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HOUSE BILL 185

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

INTRODUCED BY

Patricio Ruiloba

AN ACT

RELATING TO LIQUOR CONTROL; AMENDING AND ENACTING SECTIONS OF
THE LIQUOR CONTROL ACT TO PERMIT CERTAIN PERSONS TO DELIVER
ALCOHOLIC BEVERAGES.

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] ALCOHOLIC BEVERAGE DELIVERY PERMIT.--

A. A person otherwise qualified pursuant to the
provisions of the Liquor Control Act may apply for and the
department may issue an alcoholic beverage delivery permit
authorizing the person to deliver alcoholic beverages if:

(1) the applicant holds a valid retailer's,
dispenser's, craft distiller's, winegrower's or small brewer's
license; and

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1 (2) the applicant is at least twenty-one years
2 of age.

3 B. Only a person holding a valid alcoholic beverage
4 delivery permit issued pursuant to Paragraph (1) of Subsection
5 A of this section may sell alcoholic beverages for delivery in
6 this state.

7 C. An alcoholic beverage delivery permit is not
8 transferable from person to person or from one location to
9 another.

10 D. An alcoholic beverage delivery permit issued
11 pursuant to this section is valid for one year from the date of
12 issuance. An alcoholic beverage delivery permittee may renew
13 an alcoholic beverage delivery permit annually as required by
14 the department.

15 E. The director shall impose a nonrefundable
16 alcoholic beverage delivery permit fee not to exceed three
17 hundred dollars (\$300).

18 F. The director shall promulgate rules to implement
19 the provisions of this section, which shall include the
20 following requirements and restrictions:

21 (1) an alcoholic beverage delivery permittee
22 shall deliver alcoholic beverages only in unbroken packages;

23 (2) payment for alcoholic beverages shall be
24 received only at the licensed premises of the selling licensee
25 personally or by other means, including telephonically or

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1 electronically;

2 (3) a licensee shall not change the price
3 charged for an alcoholic beverage because that beverage is
4 purchased for delivery; provided that a separate fee may be
5 charged for delivery; and further provided that the fee shall
6 be disclosed to the customer at the time of the purchase;

7 (4) deliveries of alcoholic beverages shall
8 occur only during the hours the selling licensee is authorized
9 to sell alcoholic beverages;

10 (5) alcoholic beverages may be delivered only
11 within the county in which the selling licensee's licensed
12 premises is located;

13 (6) an alcoholic beverage delivery permittee
14 shall not deliver an alcoholic beverage to a business, a
15 commercial establishment, a college or university campus or a
16 school campus that is not a home school;

17 (7) an alcoholic beverage delivery permittee
18 delivering alcoholic beverages shall obtain valid proof of the
19 recipient's identity and age;

20 (8) deliveries of alcoholic beverages shall
21 not be made to an intoxicated person in violation of Section
22 60-7A-16 NMSA 1978 or to a minor in violation of Section
23 60-7B-1 NMSA 1978;

24 (9) while delivering alcoholic beverages, an
25 alcoholic beverage delivery permittee shall have in the

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1 permittee's possession only alcoholic beverages that have been
2 purchased for delivery;

3 (10) while delivering alcoholic beverages, an
4 alcoholic beverage permittee shall have in the permittee's
5 possession the original or an electronic or physical copy of
6 the permittee's alcoholic beverage delivery permit;

7 (11) a licensee that sells alcoholic beverages
8 for delivery shall obtain and maintain the following records
9 for a period of three years:

10 (a) the name and address of the
11 purchaser of the alcoholic beverages;

12 (b) the time, date and place of delivery
13 of the alcoholic beverages;

14 (c) the type and quantity of alcoholic
15 beverages delivered;

16 (d) the name of the person delivering
17 the alcoholic beverages;

18 (e) all invoices related to the sale and
19 delivery of the alcoholic beverages; and

20 (f) a valid signature of the person who
21 accepted the delivery of the alcoholic beverage; and

22 (12) the director may audit all records and
23 transactions related to alcoholic beverage deliveries.

24 G. A licensee that holds an alcoholic beverage
25 delivery permit issued pursuant to this section may utilize an

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1 employee who is at least twenty-one years of age and who holds
2 a valid server permit to deliver alcoholic beverages.

3 H. A licensee that holds an alcoholic beverage
4 delivery permit issued pursuant to this section may contract
5 for delivery services with any other person that holds a valid
6 alcoholic beverage delivery permit issued pursuant to this
7 section; provided that a licensee that sells alcoholic
8 beverages for delivery is liable for the actions of any person
9 that delivers alcoholic beverages to an intoxicated person or
10 to a minor or for any other violation of the Liquor Control
11 Act; and further provided that:

12 (1) the licensee and the person providing
13 delivery services have entered into a written agreement that:

14 (a) shall conform with the requirements
15 of the Liquor Control Act; and

16 (b) is approved by the department prior
17 to providing the alcoholic beverage delivery service;

18 (2) no indemnification or similar agreement
19 shall be effective to transfer liability for the delivery of
20 alcoholic beverages to an intoxicated person or to a minor or
21 for any other violation of the Liquor Control Act from the
22 licensee to the person who delivers the alcoholic beverage; and

23 (3) the person providing delivery services:

24 (a) is authorized to do business in this
25 state;

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1 (b) shall maintain during the term of
2 the contract and provide to the department proof of general
3 liability insurance coverage with a liquor liability
4 endorsement in an amount not less than one million dollars
5 (\$1,000,000) per occurrence;

6 (c) shall constantly monitor the
7 location of each delivery vehicle during alcoholic beverage
8 deliveries;

9 (d) may charge the customer a delivery
10 fee; and

11 (e) shall not add a surcharge or
12 otherwise increase the sale cost of the alcoholic beverage."

13 SECTION 2. Section 60-6C-1 NMSA 1978 (being Laws 1981,
14 Chapter 39, Section 97, as amended) is amended to read:

15 "60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR
16 ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

17 A. The director may suspend or revoke the license
18 or permit or fine the licensee in an amount not more than ten
19 thousand dollars (\$10,000), or both, when ~~[he]~~ the director
20 finds that ~~[any]~~ a licensee has:

21 (1) violated any provision of the Liquor
22 Control Act or any ~~[regulation]~~ rule or order promulgated
23 pursuant to that act;

24 (2) been convicted of a felony pursuant to the
25 provisions of the Criminal Code, the Liquor Control Act or

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1 federal law; or

2 (3) permitted [~~his~~] the licensee's licensed
3 premises to remain a public nuisance in the neighborhood where
4 it is located after written notice from the director that
5 investigation by the department has revealed that the
6 establishment is a public nuisance in the neighborhood.

7 B. The director shall suspend or revoke the license
8 or permit and may fine the licensee in an amount not to exceed
9 ten thousand dollars (\$10,000), or both, when [~~he~~] the director
10 finds that any licensee or:

11 (1) [~~his~~] the licensee's employee or agent
12 knowingly has sold, served, delivered or given [~~any~~] an
13 alcoholic beverage to a minor in violation of Section 60-7B-1
14 NMSA 1978 or to an intoxicated person in violation of Section
15 60-7A-16 NMSA 1978, on two separate occasions within any
16 twelve-month period; or

17 (2) [~~his~~] the licensee's agent has made any
18 material false statement or concealed any material facts in
19 [~~his~~] the licensee's application for the license or permit
20 granted [~~him~~] the licensee pursuant to the provisions of the
21 Liquor Control Act.

22 C. [~~Any~~] A licensee aggrieved by a revocation,
23 suspension or fine proposed to be imposed by the director
24 pursuant to this section shall be entitled to the hearing
25 procedures set forth in Chapter 60, Article 6C NMSA 1978 before

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1 the revocation, suspension or fine shall be effective.

2 D. ~~[Any]~~ A charge filed against a licensee by the
3 department and the resulting disposition of the charge shall be
4 reported to the department of public safety and local law
5 enforcement agencies whose jurisdictions include the licensed
6 establishment or address of record of the person issued an
7 alcoholic beverage delivery permit.

8 E. For purposes of this section, "licensee"
9 includes any person issued an alcoholic beverage delivery
10 permit."

11 SECTION 3. Section 60-6C-2 NMSA 1978 (being Laws 1981,
12 Chapter 39, Section 98, as amended) is amended to read:

13 "60-6C-2. HEARINGS--LOCATION--OPEN TO PUBLIC--HEARING
14 OFFICER.--All hearings held pursuant to the provisions of the
15 Liquor Control Act shall be conducted by the director or a
16 hearing officer appointed by the director and shall be held in
17 the county in which the licensed premises or the business of
18 the person issued an alcoholic beverage delivery permit that
19 ~~[are]~~ is the subject matter of the hearing ~~[are]~~ is located.
20 All such hearings shall be open to the public."

21 SECTION 4. Section 60-6C-4 NMSA 1978 (being Laws 1981,
22 Chapter 39, Section 100, as amended) is amended to read:

23 "60-6C-4. ADMINISTRATIVE PROCEEDINGS--COMPLAINTS--
24 INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS.--

25 A. Whenever a person lodges a signed, written

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1 complaint with the department alleging that a licensee has
2 violated any of the provisions of the Liquor Control Act,
3 unless the complaint is deficient on its face, the director
4 shall request that the department of public safety investigate
5 the complaint.

6 B. The department of public safety shall
7 investigate the complaint and make a written report to the
8 director.

9 C. If the director believes from the report that
10 probable cause exists for filing charges against the licensee
11 for the revocation or suspension of [~~his~~] the licensee's
12 license or permit or for fining [~~him~~] the licensee, or for
13 both, [~~he~~] the director or [~~his~~] the director's designee shall
14 file in the department a charge against the licensee in the
15 name of the state, stating the nature of the grounds relied
16 upon for the filing, the approximate date of the alleged
17 violation and the names and addresses of the witnesses who are
18 expected to give testimony or evidence against the licensee.

19 D. After charges have been filed, the director
20 shall issue a signed order for the licensee to appear at a
21 hearing to explain, on the basis of any ground set out in the
22 charge, why the license or permit should not be revoked or
23 suspended or why the licensee should not be fined, or both.

24 E. The director shall keep the original of the
25 charge and the order to show cause on file in [~~his~~] the

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1 director's office.

2 F. The director shall appoint a hearing officer no
3 later than ten days prior to the date set for the hearing at
4 which the licensee shall appear to explain why [~~his~~] the
5 licensee's license or permit should not be revoked or suspended
6 or why the licensee should not be fined, or both.

7 G. The director shall have a copy of the charge and
8 a copy of the order to show cause sent to the licensee or the
9 licensee's resident agent at the agent's last known address by
10 certified mail at least fourteen days before the date set for
11 the hearing on the order to show cause.

12 H. At [~~any~~] a hearing on an order to show cause,
13 the director shall cause a record of hearing to be made, which
14 shall record:

- 15 (1) the style of the proceedings;
- 16 (2) the nature of the proceedings, including a
17 copy of the charge and a copy of the order to show cause;
- 18 (3) the place, date and time of the hearing
19 and all continuances or recesses of the hearing;
- 20 (4) the appearance or nonappearance of the
21 licensee;
- 22 (5) if the licensee appears with an attorney,
23 the name and address of the attorney;
- 24 (6) a record of all evidence and testimony and
25 a copy or record of all exhibits introduced in evidence;

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1 (7) the findings of fact and law as to whether
2 [~~or not~~] the licensee has violated the Liquor Control Act as
3 set out in the charge; and

4 (8) the decision of the director.

5 I. If the licensee fails to appear without good
6 cause at the time and place designated in the order to show
7 cause for the hearing, the director shall order the
8 nonappearance of the licensee to be entered in the record of
9 hearing and shall order the license or permit revoked or
10 suspended or the licensee fined, or both, on all the grounds
11 alleged in the charge and shall cause the record of hearing to
12 show the particulars in detail. In such a case, there shall be
13 no reopening, appeal or review of the proceedings.

14 J. If the licensee admits guilt on all grounds set
15 out in the charge, the director shall order the revocation or
16 suspension of the license or permit or the licensee fined, or
17 both, and cause a record of hearing to be made showing the
18 facts and particulars of [~~his~~] the director's order of
19 revocation or suspension of the license or permit or fine of
20 the licensee, or both. In such a case, there shall be no
21 review or appeal of the proceedings.

22 K. If the licensee appears at the hearing and does
23 not testify or denies guilt of any [~~or all~~] of the grounds set
24 out in the charge, the hearing shall proceed as follows:

25 (1) the director or the hearing officer shall

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1 administer oaths to all witnesses, the department shall cause
2 all testimony and evidence in support of the grounds alleged in
3 the charge to be presented in the presence of the licensee and
4 the director shall allow the licensee or [~~his~~] the licensee's
5 attorney to cross-examine all witnesses;

6 (2) the licensee shall be allowed to present
7 testimony and evidence [~~he~~] the licensee may have in denial or
8 in mitigation of the grounds set out in the charge;

9 (3) the department shall have the right to
10 cross-examine the licensee or any witness testifying in [~~his~~]
11 the licensee's favor;

12 (4) the department shall present any evidence
13 or testimony in rebuttal of that produced by the licensee;

14 (5) the director or the hearing officer shall
15 make a finding on each ground alleged and a finding of the
16 guilt or innocence of the licensee on each ground;

17 (6) if the licensee is found guilty on any
18 ground alleged and proved, the director shall make [~~his~~] an
19 order of revocation or suspension of the license or permit or
20 fine of the licensee, or both; and

21 (7) the rules of evidence shall not be
22 required to be observed, but the order of suspension or
23 revocation or fine, or both, shall be based upon substantial,
24 competent and relevant evidence and testimony appearing in the
25 record of hearing.

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1 L. No admission of guilt, admission against
2 interest or transcript of testimony made or given in [~~any~~] a
3 hearing pursuant to this section shall be received or used in
4 [~~any~~] criminal proceedings wherein the licensee is a defendant;
5 provided, however, if the licensee commits perjury in a
6 hearing, the evidence shall be admissible in a perjury trial if
7 otherwise competent and relevant.

8 M. The director shall adopt reasonable
9 [~~regulations~~] rules setting forth uniform standards of
10 penalties concerning fines and suspensions imposed by the
11 director.

12 N. For purposes of this section, "licensee"
13 includes a person issued an alcoholic beverage delivery
14 permit."

15 SECTION 5. Section 60-6C-6 NMSA 1978 (being Laws 1981,
16 Chapter 39, Section 102, as amended by Laws 1999, Chapter 265,
17 Section 75 and by Laws 1999, Chapter 277, Section 1) is amended
18 to read:

19 "60-6C-6. NO INJUNCTION OR MANDAMUS PERMITTED--APPEAL.--

20 A. No injunction or writ of mandamus or other legal
21 or equitable process shall issue in any suit, action or
22 proceeding to prevent or enjoin any finding of guilt or order
23 of suspension or revocation or fine made by a liquor control
24 hearing officer under the provisions of Section 60-6C-4 NMSA
25 1978. A licensee aggrieved or adversely affected by an order

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1 of revocation, suspension or fine shall have the right to
2 appeal to the district court pursuant to the provisions of
3 Section 39-3-1.1 NMSA 1978.

4 B. No appeal shall have the effect of suspending
5 the operation of the order of suspension, revocation or fine,
6 but the liquor control hearing officer may, for good cause
7 shown and upon such terms and conditions as ~~[he]~~ the officer
8 may find are just, in ~~[his]~~ the officer's discretion suspend
9 the operation of the order of suspension, revocation or fine
10 pending the appeal. The court shall tax costs against the
11 losing party.

12 C. For purposes of this section, "licensee"
13 includes a person issued an alcoholic beverage delivery permit
14 and includes a person issued a server permit pursuant to the
15 Alcohol Server Education Article of the Liquor Control Act."

16 SECTION 6. Section 60-6E-3 NMSA 1978 (being Laws 1999,
17 Chapter 277, Section 4) is amended to read:

18 "60-6E-3. DEFINITIONS.--As used in ~~[Chapter 60, Article~~
19 ~~6D NMSA 1978]~~ the Alcohol Server Education Article of the
20 Liquor Control Act:

21 A. "director" means the director of the division;

22 B. "division" means the ~~[alcohol and gaming]~~
23 alcoholic beverage control division of the regulation and
24 licensing department;

25 C. "licensee" means a person issued a license

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1 pursuant to the provisions of the Liquor Control Act to sell,
2 serve or dispense alcoholic beverages for consumption and not
3 for resale;

4 D. "program" means an alcohol server education
5 course and examination approved by the director to be
6 administered by providers;

7 E. "provider" means an individual, partnership,
8 corporation, public or private school or any other legal entity
9 certified by the director to provide a program;

10 F. "server" means an individual who sells, serves,
11 or dispenses alcoholic beverages for consumption on or off
12 licensed premises, including persons who manage, direct or
13 control the sale or service of alcohol and when the context
14 requires, includes a person who delivers alcoholic beverages.

15 "Server" does not include officers of a corporate licensee or
16 lessee who do not manage, direct or control the sale, delivery
17 or service of alcohol; and

18 G. "server permit" means an authorization issued by
19 the director for a person to be employed or engaged to sell,
20 serve or dispense alcoholic beverages."

21 SECTION 7. Section 60-6E-8 NMSA 1978 (being Laws 1999,
22 Chapter 277, Section 9) is amended to read:

23 "60-6E-8. SERVER PERMIT--SUSPENSION--REVOCATION--
24 ADMINISTRATIVE FINES--PENALTIES.-- [~~In addition to any other~~
25 ~~penalties available~~] The following penalties [~~may be imposed~~]

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1 are in addition to any other penalties available for sales to
2 minors or intoxicated persons in violation of the provisions of
3 the Liquor Control Act or rules of the division:

4 A. the director may suspend a server's server
5 permit for a period of thirty days or fine the server in an
6 amount not to exceed five hundred dollars (\$500), or both, when
7 [~~he~~] the director finds that the server is guilty of a first
8 offense of selling, serving, delivering or dispensing an
9 alcoholic beverage to an intoxicated person in violation of
10 Section 60-7A-16 NMSA 1978 or to a minor in violation of
11 Section 60-7B-1 NMSA 1978;

12 B. the director shall suspend a server's server
13 permit for a period of one year when [~~he~~] the director finds
14 that the server is guilty of a second offense of selling,
15 serving, delivering or dispensing alcoholic beverages to
16 intoxicated persons in violation of Section 60-7A-16 NMSA 1978
17 or to minors in violation of Section 60-7B-1 NMSA 1978 arising
18 separately from the incident giving rise to [~~his~~] the server's
19 first offense;

20 C. the director shall permanently revoke a server's
21 server permit when [~~he~~] the director finds that the server is
22 guilty of a third offense of selling, serving, delivering or
23 dispensing alcoholic beverages to intoxicated persons in
24 violation of Section 60-7A-16 NMSA 1978 or to minors in
25 violation of Section 60-7B-1 NMSA 1978 arising separately from

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1 the incidents giving rise to [~~his~~] the server's first and
2 second offenses;

3 D. no person whose server permit is suspended or
4 revoked pursuant to the provisions of this section may be a
5 server of alcoholic beverages on a licensed premises or deliver
6 alcoholic beverages during the period of suspension or
7 revocation;

8 E. no person whose server permit is suspended may
9 serve or deliver alcoholic beverages on or after the date of
10 suspension unless the person obtains a new server permit in
11 accordance with the provisions of [~~Article 6D of Chapter 60~~]
12 the Alcohol Server Education Article of the Liquor Control Act;
13 and

14 F. nothing in [~~this~~] the Alcohol Server Education
15 Article of the Liquor Control Act shall be interpreted to waive
16 [~~any~~] a permit holder's or license holder's liability that may
17 arise pursuant to the provisions of [~~this~~] the Liquor Control
18 Act."

19 SECTION 8. Section 60-6E-9 NMSA 1978 (being Laws 1999,
20 Chapter 277, Section 10) is amended to read:

21 "60-6E-9. ALCOHOL SERVER EDUCATION--REQUIRED FOR LICENSE
22 RENEWAL.--A licensee seeking renewal of a license shall submit
23 to the division, as a condition of license renewal, proof that
24 the licensee, [~~his~~] the lessee, if any, and each server
25 employed by the licensee or lessee during the prior licensing

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1 year have or had valid server permits at all times that
2 alcoholic beverages were sold, served, delivered or dispensed."

3 SECTION 9. Section 60-6E-10 NMSA 1978 (being Laws 1999,
4 Chapter 277, Section 11) is amended to read:

5 "60-6E-10. ADMINISTRATIVE PROCEEDINGS--HEARINGS.--

6 A. Hearings for the suspension or revocation of any
7 server's server permit or for imposing a fine on the server, or
8 both, shall be conducted in accordance with the provisions of
9 Sections 60-6C-2 through 60-6C-6 NMSA 1978.

10 B. The director may suspend or revoke a server
11 permit or impose a fine on a server, or impose a combination of
12 those penalties, only if the server violates the provisions of
13 Section 60-7A-16 or 60-7B-1 NMSA 1978.

14 C. Notwithstanding the provisions of Subsection B
15 of this section, the director may suspend or revoke a server
16 permit and may impose a fine in an amount not to exceed ten
17 thousand dollars (\$10,000), or impose a combination of those
18 penalties, on a server who holds an alcoholic beverage delivery
19 permit for any violation of the Liquor Control Act committed
20 while the server is delivering alcoholic beverages pursuant to
21 the provisions of this 2020 act."

22 SECTION 10. Section 60-7A-4 NMSA 1978 (being Laws 1981,
23 Chapter 39, Section 50, as amended) is amended to read:

24 "60-7A-4. SALE, SHIPMENT AND DELIVERY UNLAWFUL.--

25 A. It is unlawful for [~~any~~] a person on [~~his~~] the

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1 person's own behalf or as the agent of another person, except a
2 licensed New Mexico wholesaler or manufacturer or the agent of
3 either, to directly or indirectly sell or offer for sale for
4 shipment into the state or ship into the state, except as
5 provided in Section 60-7A-3 NMSA 1978, [~~any~~] alcoholic
6 beverages unless [~~such~~] the person or [~~his~~] the person's
7 principals [~~has~~] have secured a nonresident license as provided
8 in Section [~~60-7A-7~~] 60-6A-7 NMSA 1978.

9 B. It is a violation of the Liquor Control Act to
10 deliver any alcoholic beverages transported into the state
11 unless the delivery is made in accordance with Section 60-7A-3
12 NMSA 1978 or Section 1 of this 2020 act.

13 C. As used in this section, "into the state [~~of New~~
14 ~~Mexico~~]" means into the exterior boundaries of the state."

15 SECTION 11. Section 60-7A-12 NMSA 1978 (being Laws 1981,
16 Chapter 39, Section 78, as amended) is amended to read:

17 "60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES,
18 RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES
19 AND CLUBS.--It is a violation of the Liquor Control Act for any
20 dispenser, canopy licensee, restaurant licensee, governmental
21 licensee or its lessee or club to:

22 A. receive any alcoholic beverages for the purpose
23 or with the intent of reselling the alcoholic beverages from
24 any person unless the person is duly licensed to sell alcoholic
25 beverages to dispensers for resale;

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

4 C. directly, indirectly or through subterfuge, own,
5 operate or control any interest in a wholesale liquor
6 establishment or liquor manufacturing or wine bottling firm;
7 provided that this section shall not prevent:

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

14 (2) a small brewer or winegrower licensed
15 pursuant to the Domestic Winery, Small Brewery and Craft
16 Distillery Act from holding an interest in a legal entity,
17 directly or indirectly or through an affiliate, that holds a
18 restaurant or a dispenser's license and a small brewer and
19 winegrower limited wholesaler's license issued pursuant to the
20 Liquor Control Act;

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

25 E. employ or engage a person to sell, serve or

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1 dispense alcoholic beverages if the person has not received
2 alcohol server training within thirty days of employment; or

3 F. employ or engage a person to sell, serve,
4 deliver or dispense alcoholic beverages during a period when
5 the server permit of that person is suspended or revoked."

6 SECTION 12. Section 60-7A-16 NMSA 1978 (being Laws 1981,
7 Chapter 39, Section 93, as amended) is amended to read:

8 "60-7A-16. SALE TO INTOXICATED PERSONS.--It is a
9 violation of the Liquor Control Act for a person to sell,
10 deliver or serve alcoholic beverages to or to procure or aid in
11 the procurement of alcoholic beverages for an intoxicated
12 person if the person selling, delivering, serving, procuring or
13 aiding in procurement knows or has reason to know that [~~he~~] the
14 person is selling, delivering, serving, procuring or aiding in
15 procurement of alcoholic beverages for a person [~~that~~] who is
16 intoxicated."

17 SECTION 13. Section 60-7B-5 NMSA 1978 (being Laws 1981,
18 Chapter 39, Section 85, as amended) is amended to read:

19 "60-7B-5. REFUSAL TO SELL OR SERVE ALCOHOLIC BEVERAGES TO
20 PERSON UNABLE TO PRODUCE IDENTITY CARD.--[~~Any~~] A person
21 licensed pursuant to the provisions of the Liquor Control Act
22 or any employee, agent or lessee of that person or any person
23 delivering alcoholic beverages on behalf of that person shall
24 refuse to sell, deliver or serve alcoholic beverages to any
25 person who is unable to produce an identity card as evidence

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1 that ~~[he]~~ the person is twenty-one years of age or over."

2 SECTION 14. Section 60-7B-6 NMSA 1978 (being Laws 1981,
3 Chapter 39, Section 86, as amended) is amended to read:

4 "60-7B-6. DEMANDING AND SEEING IDENTITY CARD BEFORE
5 FURNISHING ALCOHOLIC BEVERAGES.--In any criminal prosecution or
6 in any proceedings for the suspension or revocation of a
7 license or alcoholic beverage delivery permit or in any
8 proceeding for violation of a municipal or county ordinance
9 prohibiting the gift, sale or service of alcoholic beverages to
10 minors, proof that the accused licensee or alcoholic beverage
11 delivery permittee in good faith demanded and was shown an
12 identity card before furnishing any alcoholic beverages to a
13 minor shall be a defense to the prosecution or proceedings."