sold in whole or in part to
19 any other retailer, nontransferable dispenser, dispenser,
20 canopy licensee, restaurant licensee, club licensee or
21 governmental licensee or its lessee or to a New Mexico
22 wholesaler without the seller incurring criminal or civil
23 liability under the provisions of the Liquor Control Act.

24 B. If the stock of alcoholic beverages is sold
25 under execution or attachment or by order of a court, the stock

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1 shall be sold only to other New Mexico retailers,
2 nontransferable dispensers, dispensers, canopy licensees,
3 restaurant licensees, club licensees, governmental licensees or
4 their lessees or to a New Mexico wholesaler."

5 SECTION 15. Section 60-7A-1 NMSA 1978 (being Laws 1981,
6 Chapter 39, Section 47, as amended) is amended to read:

7 "60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--
8 CHRISTMAS DAY SALES--SALES FOR CONSUMPTION OFF THE LICENSED
9 PREMISES--ELECTIONS.--

10 A. Provided that nothing in this section shall
11 prohibit the consumption at any time of alcoholic beverages in
12 guest rooms of hotels, alcoholic beverages shall be sold,
13 served and consumed on licensed premises only during the
14 following hours and days:

15 (1) on Mondays from 7:00 a.m. until midnight;

16 (2) on Tuesdays through Saturdays from after
17 midnight of the previous day until 2:00 a.m., then from 7:00
18 a.m. until midnight, except as provided in Subsections E and G
19 of this section; and

20 (3) on Sundays only after midnight of the
21 previous day until 2:00 a.m., except as provided in Subsections
22 D and F of this section and Section 60-7A-2 NMSA 1978.

23 B. Except as provided in Subsection C of this
24 section, alcoholic beverages may be sold by a dispenser or a
25 retailer in unbroken packages, for consumption off the licensed

.215990.3

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1 premises and not for resale, only on Mondays through Saturdays
2 from 7:00 a.m. until midnight, except as provided in
3 Subsections E and G of this section.

4 C. The governing body of a local option district
5 that is a class B county with a population greater than seventy
6 thousand and less than seventy-six thousand according to the
7 most recent federal decennial census or that is a municipality
8 located within a class B county with a population greater than
9 seventy thousand and less than seventy-six thousand according
10 to the most recent federal decennial census may pass an
11 ordinance to place restrictions, in addition to those provided
12 in this section, on the hours during which a dispenser or
13 retailer may sell alcoholic beverages in unbroken packages for
14 consumption off the licensed premises and not for resale. The
15 ordinance may restrict sales between 7:00 a.m. and 10:00 a.m.
16 and shall provide the hours between 7:00 a.m. and 10:00 a.m.,
17 if any, during which a dispenser or retailer may sell alcoholic
18 beverages in unbroken packages for consumption off the licensed
19 premises and not for resale.

20 D. A nontransferable dispenser, dispenser,
21 restaurant licensee or club may, upon payment of an additional
22 fee of one hundred dollars (\$100), obtain a permit to sell,
23 serve or permit the consumption of alcoholic beverages by the
24 drink on the licensed premises on Sundays, subject to approval
25 obtained pursuant to the process set forth in Subsection F of

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1 this section. Alcoholic beverages may be sold, served and
2 consumed from 11:00 a.m. until midnight as set forth in the
3 licensee's Sunday sales permit, and in those years when
4 December 31 falls on a Sunday, from 11:00 a.m. until 2:00 a.m.
5 of the following day, except as otherwise provided for a
6 restaurant licensee in Section 60-6A-4 NMSA 1978. The Sunday
7 sales permit shall expire on June 30 of each year and may be
8 renewed from year to year upon application for renewal and
9 payment of the required fee. The permit fee shall not be
10 prorated. Sales made pursuant to this subsection or Subsection
11 H of this section shall be called "Sunday sales".

12 E. Retailers, nontransferable dispensers,
13 dispensers, canopy licensees that were replaced by dispenser's
14 licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant
15 licensees, club licensees and governmental licensees or their
16 lessees shall not sell, serve, deliver or allow the consumption
17 of alcoholic beverages on the licensed premises from 2:00 a.m.
18 on Christmas day until 7:00 a.m. on the day after Christmas,
19 except as permitted pursuant to Subsection G of this section.

20 F. Sunday sales pursuant to the provisions of
21 Subsection D of this section are permitted in a local option
22 district that voted to permit them. If in that election a
23 majority of the voters in a local option district voted "no" on
24 the question "Shall Sunday sales of alcoholic beverages by the
25 drink for consumption on the licensed premises of licensees be

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1 allowed in this local option district?", Sunday sales are
2 unlawful in that local option district upon certification of
3 the election returns unless the provisions of Subsection K of
4 this section apply. The question shall not again be placed on
5 the ballot in that local option district until at least one
6 year has passed and:

7 (1) the local governing body of the local
8 option district passes a resolution calling for the question to
9 be placed on a regular election ballot or adopts a proclamation
10 calling for the question to be placed before the voters in a
11 special local election; or

12 (2) a petition is filed with the local
13 governing body bearing the signatures of qualified electors of
14 the local option district equal in number to ten percent of the
15 number of votes cast and counted in the local option district
16 for governor in the last preceding general election in which a
17 governor was elected. The signatures on the petition shall be
18 verified by the clerk of the county in which the local option
19 district is situated.

20 G. On and after July 1, 2002, nontransferable
21 dispensers, dispensers, canopy licensees that were replaced by
22 dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978,
23 restaurant licensees, club licensees and governmental licensees
24 or lessees of these licensees, provided that the licensees have
25 current, valid food service establishment permits, may sell,

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1 serve or allow the consumption of alcoholic beverages by the
2 drink on licensed premises from noon until 10:00 p.m. on
3 Christmas day, except in a local option district in which,
4 pursuant to election under this subsection, a majority of the
5 voters voting on the question votes against continuing such
6 sales or consumption on Christmas day. An election shall be
7 held on the question of whether to continue to allow the sale,
8 service or consumption of alcoholic beverages by the drink on
9 licensed premises from noon until 10:00 p.m. on Christmas day
10 in a local option district, if a petition requesting the
11 governing body of that district to call the election is signed
12 by at least ten percent of the registered voters of the
13 district and is filed with the clerk of the governing body of
14 the district. Upon verification by the clerk that the petition
15 contains the required number of signatures of registered
16 voters, the governing body shall pass a resolution calling for
17 the question to be placed on a regular election ballot or adopt
18 a proclamation calling for the question of allowing the sale,
19 service or consumption of alcoholic beverages by the drink on
20 licensed premises from noon until 10:00 p.m. on Christmas day
21 to be placed before the voters in a special local election.
22 The election may also be initiated by a resolution adopted by
23 the governing body of the local option district without a
24 petition from qualified electors having been submitted. The
25 election shall be held pursuant to the Local Election Act. If

.215990.3

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1 a majority of the voters voting on the question votes against
2 continuing the sale, service or consumption of alcoholic
3 beverages by the drink on licensed premises from noon until
4 10:00 p.m. on Christmas day, then such sales and consumption
5 shall be prohibited. If a majority of the voters voting on the
6 question votes to allow continued sale, service and consumption
7 of alcoholic beverages by the drink on licensed premises from
8 noon until 10:00 p.m. on Christmas day, then such sales and
9 consumption shall be allowed to continue. The question then
10 shall not be submitted again to the voters within two years of
11 the date of the last election on the question.

12 H. Notwithstanding the provisions of Subsection F
13 of this section, any Indian nation, tribe or pueblo whose lands
14 are wholly situated within the state that has, by statute,
15 ordinance or resolution, elected to permit the sale, possession
16 or consumption of alcoholic beverages on lands within the
17 territorial boundaries of the Indian nation, tribe or pueblo
18 may, by statute, ordinance or resolution of the governing body
19 of the Indian nation, tribe or pueblo, permit Sunday sales by
20 the drink on the licensed premises of licensees on lands within
21 the territorial boundaries of the Indian nation, tribe or
22 pueblo; provided that a certified copy of such enactment is
23 filed with the office of the director and with the secretary of
24 state.

25 I. Subject to the provisions of Subsection J of

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1 this section, a dispenser or retailer, upon payment of an
2 additional fee of one hundred dollars (\$100), may obtain a
3 permit to sell alcoholic beverages in unbroken packages for
4 consumption off the licensed premises on Sundays from noon
5 until midnight, and in those years when December 31 falls on a
6 Sunday, from noon on December 31 until 2:00 a.m. of the
7 following day. The permit shall expire on June 30 of each year
8 and may be renewed from year to year upon application for
9 renewal and payment of the required fee. The permit fee shall
10 not be prorated. Sales made pursuant to the provisions of this
11 subsection shall be called "Sunday package sales".

12 J. If a petition requesting the governing body of a
13 local option district to call an election on the question of
14 continuing to allow sales of alcoholic beverages in unbroken
15 packages for consumption off the licensed premises on Sundays
16 is filed with the clerk of the governing body and that petition
17 is signed by at least ten percent of the number of registered
18 voters of the local option district and the clerk of the
19 governing body verifies the petition signatures, the governing
20 body shall pass a resolution calling for the question to be
21 placed on a regular election ballot or adopt a proclamation
22 calling for the question to be placed before the voters in a
23 special local election on the question. The election may also
24 be initiated by a resolution adopted by the governing body of
25 the local option district without a petition from qualified

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1 electors having been submitted. The election shall be held
2 within ninety days of the date that the petition is verified
3 pursuant to the provisions of the Local Election Act; provided
4 that the date of the election is not in conflict with the
5 provisions of Section 1-24-1 NMSA 1978. If a majority of the
6 voters of the local option district voting in the election
7 votes to allow the sale of alcoholic beverages in unbroken
8 packages for consumption off the licensed premises, then those
9 sales shall continue to be allowed. If a majority of the
10 voters of the local option district voting in the election
11 votes not to allow the Sunday package sales, then those Sunday
12 package sales shall be prohibited commencing the first Sunday
13 after the results of the election are certified. Following the
14 election, the question of allowing the Sunday package sales
15 shall not be submitted again to the voters within two years of
16 the date of the last election on the question.

17 K. Sunday sales of alcoholic beverages shall be
18 permitted at resorts and at horse racetracks statewide pursuant
19 to the provisions of Section 60-7A-2 NMSA 1978."

20 SECTION 16. Section 60-7A-2 NMSA 1978 (being Laws 1981,
21 Chapter 39, Section 48, as amended) is amended to read:

22 "60-7A-2. SUNDAY SALES AT RACETRACKS AND RESORTS.--

23 A. Notwithstanding other provisions of the Liquor
24 Control Act, it is lawful for a nontransferable dispenser or
25 dispenser:

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1 (1) whose licensed premises are located on a
2 horse racetrack licensed by the state racing commission, to
3 sell, serve or permit the consumption of alcoholic beverages by
4 the drink on Sunday during the racing season between the hours
5 of 12:00 noon and 11:00 p.m.; or

6 (2) whose licensed premises are within a
7 resort, to sell, serve or permit the consumption of alcoholic
8 beverages by the drink on Sunday after midnight of the previous
9 day until 2:00 a.m. and then from 12:00 noon until midnight.

10 B. As used in this section, "resort" means a
11 lodging establishment or complex, open to the public, offering
12 at least one hundred guest rooms or at least one hundred
13 recreational vehicle parking or camping spaces and where meals
14 are regularly furnished to the public. The establishment or
15 complex shall:

- 16 (1) offer at least two of the following
17 recreational activities:
- 18 (a) nine or eighteen holes of golf;
 - 19 (b) tennis;
 - 20 (c) water park facilities;
 - 21 (d) horseback riding;
 - 22 (e) snow skiing;
 - 23 (f) water-skiing;
 - 24 (g) fishing;
 - 25 (h) hunting;

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- 1 (i) boating;
- 2 (j) trap or skeet shooting; or
- 3 (k) swimming; or

4 (2) be adjacent to or within a national park,
5 national monument, national forest, state park or state
6 monument."

7 SECTION 17. Section 60-7A-9 NMSA 1978 (being Laws 1981,
8 Chapter 39, Section 71, as amended) is amended to read:

9 "60-7A-9. CREDIT EXTENSION BY WHOLESALERS.--It is a
10 violation of the Liquor Control Act for any wholesaler to
11 extend credit or to agree to extend credit for the sale of
12 alcoholic beverages to any retailer, nontransferable dispenser,
13 dispenser, canopy licensee, restaurant licensee, club licensee
14 or governmental licensee or its lessee for any period more than
15 thirty calendar days from the date of the invoice required
16 under the provisions of Section 60-8A-3 NMSA 1978. A violation
17 of this section does not bar recovery by the wholesaler for the
18 total indebtedness of the retailer, nontransferable dispenser,
19 dispenser, canopy licensee, restaurant licensee, club licensee
20 or governmental licensee or its lessee."

21 SECTION 18. Section 60-7A-10 NMSA 1978 (being Laws 1981,
22 Chapter 39, Section 74, as amended) is amended to read:

23 "60-7A-10. WHOLESALERS PROHIBITED FROM OWNING RETAILER'S,
24 NONTRANSFERABLE DISPENSER'S OR DISPENSER'S ESTABLISHMENT.--

25 A. Except as provided in Subsection B of this

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1 section, it is a violation of the Liquor Control Act for a
2 wholesaler, directly or indirectly or through an affiliate, to
3 own, either in whole or in part, a business operated under a
4 retailer's, nontransferable dispenser's or dispenser's license.

5 B. This section shall not prevent a wholesaler from
6 owning a nontransferable dispenser's or dispenser's license
7 directly or indirectly or through an affiliate and operating a
8 business itself or through an affiliate or [~~a lessee under~~] a
9 dispenser's license under a lessee if:

10 (1) the wholesaler, directly or indirectly,
11 operates or controls an interest in an establishment or complex
12 maintaining a minimum of one hundred sleeping rooms and having
13 a resident of New Mexico as a proprietor or manager and where,
14 in consideration of payment, meals and lodging are regularly
15 furnished to the general public; and

16 (2) the sale of alcoholic beverages under the
17 nontransferable dispenser's or dispenser's license is
18 restricted to their consumption on the licensed premises."

19 SECTION 19. Section 60-7A-12 NMSA 1978 (being Laws 1981,
20 Chapter 39, Section 78, as amended) is amended to read:

21 "60-7A-12. OFFENSES BY NONTRANSFERABLE DISPENSERS,
22 DISPENSERS, CANOPY LICENSEES, RESTAURANT LICENSEES,
23 GOVERNMENTAL LICENSEES OR THEIR LESSEES AND CLUBS.--It is a
24 violation of the Liquor Control Act for any nontransferable
25 dispenser, dispenser, canopy licensee, restaurant licensee,

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1 governmental licensee or its lessee or club to:

2 A. receive any alcoholic beverages for the purpose
3 or with the intent of reselling the alcoholic beverages from
4 any person unless the person is duly licensed to sell alcoholic
5 beverages to nontransferable dispensers or dispensers for
6 resale;

7 B. sell; possess for the purpose of sale; or bottle
8 bulk wine for sale other than by the drink for immediate
9 consumption on its licensed premises;

10 C. directly, indirectly or through subterfuge, own,
11 operate or control any interest in a wholesale liquor
12 establishment or liquor manufacturing or wine bottling firm;
13 provided that this section shall not prevent:

14 (1) a nontransferable dispenser or dispenser
15 from owning an interest in a legal entity, directly or
16 indirectly or through an affiliate, that wholesales alcoholic
17 beverages and that operates or controls an interest in an
18 establishment operating pursuant to the provisions of
19 Subsection B of Section 60-7A-10 NMSA 1978; or

20 (2) a small brewer or winegrower licensed
21 pursuant to the Domestic Winery, Small Brewery and Craft
22 Distillery Act from holding an interest in a legal entity,
23 directly or indirectly or through an affiliate, that holds a
24 restaurant, nontransferable dispenser's or a dispenser's
25 license and a small brewer and winegrower limited wholesaler's

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1 license issued pursuant to the Liquor Control Act;

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

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

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

12 SECTION 20. Section 60-7A-18 NMSA 1978 (being Laws 1981,
13 Chapter 39, Section 95) is amended to read:

14 "60-7A-18. HOURS FOR PUBLIC DANCES.--A nontransferable
15 dispenser or dispenser who in connection with [~~his~~] the
16 nontransferable dispenser's or dispenser's licensed
17 establishment maintains dancing facilities for use by [~~his~~] the
18 nontransferable dispenser's or dispenser's patrons shall be
19 allowed to keep [~~such~~] the facilities open and permit dancing
20 on the licensed premises during the same hours as [~~he~~] the
21 nontransferable dispenser or dispenser is allowed by law to
22 sell alcoholic beverages."

23 SECTION 21. Section 60-7B-10 NMSA 1978 (being Laws 1981,
24 Chapter 39, Section 90, as amended) is amended to read:

25 "60-7B-10. MINORS IN LICENSED PREMISES--REGULATIONS.--

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1 A. Any person licensed pursuant to the provisions
2 of the Liquor Control Act or any employee, agent or lessee of
3 that person who permits a minor to enter and remain in any area
4 of a licensed premises that is prohibited to the use of minors
5 is guilty of a violation of the Liquor Control Act.

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

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

22 (1) the consumption of alcoholic beverages is
23 the primary activity, when a minor is accompanied by a parent,
24 adult spouse or legal guardian;

25 (2) there is no consumption of alcoholic

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1 beverages; or

2 (3) the minor is at least eighteen years of
3 age and licensed under the New Mexico Commercial Driver's
4 License Act and is making a delivery of packaged alcoholic
5 beverages to a holder of a nontransferable dispenser's,
6 dispenser's, retailer's, restaurant, club, small brewer,
7 winegrower, craft distiller, manufacturer's or rectifier or any
8 other license that allows for the purchase and delivery of
9 alcoholic beverages."

10 SECTION 22. Section 60-7B-11 NMSA 1978 (being Laws 1981,
11 Chapter 39, Section 91, as amended) is amended to read:

12 "60-7B-11. EMPLOYMENT OF MINORS.--

13 A. Except as provided in Subsection B or C of this
14 section, it is a violation of the Liquor Control Act for any
15 person licensed pursuant to the provisions of the Liquor
16 Control Act or for any employee, agent or lessee of that person
17 knowingly to employ or use the service of any minor in the sale
18 and service of alcoholic beverages.

19 B. A person holding a nontransferable dispenser's,
20 dispenser's, restaurant or club license may employ persons
21 nineteen years of age or older to sell or serve alcoholic
22 beverages in an establishment that is held out to the public as
23 a place where meals are prepared and served and the primary
24 source of revenue is food, and where the sale or consumption of
25 alcoholic beverages is not the primary activity, except that a

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1 person under twenty-one years of age shall not be employed as a
2 bartender.

3 C. A person holding a wholesaler's license may
4 employ persons eighteen years of age or older who are licensed
5 pursuant to the New Mexico Commercial Driver's License Act to
6 engage in activities customary to warehouse operations and to
7 handle and deliver alcoholic beverages to licensees holding a
8 nontransferable dispenser's, dispenser's, retailer's,
9 restaurant, club, small brewer, winegrower, craft distiller,
10 manufacturer's, rectifier or any other license that allows for
11 the purchase and delivery of alcoholic beverages by a licensed
12 wholesaler, as long as the minor delivers sealed, unbroken
13 packages, including containers such as bottles, cans and kegs.
14 A person under the age of twenty-one shall not be allowed to
15 sample alcoholic beverages to accounts."

16 SECTION 23. Section 60-8A-1 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 60, as amended) is amended to read:

18 "60-8A-1. UNFAIR COMPETITION--EXCLUSIVE OUTLET--TIED
19 HOUSE--CONSIGNMENT SALES.--It is unlawful for an importer,
20 manufacturer, nonresident licensee or any kind or class of
21 wholesaler, directly or indirectly, or through an affiliate:

22 A. to require by agreement or otherwise that a
23 wholesaler, retailer, nontransferable dispenser, dispenser,
24 canopy licensee, restaurant licensee, club licensee or
25 governmental licensee or its lessee engaged in the sale of

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1 alcoholic beverages in the state purchase alcoholic beverages
2 from that person to the exclusion in whole or in part of
3 alcoholic beverages sold or offered for sale by other persons;

4 B. to induce through any of the following means, a
5 wholesaler, retailer, nontransferable dispenser, dispenser,
6 canopy licensee, restaurant licensee, club licensee or
7 governmental licensee or its lessee engaged in the sale of any
8 kind or class of alcoholic beverages to purchase alcoholic
9 beverages from that person to the exclusion in whole or in part
10 of alcoholic beverages sold or offered for sale by other
11 persons:

12 (1) by acquiring or holding, after the
13 expiration of an existing license an interest in a license with
14 respect to the premises of the wholesaler, retailer,
15 nontransferable dispenser, dispenser, canopy licensee,
16 restaurant licensee, club licensee or governmental licensee or
17 its lessee;

18 (2) by acquiring an interest in real or
19 personal property owned, occupied or used by a wholesaler,
20 retailer, nontransferable dispenser, dispenser, restaurant
21 licensee or club licensee in the conduct of the buying
22 wholesaler's, retailer's, nontransferable dispenser's,
23 dispenser's, canopy licensee's, restaurant licensee's, club
24 licensee's or governmental licensee's or its lessee's business,
25 subject to exceptions that the director may prescribe, having

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1 due regard for the free flow of commerce, the purposes of this
2 subsection and established trade customs not contrary to the
3 public interest;

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

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

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

24 (6) by commercial bribery by offering or
25 giving a bonus, premium or compensation to an officer,

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1 employee, agent or representative of a wholesaler, retailer,
2 nontransferable dispenser, dispenser, canopy licensee,
3 restaurant licensee, club licensee or governmental licensee or
4 its lessee; or

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

19 SECTION 24. Section 60-8A-3 NMSA 1978 (being Laws 1981,
20 Chapter 39, Section 70) is amended to read:

21 "60-8A-3. INVOICES.--Whenever a New Mexico wholesaler
22 delivers [~~any item of~~] alcoholic beverages to a New Mexico
23 retailer, nontransferable dispenser, dispenser, canopy
24 licensee, restaurant licensee, club licensee or governmental
25 licensee or its lessee, the delivery shall be accompanied by an

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1 invoice [~~which~~] that accurately and clearly shows the date of
2 the sale and the quantity of each item of merchandise
3 delivered. The retailer, nontransferable dispenser, dispenser,
4 canopy licensee, restaurant licensee, club licensee or
5 governmental licensee or its lessee receiving the alcoholic
6 beverages shall retain the invoice for a period of two years.
7 The invoices shall be open for inspection and examination by
8 [~~any~~] an employee of the department or the taxation and revenue
9 department during all usual business hours."

10 SECTION 25. Section 60-8A-5 NMSA 1978 (being Laws 1981,
11 Chapter 39, Section 76) is amended to read:

12 "60-8A-5. DEBTS FOR MERCHANDISE SOLD IN VIOLATION OF LAW
13 UNENFORCEABLE--NO GARNISHMENT ON SALES BY RETAILERS,
14 NONTRANSFERABLE DISPENSERS AND DISPENSERS.--No action shall be
15 maintained or a garnishment or attachment be issued to collect
16 any debt for merchandise sold, served or delivered in violation
17 of the Liquor Control Act. No writ of garnishment shall issue
18 where the debt or obligation or the cause of action in the
19 original suit or the garnishment action is founded upon the
20 sale or purchase of alcoholic beverages by or from a retailer,
21 nontransferable dispenser or dispenser as defined in Section [~~3~~
22 ~~of that act~~] 60-3A-3 NMSA 1978."

23 SECTION 26. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2020.