

1 HOUSE BILL 255

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO LIQUOR CONTROL; AMENDING AND ENACTING SECTIONS OF
12 THE LIQUOR CONTROL ACT TO PERMIT CERTAIN PERSONS TO DELIVER
13 ALCOHOLIC BEVERAGES; ADDING A NEW TYPE OF RESTAURANT LICENSE
14 THAT ALLOWS SALE OF ALCOHOLIC BEVERAGES IN RESTAURANTS;
15 IMPOSING LICENSE ISSUANCE FEES; PROVIDING FOR TAX DEDUCTIONS
16 FOR CERTAIN LICENSE HOLDERS.
17

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

19 SECTION 1. A new section of the Income Tax Act is enacted
20 to read:

21 "[NEW MATERIAL] DEDUCTION--INCOME FROM LEASING A LIQUOR
22 LICENSE.--

23 A. Prior to January 1, 2026, a taxpayer who is a
24 liquor license lessor and who held the license on June 30, 2021
25 may claim a deduction from net income in an amount equal to the
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1 gross receipts from sales of alcoholic beverages made by each
2 liquor license lessee in an amount:

3 (1) if the liquor license is a dispenser's
4 license, not to exceed fifty thousand dollars (\$50,000) for
5 each of four taxable years; and

6 (2) if the liquor license is a retailer's
7 license, not to exceed twenty-five thousand dollars (\$25,000)
8 for each of four taxable years.

9 B. Married individuals filing separate returns for
10 a taxable year for which they could have filed a joint return
11 may each claim only one-half of a deduction provided by this
12 section that would have been claimed on a joint return.

13 C. A taxpayer may claim the deduction provided by
14 this section in proportion to the taxpayer's ownership interest
15 if the taxpayer owns an interest in a business entity that is
16 taxed for federal income tax purposes as a partnership or
17 limited liability company and that business entity has met all
18 of the requirements to be eligible for the deduction. The
19 total deduction claimed in the aggregate by all members of the
20 partnership or association with respect to the deduction shall
21 not exceed the amount of the deduction that could have been
22 claimed by a sole owner of the business.

23 D. A taxpayer allowed a deduction pursuant to this
24 section shall report the amount of the deduction to the
25 department in a manner required by the department.

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1 E. The department shall compile an annual report on
2 the deduction provided by this section that shall include the
3 number of taxpayers that claimed the deduction, the aggregate
4 amount of deductions claimed and any other information
5 necessary to evaluate the cost of the deduction. The
6 department shall provide the report to the revenue
7 stabilization and tax policy committee and the legislative
8 finance committee with an analysis of the cost of the
9 deduction.

10 F. As used in this section:

11 (1) "alcoholic beverage" means alcoholic
12 beverage as defined in the Liquor Control Act;

13 (2) "dispenser's license" means a license
14 issued pursuant to the provisions of the Liquor Control Act
15 allowing the licensee to sell, offer for sale or have in the
16 person's possession with the intent to sell alcoholic beverages
17 both by the drink for consumption on the licensed premises and
18 in unbroken packages, including growlers, for consumption and
19 not for resale off the licensed premises;

20 (3) "growler" means a clean, refillable,
21 resealable container that has a liquid capacity that does not
22 exceed one gallon and that is intended and used for the sale of
23 beer, wine or cider;

24 (4) "liquor license" means a retailer's
25 license issued pursuant to Section 60-6A-2 NMSA 1978, a

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1 dispenser's license issued pursuant to Section 60-6A-3 NMSA
2 1978 or a dispenser's license issued pursuant to Section
3 60-6A-12 NMSA 1978 issued prior to July 1, 2021;

4 (5) "liquor license lessee" means a person
5 that leases a liquor license from a liquor license lessor;

6 (6) "liquor license lessor" means a person
7 that leases a liquor license to a third party; and

8 (7) "retailer's license" means a license
9 issued pursuant to the provisions of the Liquor Control Act
10 allowing the licensee to sell, offer for sale or have in the
11 person's possession with the intent to sell alcoholic beverages
12 in unbroken packages, including growlers, for consumption and
13 not for resale off the licensed premises."

14 SECTION 2. A new section of the Corporate Income and
15 Franchise Tax Act is enacted to read:

16 "[NEW MATERIAL] DEDUCTION--INCOME FROM LEASING A LIQUOR
17 LICENSE.--

18 A. Prior to January 1, 2026, a taxpayer that is a
19 liquor license lessor and that held the license on June 30,
20 2021 may claim a deduction from taxable income in an amount
21 equal to the gross receipts from sales of alcoholic beverages
22 made by each liquor license lessee in an amount:

23 (1) if the liquor license is a dispenser's
24 license, not to exceed fifty thousand dollars (\$50,000) for
25 each of four taxable years; and

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1 (2) if the liquor license is a retailer's
2 license, not to exceed twenty-five thousand dollars (\$25,000)
3 for each of four taxable years.

4 B. A taxpayer allowed a deduction pursuant to this
5 section shall report the amount of the deduction to the
6 department in a manner required by the department.

7 C. The department shall compile an annual report on
8 the deduction provided by this section that shall include the
9 number of taxpayers that claimed the deduction, the aggregate
10 amount of deductions claimed and any other information
11 necessary to evaluate the cost of the deduction. The
12 department shall provide the report to the revenue
13 stabilization and tax policy committee and the legislative
14 finance committee with an analysis of the cost of the
15 deduction.

16 D. As used in this section:

17 (1) "alcoholic beverage" means alcoholic
18 beverage as defined in the Liquor Control Act;

19 (2) "dispenser's license" means a license
20 issued pursuant to the provisions of the Liquor Control Act
21 allowing the licensee to sell, offer for sale or have in the
22 person's possession with the intent to sell alcoholic beverages
23 both by the drink for consumption on the licensed premises and
24 in unbroken packages, including growlers, for consumption and
25 not for resale off the licensed premises;

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1 (3) "growler" means a clean, refillable,
2 resealable container that has a liquid capacity that does not
3 exceed one gallon and that is intended and used for the sale of
4 beer, wine or cider;

5 (4) "liquor license" means a retailer's
6 license issued pursuant to Section 60-6A-2 NMSA 1978, a
7 dispenser's license issued pursuant to Section 60-6A-3 NMSA
8 1978 or a dispenser's license issued pursuant to Section
9 60-6A-12 NMSA 1978 issued prior to July 1, 2021;

10 (5) "liquor license lessee" means a person
11 that leases a liquor license from a liquor license lessor;

12 (6) "liquor license lessor" means a person
13 that leases a liquor license to a third party; and

14 (7) "retailer's license" means a license
15 issued pursuant to the provisions of the Liquor Control Act
16 allowing the licensee to sell, offer for sale or have in the
17 person's possession with the intent to sell alcoholic beverages
18 in unbroken packages, including growlers, for consumption and
19 not for resale off the licensed premises."

20 SECTION 3. A new section of the Gross Receipts and
21 Compensating Tax Act is enacted to read:

22 "[NEW MATERIAL] DEDUCTION--SALES MADE BY RETAILER'S OR
23 DISPENSER'S LICENSE HOLDER.--

24 A. Prior to January 1, 2026, a liquor license
25 holder who held the license on June 30, 2021 may deduct from

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1 gross receipts the following receipts:

2 (1) for each dispenser's license, up to fifty
3 thousand dollars (\$50,000) of receipts from the sale of
4 alcoholic beverages for taxable years 2022 through 2025; and

5 (2) for each retailer's license, up to
6 twenty-five thousand dollars (\$25,000) of receipts from the
7 sale of alcoholic beverages per year for four consecutive
8 taxable years.

9 B. A taxpayer allowed a deduction pursuant to this
10 section shall report the amount of the deduction separately in
11 a manner required by the department.

12 C. The department shall compile an annual report on
13 the deduction provided by this section that shall include the
14 number of taxpayers that claimed the deduction, the aggregate
15 amount of deductions claimed and any other information
16 necessary to evaluate the effectiveness of the deduction. The
17 department shall compile and present the report to the revenue
18 stabilization and tax policy committee and the legislative
19 finance committee with an analysis of the cost of the
20 deduction.

21 D. As used in this section:

22 (1) "alcoholic beverage" means alcoholic
23 beverage as defined in the Liquor Control Act;

24 (2) "dispenser's license" means a license
25 issued pursuant to the provisions of the Liquor Control Act

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1 allowing the licensee to sell, offer for sale or have in the
2 person's possession with the intent to sell alcoholic beverages
3 both by the drink for consumption on the licensed premises and
4 in unbroken packages, including growlers, for consumption and
5 not for resale off the licensed premises;

6 (3) "growler" means a clean, refillable,
7 resealable container that has a liquid capacity that does not
8 exceed one gallon and that is intended and used for the sale of
9 beer, wine or cider;

10 (4) "liquor license holder" means a person
11 that holds a retailer's license issued pursuant to Section
12 60-6A-2 NMSA 1978, a dispenser's license issued pursuant to
13 Section 60-6A-3 NMSA 1978 or a dispenser's license issued
14 pursuant to Section 60-6A-12 NMSA 1978 issued prior to July 1,
15 2021; and

16 (5) "retailer's license" means a license
17 issued pursuant to the provisions of the Liquor Control Act
18 allowing the licensee to sell, offer for sale or have in the
19 person's possession with the intent to sell alcoholic beverages
20 in unbroken packages, including growlers, for consumption and
21 not for resale off the licensed premises."

22 SECTION 4. A new section of the Liquor Control Act is
23 enacted to read:

24 "[NEW MATERIAL] ALCOHOLIC BEVERAGE DELIVERY PERMIT--THIRD-
25 PARTY DELIVERY LICENSE.--

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1 A. A person otherwise qualified pursuant to the
2 provisions of the Liquor Control Act may apply for and the
3 department may issue an alcoholic beverage delivery permit
4 authorizing the person to deliver alcoholic beverages if the
5 applicant holds a valid retailer's, dispenser's, craft
6 distiller's, winegrower's, small brewer's or restaurant license
7 and, in the case of a restaurant license, if the restaurant has
8 a facility with less than ten thousand square feet in size.

9 B. An alcoholic beverage delivery permit issued to
10 a valid restaurant licensee shall only convey the authority to
11 deliver alcoholic beverages concurrently with the delivery of a
12 minimum of twenty-five dollars (\$25.00) worth of food; provided
13 that under no circumstances shall the delivery of alcoholic
14 beverages be more than twenty-five fluid ounces of wine,
15 seventy-two fluid ounces of beer or one locally produced
16 growler.

17 C. An alcoholic beverage delivery permit is not
18 transferable from person to person or from one location to
19 another.

20 D. An alcoholic beverage delivery permit issued
21 pursuant to this section is valid for one year from the date of
22 issuance. An alcoholic beverage delivery permittee may renew
23 an alcoholic beverage delivery permit annually as required by
24 the department.

25 E. The director shall promulgate rules to implement

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1 the provisions of this section, which shall include the
2 following requirements and restrictions:

3 (1) an alcoholic beverage delivery permittee
4 shall deliver alcoholic beverages only in unbroken packages or
5 growlers;

6 (2) payment for alcoholic beverages shall be
7 received only at the licensed premises of the selling licensee
8 personally or by other means, including telephonically,
9 electronically, via website, application or internet platform;

10 (3) a licensee shall not change the price
11 charged for an alcoholic beverage because that beverage is
12 purchased for delivery; provided that a separate fee may be
13 charged for delivery; and further provided that the fee shall
14 be disclosed to the customer at the time of the purchase;

15 (4) deliveries of alcoholic beverages shall
16 occur only during the hours the selling licensee is authorized
17 to sell alcoholic beverages;

18 (5) an alcoholic beverage delivery permittee
19 shall not deliver an alcoholic beverage to a business, a
20 commercial establishment, a college or university campus or a
21 school campus that is not a home school;

22 (6) an alcoholic beverage delivery permittee
23 delivering alcoholic beverages shall obtain valid proof of the
24 recipient's identity and age;

25 (7) deliveries of alcoholic beverages shall

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1 not be made to an intoxicated person in violation of Section
2 60-7A-16 NMSA 1978 or to a minor in violation of Section
3 60-7B-1 NMSA 1978;

4 (8) while delivering alcoholic beverages, an
5 alcoholic beverage delivery permittee shall have in the
6 permittee's possession only alcoholic beverages that have been
7 purchased for delivery; and

8 (9) while delivering alcoholic beverages, an
9 alcoholic beverage delivery permittee shall have in the
10 permittee's possession the original or an electronic or
11 physical copy of the permittee's alcoholic beverage delivery
12 permit.

13 F. A licensee that holds an alcoholic beverage
14 delivery permit issued pursuant to this section may utilize an
15 employee who is at least twenty-one years of age and who holds
16 a valid server permit to deliver alcoholic beverages.

17 G. A licensee that holds an alcoholic beverage
18 delivery permit issued pursuant to this section may contract
19 with a third-party alcohol delivery service licensed by the
20 department; provided that the licensee, the third-party alcohol
21 delivery service and the server who delivers alcohol may be
22 separately liable for violations of the Liquor Control Act,
23 including for the delivery of alcohol to an intoxicated person
24 or to a minor.

25 H. The department, by rule, shall create a third-

1 party alcohol delivery permit and, at a minimum, condition the
2 issuance of a third-party alcohol delivery permit on:

3 (1) requiring that all delivery employees of
4 the third-party alcohol delivery service hold a valid New
5 Mexico alcohol server permit; and

6 (2) requiring proof of general liability
7 insurance coverage with a liquor liability endorsement in an
8 amount not less than one million dollars (\$1,000,000) per
9 occurrence.

10 I. A person, company or licensee that wishes to
11 deliver retail sales of alcohol in New Mexico on behalf of
12 valid retailer's, dispenser's, craft distiller's, winegrower's,
13 small brewer's or restaurant licensees that also hold a valid
14 alcoholic beverage delivery permit shall obtain a third-party
15 alcohol delivery license from the department.

16 J. An applicant for a third-party alcohol delivery
17 license is required to be authorized to do business in this
18 state, may not share in the profits of the sale of alcohol with
19 a licensee and may only charge a delivery fee that is disclosed
20 to the buyer at the time of sale.

21 K. A third-party alcohol delivery licensee shall
22 not have the ability to buy, hold or deliver alcohol under its
23 own license but to only allow for delivery of alcohol from a
24 licensed premises and from a qualified licensee with a valid
25 alcoholic beverage delivery permit to the buyer.

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1 L. A third-party alcohol delivery licensee shall be
2 independently liable for the delivery of alcoholic beverages to
3 an intoxicated person or to a minor or for any violation of the
4 Liquor Control Act and be subject to suspension, revocation or
5 administrative fine pursuant to Sections 60-6C-1 through
6 60-6C-6 NMSA 1978.

7 M. A third-party alcohol delivery license shall be
8 valid for one year, and may be renewed."

9 SECTION 5. Section 7-17-2 NMSA 1978 (being Laws 1966,
10 Chapter 49, Section 2, as amended) is amended to read:

11 "7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax
12 Act:

13 A. "alcoholic beverage serving" means a serving of
14 a beverage containing sixteen ounces or less of an alcoholic
15 beverage and sold to a customer for immediate consumption;

16 [~~A.~~] B. "alcoholic beverages" means distilled or
17 rectified spirits, potable alcohol, brandy, whiskey, rum, gin,
18 aromatic bitters or any similar beverage, including blended or
19 fermented beverages, dilutions or mixtures of one or more of
20 the foregoing containing more than one-half of one percent
21 alcohol by volume, but "alcoholic beverages" does not include
22 medicinal bitters;

23 [~~B.~~] C. "beer" means an alcoholic beverage obtained
24 by the fermentation of any infusion or decoction of barley,
25 malt and hops or other cereals in water and includes porter,

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1 beer, ale and stout;

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

7 ~~[D.]~~ E. "department" means the taxation and revenue
8 department, the secretary of taxation and revenue or any
9 employee of the department exercising authority lawfully
10 delegated to that employee by the secretary;

11 ~~[E.]~~ F. "fortified wine" means wine containing more
12 than fourteen percent alcohol by volume when bottled or
13 packaged by the manufacturer, but "fortified wine" does not
14 include:

15 (1) wine that is sealed or capped by cork
16 closure and aged two years or more;

17 (2) wine that contains more than fourteen
18 percent alcohol by volume solely as a result of the natural
19 fermentation process and that has not been produced with the
20 addition of wine spirits, brandy or alcohol; or

21 (3) vermouth and sherry;

22 ~~[F.]~~ G "microbrewer" means a person who produces
23 less than two hundred thousand barrels of beer per year;

24 ~~[G.]~~ H. "person" includes, to the extent permitted
25 by law, a federal, state or other governmental unit or

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1 subdivision or an agency, department, institution or
2 instrumentality thereof;

3 ~~[H.]~~ I. "small winegrower" means a winegrower who
4 produces less than one million five hundred thousand liters of
5 wine in a year;

6 ~~[F.]~~ J. "spirituous liquors" means alcoholic
7 beverages, except fermented beverages such as wine, beer, cider
8 and ale;

9 ~~[J.]~~ K. "wholesaler" means a person holding a
10 license issued under Section 60-6A-1 NMSA 1978 or a person
11 selling alcoholic beverages that were not purchased from a
12 person holding a license issued under Section 60-6A-1 NMSA
13 1978;

14 ~~[K.]~~ L. "wine" means an alcoholic beverage other
15 than cider that is obtained by the fermentation of the natural
16 sugar contained in fruit or other agricultural products, with
17 or without the addition of sugar or other products, and that
18 does not contain more than twenty-one percent alcohol by
19 volume; and

20 ~~[L.]~~ M. "winegrower" means a person licensed
21 pursuant to Section 60-6A-11 NMSA 1978."

22 SECTION 6. A new Section 7-17-5.2 NMSA 1978 is enacted to
23 read:

24 "7-17-5.2. [NEW MATERIAL] ALCOHOLIC BEVERAGE SERVING
25 TAX.--

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1 A. An excise tax is imposed on a retailer that
2 sells alcoholic beverage servings in this state on which the
3 tax imposed by this section has not been paid. The tax imposed
4 by this section may be referred to as the "alcoholic beverage
5 serving tax".

6 B. The rate of the alcoholic beverage serving tax
7 is five percent and is applied to the price paid for each
8 alcoholic beverage serving sold. If the price paid does not
9 represent the value of the alcoholic beverage serving, the tax
10 rate shall be applied to the reasonable value of the alcoholic
11 beverage serving at the time it was sold.

12 C. As used in this section, "retailer" means a
13 person having a place of business and who sells, offers for
14 sale or possesses for the purpose of selling alcoholic beverage
15 servings to customers of the business."

16 SECTION 7. Section 7-17-9 NMSA 1978 (being Laws 1966,
17 Chapter 49, Section 7, as amended) is amended to read:

18 "7-17-9. EXEMPTION--CERTAIN SALES TO OR BY
19 INSTRUMENTALITIES OF ARMED FORCES.--Exempted from the [~~tax~~]
20 taxes imposed by Section 7-17-5 NMSA 1978 are alcoholic
21 beverages and alcoholic beverage servings sold to or by any
22 instrumentality of the armed forces of the United States
23 engaged in resale activities."

24 SECTION 8. Section 7-17-10 NMSA 1978 (being Laws 1966,
25 Chapter 49, Section 8, as amended) is amended to read:

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1 "7-17-10. DATE PAYMENT DUE.--The [~~tax~~] taxes imposed by
2 the Liquor Excise Tax Act [~~is~~] are to be paid on or before the
3 twenty-fifth day of the month following the month in which the
4 taxable event occurs."

5 **SECTION 9.** Section 7-17-12 NMSA 1978 (being Laws 1984,
6 Chapter 85, Section 8, as amended) is amended to read:

7 "7-17-12. INTERPRETATION OF ACT--ADMINISTRATION AND
8 ENFORCEMENT OF TAX.--

9 A. The department shall interpret the provisions of
10 the Liquor Excise Tax Act.

11 B. The department shall administer and enforce the
12 collection of the [~~liquor excise tax~~] taxes imposed pursuant to
13 the Liquor Excise Tax Act, and the Tax Administration Act
14 applies to the administration and enforcement of [~~the tax~~]
15 those taxes."

16 **SECTION 10.** Section 60-3A-3 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 3, as amended by Laws 2019, Chapter 29,
18 Section 2 and by Laws 2019, Chapter 229, Section 3) is amended
19 to read:

20 "60-3A-3. DEFINITIONS.--As used in the Liquor Control
21 Act:

22 A. "alcoholic beverages" means distilled or
23 rectified spirits, potable alcohol, powdered alcohol, frozen or
24 freeze-dried alcohol, brandy, whiskey, rum, gin and aromatic
25 bitters bearing the federal internal revenue strip stamps or

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1 any similar alcoholic beverage, including blended or fermented
2 beverages, dilutions or mixtures of one or more of the
3 foregoing containing more than one-half percent alcohol, but
4 excluding medicinal bitters;

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

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

11 D. "cider" means an alcoholic beverage made from
12 the normal alcoholic fermentation of the juice of sound, ripe
13 apples or pears that contains not less than one-half of one
14 percent alcohol by volume and not more than eight and one-half
15 percent alcohol by volume;

16 E. "club" means:

17 (1) any nonprofit group, including an
18 auxiliary or subsidiary group, organized and operated under the
19 laws of this state, with a membership of not less than fifty
20 members who pay membership dues at the rate of not less than
21 five dollars (\$5.00) per year and who, under the constitution
22 and bylaws of the club, have all voting rights and full
23 membership privileges, and which group is the owner, lessee or
24 occupant of premises used exclusively for club purposes and
25 which group the director finds:

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1 (a) is operated solely for recreation,
2 social, patriotic, political, benevolent or athletic purposes;
3 and

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

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

20 F. "commission" means the secretary of public
21 safety when the term is used in reference to the enforcement
22 and investigatory provisions of the Liquor Control Act and
23 means the superintendent of regulation and licensing when the
24 term is used in reference to the licensing provisions of the
25 Liquor Control Act;

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1 G. "department" means the New Mexico state police
2 division of the department of public safety when the term is
3 used in reference to the enforcement and investigatory
4 provisions of the Liquor Control Act and means the director of
5 the alcoholic beverage control division of the regulation and
6 licensing department when the term is used in reference to the
7 licensing provisions of the Liquor Control Act;

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

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

23 J. "distiller" means a person engaged in
24 manufacturing spirituous liquors;

25 K. "golf course" means a tract of land and

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1 facilities used for playing golf and other recreational
2 activities that includes tees, fairways, greens, hazards,
3 putting greens, driving ranges, recreational facilities,
4 patios, restaurants, banquet halls, pro shops, cart paths and
5 public and private roads that are located within the tract of
6 land;

7 L. "governing body" means the board of county
8 commissioners of a county or the city council or city
9 commissioners of a municipality;

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

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

21 O. "licensed premises" means the contiguous areas
22 ~~[or areas connected by indoor passageways of a structure and~~
23 ~~the outside dining, recreation and lounge areas]~~ of the
24 structure and the grounds ~~[and vineyards of a structure that is~~
25 ~~a winery]~~ that are under the direct control of the licensee

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

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

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1 Liquor Control Act or any former act;

2 Q. "manufacturer" means a distiller, rectifier,
3 brewer or winer;

4 R. "minor" means a natural person under twenty-one
5 years of age;

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

10 T. "person" means an individual, corporation, firm,
11 partnership, copartnership, association or other legal entity;

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

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

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1 fast foods;

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

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

12 Y. "spirituous liquors" means alcoholic beverages
13 as defined in Subsection A of this section except fermented
14 beverages such as wine, beer and cider ~~[and ale]~~;

15 Z. "wholesaler" means a person whose place of
16 business is located in New Mexico and who sells, offers for
17 sale or possesses for the purpose of sale any alcoholic
18 beverages for resale by the purchaser;

19 AA. "wine" ~~[includes the words "fruit juices" and]~~
20 means alcoholic beverages obtained by the fermentation of the
21 natural sugar contained in fruit or other agricultural
22 products, with or without the addition of sugar or other
23 products, that do not contain less than one-half percent nor
24 more than twenty-one percent alcohol by volume;

25 BB. "wine bottler" means a ~~[New Mexico]~~ wholesaler

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1 who is licensed to sell wine at wholesale for resale only and
2 who buys wine in bulk and bottles it for wholesale resale;

3 CC. "winegrower" means a person who owns or
4 operates a business for the manufacture of wine or cider;

5 DD. "winer" means a winegrower; and

6 EE. "winery" means a ~~[facility]~~ licensed premise in
7 which a winegrower manufactures and stores wine or cider."

8 SECTION 11. Section 60-6A-4 NMSA 1978 (being Laws 1981,
9 Chapter 39, Section 21, as amended) is amended to read:

10 "60-6A-4. RESTAURANT LICENSE.--

11 A. A local option district may approve the issuance
12 of restaurant licenses for the sale of beer and wine by holding
13 an election on that question pursuant to the procedures set out
14 in Section 60-5A-1 NMSA 1978. The election also may be
15 initiated by a resolution adopted by the governing body of the
16 local option district without a petition from qualified
17 electors having been submitted.

18 B. A local option district that has approved the
19 issuance of restaurant licenses for the sale of beer and wine
20 may approve the issuance of restaurant licenses for the sale of
21 beer, wine and alcoholic beverages in restaurants by adoption
22 of an ordinance.

23 C. A restaurant license issued or renewed on or
24 after July 1, 2020 that permits the sale and service of beer
25 and wine only shall be designated a type A restaurant license.

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1 The license shall be issued in accordance with the provisions
2 of this section and rules adopted by the department.

3 D. A restaurant license issued on or after July 1,
4 2020 that permits the sale and service of beer, wine and
5 alcoholic beverages shall be designated a type B restaurant
6 license. The license shall be issued in accordance with the
7 provisions of this section and rules adopted by the department.

8 [~~B.~~] E. After the approval of restaurant licenses
9 by the qualified electors of the local option district for the
10 sale of beer and wine and upon completion of all requirements
11 in the Liquor Control Act for the issuance of licenses, a
12 restaurant located or to be located within the local option
13 district may receive a type A restaurant license to sell, serve
14 or allow the consumption of beer and wine subject to the
15 following requirements and restrictions:

16 (1) the applicant shall submit evidence to the
17 department that the applicant has a current valid food service
18 establishment permit;

19 (2) the applicant shall satisfy the director
20 that the primary source of revenue from the operation of the
21 restaurant will be derived from [~~meals~~] food and not from the
22 sale of beer and wine;

23 (3) the director shall condition renewal upon
24 a requirement that no less than sixty percent of gross receipts
25 from the preceding twelve months' operation of the licensed

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1 restaurant was derived from the sale of [~~meals~~] food;

2 (4) upon application for renewal, the licensee
3 shall submit an annual report to the director indicating the
4 annual gross receipts from the sale of [~~meals~~] food and from
5 beer and wine sales;

6 [~~(5)~~] ~~restaurant licensees shall not sell beer~~
7 ~~and wine for consumption off the licensed premises;~~

8 ~~(6)]~~ (5) all sales, services and consumption
9 of beer and wine authorized by a type A restaurant license
10 shall cease at the time [~~meal~~] food sales and services cease or
11 at 11:00 p.m., whichever time is earlier;

12 [~~(7)]~~ (6) if Sunday sales have been approved
13 in the local option district, a restaurant licensee may serve
14 beer and wine on Sundays from 7:00 a.m. until the time meal
15 sales and services cease or 11:00 p.m., whichever time is
16 earlier; and

17 [~~(8)]~~ (7) a type A restaurant license shall
18 not be transferable from person to person [~~or~~] but shall be
19 transferrable from one location to another location within the
20 same local option district.

21 F. Upon completion of all requirements in the
22 Liquor Control Act for the issuance of licenses on and after
23 July 1, 2020, and upon the adoption of an ordinance by the
24 governing body of a local option district, a restaurant located
25 or to be located within the local option district may receive a

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1 type B restaurant license to sell, serve or allow the
2 consumption of beer, wine and alcoholic beverages subject to
3 the following requirements and restrictions:

4 (1) the applicant shall submit evidence to the
5 department that the applicant has a current valid food service
6 establishment permit;

7 (2) the applicant shall satisfy the director
8 that the primary source of revenue from the operation of the
9 restaurant will be derived from the sale of food and not from
10 the sale of beer, wine and alcoholic beverages;

11 (3) the director shall condition renewal upon
12 a requirement that no less than sixty percent of gross receipts
13 from the preceding twelve months' operation of the licensed
14 restaurant was derived from the sale of food;

15 (4) upon application for renewal, the licensee
16 shall submit an annual report to the director indicating the
17 annual gross receipts from the sale of food and from beer, wine
18 and alcoholic beverages sales;

19 (5) if Sunday sales have been approved in the
20 local option district, a type B restaurant licensee may serve
21 beer and wine on Sundays from 7:00 a.m. until the time meal
22 sales and services cease or 11:00 p.m., whichever time is
23 earlier; and

24 (6) a type B restaurant license shall not be
25 transferable from person to person but shall be transferable

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1 from one location to another location within the same local
2 option district.

3 ~~[G.]~~ G. The provisions of Section 60-6A-18 NMSA
4 1978 shall not apply to restaurant licenses.

5 ~~[D.]~~ H. Nothing in this section shall prevent a
6 restaurant licensee from receiving other licenses pursuant to
7 the Liquor Control Act."

8 SECTION 12. Section 60-6A-6.1 NMSA 1978 (being Laws 2011,
9 Chapter 110, Section 3, as amended) is amended to read:

10 "60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

11 A. In any local option district, a person qualified
12 pursuant to the provisions of the Liquor Control Act, except as
13 otherwise provided in the Domestic Winery, Small Brewery and
14 Craft Distillery Act, may apply for and be issued a craft
15 distiller's license subject to the following conditions:

16 (1) the applicant submits evidence to the
17 department that the applicant has a valid and appropriate
18 permit issued by the federal government to be a craft
19 distiller;

20 (2) renewal of the license shall be
21 conditioned upon:

22 (a) no less than sixty percent of the
23 gross receipts from the sale of spirituous liquors for the
24 preceding twelve months of the licensee's operation being
25 derived from the sale of spirituous liquors produced by the

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1 licensee;

2 (b) the manufacture of no less than [~~one~~
3 ~~thousand~~] five hundred proof gallons of spirituous liquors per
4 license year at the licensee's premises; and

5 (c) submission to the department by the
6 licensee of a report showing the number of proof gallons of
7 spirituous liquors manufactured by the licensee at the
8 licensee's premises and the annual gross receipts from the sale
9 of spirituous liquors produced by the licensee and from the
10 licensee's sale of distilled spirituous liquors produced by
11 other New Mexico licensed craft distillers;

12 (3) a craft distiller's license shall not be
13 transferred from person to person or from one location to
14 another;

15 (4) the provisions of Section 60-6A-18 NMSA
16 1978 shall not apply to a craft distiller's license; and

17 (5) nothing in this section shall prevent a
18 craft distiller from receiving other licenses pursuant to the
19 Liquor Control Act.

20 B. A person to whom a craft distiller's license is
21 issued pursuant to this section may do any of the following:

22 (1) manufacture or produce spirituous liquors,
23 including aging, filtering, blending, mixing, flavoring,
24 coloring, bottling and labeling;

25 (2) store, transport, import or export

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1 spirituous liquors;

2 (3) sell only spirituous liquors that are
3 packaged by or for the craft distiller to a person holding a
4 wholesaler's license, a craft distiller's license or a
5 manufacturer's license;

6 (4) deal in warehouse receipts for spirituous
7 liquors;

8 (5) buy spirituous liquors from other persons,
9 including licensees and permittees under the Liquor Control
10 Act, for use in blending, flavoring, mixing or bottling of
11 spirituous liquors;

12 (6) buy or otherwise obtain beer from a small
13 brewer or wine or cider from a winegrower for the purposes
14 described in this subsection;

15 [~~(6)~~] (7) be deemed a manufacturer for
16 purposes of the Gross Receipts and Compensating Tax Act;

17 [~~(7)~~] (8) conduct spirituous liquor, wine,
18 cider or beer tastings and sell, by the glass or by the bottle,
19 or in unbroken packages for consumption off the premises but
20 not for resale, spirituous liquors of the craft distiller's own
21 production or spirituous liquors produced by another New Mexico
22 craft distiller or New Mexico manufacturer on the craft
23 distiller's premises, wine or cider produced by a winegrower
24 pursuant to Section 60-6A-11 NMSA 1978 or beer produced and
25 bottled by or for a small brewer pursuant to Section 60-6A-26.1

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1 NMSA 1978; and

2 [~~(8)~~] (9) at no more than three other
3 locations off the craft distiller's premises, after the craft
4 distiller has paid the applicable fee for a craft distiller's
5 off-premises permit, after the director has determined that the
6 off-premises locations meet the requirements of the Liquor
7 Control Act and department rules for new liquor license
8 locations and after the director has issued a craft distiller's
9 off-premises permit for each off-premises location, conduct
10 spirituous liquor, wine, cider or beer tastings and sell by the
11 glass, or in unbroken packages for consumption and not for
12 resale, spirituous liquors produced and bottled by or for the
13 craft distiller or spirituous liquors produced and bottled by
14 or for another New Mexico craft distiller or manufacturer, wine
15 or cider produced by a winegrower pursuant to Section 60-6A-11
16 NMSA 1978 or beer produced and bottled by or for a small brewer
17 pursuant to Section 60-6A-26.1 NMSA 1978.

18 C. For a public or private celebration on or off
19 the craft distiller's premises in any local option district
20 permitting the sale of alcoholic beverages, a craft distiller
21 shall pay ten dollars (\$10.00) to the department for a "craft
22 distiller's public celebration permit" or a "craft distiller's
23 private celebration permit" to be issued under rules adopted by
24 the director. Upon request, the department may issue to a
25 craft distiller a public celebration permit for a location at

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1 the public celebration that is to be shared with other craft
2 distillers, small brewers and winegrowers.

3 D. At private celebrations on or off the craft
4 distiller's premises after the craft distiller has paid the
5 applicable fees and been issued the appropriate permit, the
6 craft distiller may sell by the glass spirituous liquors
7 produced by or for the craft distiller, wine or cider produced
8 by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer
9 produced and bottled by or for a small brewer pursuant to
10 Section 60-6A-26.1 NMSA 1978.

11 E. Sales and tastings of spirituous liquors, wine,
12 cider and beer authorized in this section shall be permitted
13 during the hours set forth in Subsection A of Section 60-7A-1
14 NMSA 1978 and between the hours of 11:00 a.m. and midnight on
15 Sunday and shall conform to the limitations regarding Christmas
16 day sales and the expansion of Sunday sales hours to 2:00 a.m.
17 on January 1, when December 31 falls on a Sunday as set forth
18 in Section 60-7A-1 NMSA 1978.

19 F. As used in this section:

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

24 (2) "public celebration" includes any state or
25 county fair, community fiesta, cultural or artistic event,

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1 sporting competition of a seasonal nature or activities held on
2 an intermittent basis."

3 SECTION 13. Section 60-6A-10 NMSA 1978 (being Laws 1981,
4 Chapter 39, Section 27, as amended) is amended to read:

5 "60-6A-10. GOVERNMENTAL LICENSE.--

6 A. A governmental entity may sell alcoholic
7 beverages directly or through its lessee at a governmental
8 facility if the governing body applies to the director for a
9 governmental license. The governmental entity and its lessee
10 shall be subject to all state laws and regulations governing
11 dispensers.

12 B. A governmental license may be leased to a
13 qualified lessee and may only be used by the lessee for its
14 operation during events authorized by the governmental entity
15 at the governmental facility designated on the governmental
16 license. The governmental entity and its lessee shall not sell
17 alcoholic beverages for consumption off the licensed premises.
18 On the licensed premises of a [~~municipal baseball park~~]
19 governmental facility, the sale or service of alcoholic
20 beverages in unbroken packages is allowed. Alcoholic beverages
21 shall not be removed from the licensed premises of a [~~municipal~~
22 ~~baseball park~~] governmental facility. A server as defined in
23 Section 60-6E-3 NMSA 1978 is not required to be present in a
24 [~~skybox~~] suite to serve alcoholic beverages to the person
25 leasing the [~~skybox~~] suite or the person's guests.

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1 C. A governmental entity holding a governmental
2 license shall annually and not less than sixty days prior to
3 the date for renewal of its license submit to the director
4 documentary proof that its lessee is fully qualified to be a
5 lessee of a governmental license. If the director finds that
6 the lessee is qualified to lease a governmental license, the
7 director shall renew the license for an additional period of
8 one year. If the director determines that the proof is
9 inadequate, the director shall notify the governing body of the
10 decision and shall conduct a hearing as provided by law. If
11 the director finds that the lessee does not qualify and the
12 governmental entity does not change its lessee, the director
13 shall revoke the license.

14 D. The provisions of Section 60-6A-18 NMSA 1978
15 shall not apply to governmental licenses.

16 E. For the purposes of this section:

17 (1) "governmental entity" means a
18 municipality, a county, a state fair that is held for less than
19 ten days per year, the state fair commission, a state museum, a
20 state university or the spaceport authority;

21 (2) "governmental facility" means locations on
22 property owned or operated by a governmental entity, including
23 county fairs; state fairs held for less than ten days per year;
24 convention centers; airports; civic centers; food service
25 facilities in state museums; auditoriums; all facilities on the

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1 New Mexico state fairgrounds; facilities used for athletic
2 competitions; golf courses, including golf courses required to
3 be used for municipal purposes notwithstanding that there may
4 be an existing club license at the same location operated by
5 the same club licensee; other facilities used for cultural or
6 artistic performances; and all spaceport authority facilities
7 [~~but "governmental facility" does not include tennis~~
8 ~~facilities~~];

9 (3) "lessee" means an individual, corporation,
10 partnership, firm or association that fulfills the requirements
11 set forth in Subsections A through D of Section 60-6B-2 NMSA
12 1978; and

13 [~~(4) "municipal baseball park" means a~~
14 ~~governmental facility owned by a governmental entity in a class~~
15 ~~A county having a population of three hundred fifty thousand or~~
16 ~~more pursuant to the most recent federal decennial census that~~
17 ~~is the home stadium of an affiliate of a professional baseball~~
18 ~~team and that may be used throughout the year for baseball~~
19 ~~games and other events; and~~

20 ~~(5) "skybox"]~~ (4) "suite" means a room or
21 area of seating [~~of a municipal baseball park~~] at an event,
22 separated from the general seating [~~and usually located in the~~
23 ~~upper decks of the park~~], leased to a person for that person's
24 exclusive use during [~~baseball games~~] events and at any other
25 time throughout the year.

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1 F. The provisions of Section 60-6B-10 NMSA 1978,
2 with respect to golf courses owned by a governmental entity and
3 civic centers owned and operated by a governmental entity,
4 shall not apply to governmental licenses."

5 **SECTION 14.** Section 60-6A-11 NMSA 1978 (being Laws 1981,
6 Chapter 39, Section 28, as amended) is amended to read:

7 "60-6A-11. WINEGROWER'S LICENSE.--

8 A. A person in this state who produces wine or
9 cider is exempt from the procurement of any other license
10 pursuant to the terms of the Liquor Control Act, but not from
11 the procurement of a winegrower's license. Except during
12 periods of shortage or reduced availability, at least fifty
13 percent of a winegrower's overall annual production of wine
14 shall be produced from grapes or other agricultural products
15 grown in this state pursuant to rules adopted by the director;
16 provided, however, that, for purposes of determining annual
17 production and compliance with the fifty percent New Mexico
18 grown provision of this subsection, the calculation of a
19 winegrower's overall annual production of wine shall not
20 include the winegrower's production of wine for out-of-state
21 wine producer license holders.

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

24 (1) manufacture or produce wine or cider,
25 including blending, mixing, flavoring, coloring, bottling and

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1 labeling, whether the wine or cider is manufactured or produced
2 for a winegrower or an out-of-state wine producer holding a
3 permit issued pursuant to the Federal Alcohol Administration
4 Act and a valid license in a state that authorizes the wine or
5 cider producer to manufacture, produce, store or sell wine or
6 cider;

7 (2) store, transport, import or export wines
8 or ciders;

9 (3) sell wines or ciders to a holder of a New
10 Mexico winegrower's, wine wholesaler's, wholesaler's or wine
11 exporter's license or to a winegrower's agent;

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

15 (5) deal in warehouse receipts for wine or
16 cider;

17 (6) sell wines or ciders in other states or
18 foreign jurisdictions to the holders of a license issued under
19 the authority of that state or foreign jurisdiction authorizing
20 the purchase of wine or cider;

21 (7) buy wine or cider or distilled wine
22 products from other persons, including licensees and permittees
23 under the Liquor Control Act, for use in blending, mixing or
24 bottling of wines or ciders;

25 (8) buy or otherwise obtain beer from a small

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1 brewer or spirituous liquor from a craft distiller for the
2 purposes described in this subsection;

3 (9) conduct wine, ~~[or]~~ cider, beer or
4 spirituous liquor tastings and sell, by the glass or by the
5 bottle, or sell in unbroken packages for consumption off the
6 premises, but not for resale, wine or cider of the winegrower's
7 own production, wine or cider produced by another New Mexico
8 winegrower on the winegrower's premises, ~~[or]~~ beer produced and
9 bottled by or for a small brewer pursuant to Section 60-6A-26.1
10 NMSA 1978 or spirituous liquor produced and bottled by or for a
11 craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

12 (10) at no more than three off-premises
13 locations, conduct wine, ~~[or]~~ beer or spirituous liquor
14 tastings, sell by the glass and sell in unbroken packages for
15 consumption off premises, but not for resale, wine or cider of
16 the winegrower's own production, wine or cider produced by
17 another New Mexico winegrower or beer produced and bottled by
18 or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978
19 or spirituous liquor produced and bottled by or for a craft
20 distiller pursuant to Section 60-6A-6.1 NMSA 1978 after the
21 director has determined that the off-premises locations meet
22 the requirements of the Liquor Control Act and the department
23 rules for new liquor license locations;

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

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

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

11 (a) by the glass or bottle, wine or
12 cider produced by or for the winegrower; ~~[or]~~

13 (b) by the glass, beer produced by a
14 small brewer pursuant to Section 60-6A-26.1 NMSA 1978; or

15 (c) by the drink, spirituous liquors
16 produced and bottled by or for a craft distiller pursuant to
17 Section 60-6A-6.1 NMSA 1978;

18 (14) sell wine or cider in a growler for
19 consumption off premises; and

20 (15) in accordance with the provisions of this
21 section that relate to the sale of wine or cider, accept and
22 fulfill an order for wine or cider that is placed via an
23 internet website, whether the financial transaction related to
24 the order is administered by the licensee or the licensee's
25 agent.

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

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

25 E. Every application for the issuance or annual

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1 renewal of a winegrower's license shall be on a form prescribed
2 by the director and accompanied by a license fee to be computed
3 as follows on the basis of total annual wine or cider produced
4 or blended:

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

7 (2) between five thousand and one hundred
8 thousand gallons per year, one hundred dollars (\$100) per year;
9 and

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

12 F. As used in this section:

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

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

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

23 "60-6A-15. LICENSE AND PERMIT FEES--Every application
24 for the issuance or renewal of the following licenses and
25 permits shall be accompanied by a [~~license~~] fee in the

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1 following specified amounts:

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

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

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

8 D. wholesaler's license to sell all alcoholic
9 beverages for resale only, two thousand five hundred dollars
10 (\$2,500);

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

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

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

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

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

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

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

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

3 M. restaurant license type A, one thousand fifty
4 dollars (\$1,050);

5 N. restaurant license type B shall be based upon
6 the seating capacity of the restaurant:

7 (1) zero to twenty-five seats, five thousand
8 dollars (\$5,000);

9 (2) twenty-six to fifty seats, ten thousand
10 dollars (\$10,000);

11 (3) fifty-one to one hundred seats, fifteen
12 thousand dollars (\$15,000); and

13 (4) more than one hundred seats, twenty
14 thousand dollars (\$20,000);

15 ~~[N.]~~ O. club license, for clubs with more than two
16 hundred fifty members, one thousand two hundred fifty dollars
17 (\$1,250), and for clubs with two hundred fifty members or
18 fewer, two hundred fifty dollars (\$250);

19 ~~[O.]~~ P. wine bottler's license to sell to
20 wholesalers only, five hundred dollars (\$500);

21 ~~[P.]~~ Q. public service license, one thousand two
22 hundred fifty dollars (\$1,250);

23 ~~[Q.]~~ R. nonresident licenses, for a total billing
24 to New Mexico wholesalers:

25 (1) in excess of:

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1 \$3,000,000 annually \$10,500;
2 1,000,000 annually 5,250;
3 500,000 annually 3,750;
4 200,000 annually 2,700;
5 100,000 annually 1,800;

6 and

7 50,000 annually 900;

8 and

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

10 [~~R.~~] S. wine wholesaler's license, for persons with
11 sales of five thousand gallons of wine per year or less,
12 twenty-five dollars (\$25.00), and for persons with sales in
13 excess of five thousand gallons of wine per year, one hundred
14 dollars (\$100); [~~and~~

15 ~~S.~~] T. beer bottler's license, two hundred dollars
16 (\$200);

17 U. third-party alcohol delivery license, not to
18 exceed three hundred dollars (\$300);

19 V. alcoholic beverage delivery permit, not to
20 exceed three hundred dollars (\$300); and

21 W. retailer's, dispenser's or canopy licenses, if
22 the licensee held the license on June 30, 2020, there shall be
23 no renewal fee for applications filed by the licensee or
24 successor licensees on or before June 30, 2026."

25 SECTION 16. Section 60-6A-19 NMSA 1978 (being Laws 1981,
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1 Chapter 39, Section 36, as amended) is amended to read:

2 "60-6A-19. NO PROPERTY RIGHT IN LICENSE--EXCEPTION.--

3 A. The holder of [~~any~~] a license issued under the
4 Liquor Control Act or any former act has no vested property
5 right in the license, which is the property of the state;
6 provided that retailer's licenses, dispenser's licenses and
7 canopy licenses that were replaced by dispenser's licenses
8 pursuant to Section 60-6B-16 NMSA 1978:

9 (1) shall be considered property subject to
10 execution, attachment, a security transaction, liens,
11 receivership and [~~all~~] other incidents of tangible personal
12 property under the laws of this state, except as otherwise
13 provided in the Liquor Control Act;

14 (2) on or before July 1, 2026, may be
15 assigned, transferred from person to person or leased, provided
16 all requirements of the Liquor Control Act and department
17 regulations are fulfilled; and

18 (3) shall be transferred as personal property
19 upon attachment, execution, repossession by a secured party or
20 lienor, foreclosure by a creditor, appointment of a receiver
21 for the licensee, death of the licensee, filing of a petition
22 of bankruptcy by or for the licensee, incapacity of the
23 licensee or dissolution of the licensee. The director may, by
24 rule or regulation, determine [~~any~~] an application or notice
25 requirement for a person who temporarily holds a license

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1 pursuant to this subsection.

2 B. ~~Any~~ A license issued under the Liquor Control
3 Act may be transferred to any location not otherwise contrary
4 to law within the same local option district where the license
5 is then located, provided all requirements of the Liquor
6 Control Act and department regulations are fulfilled."

7 SECTION 17. Section 60-6A-26.1 NMSA 1978 (being Laws
8 1985, Chapter 217, Section 5, as amended) is amended to read:

9 "60-6A-26.1. SMALL BREWER'S LICENSE.--

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

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

17 (1) manufacture or produce beer;

18 (2) package, label and export beer, whether
19 manufactured, bottled or produced by the licensee or any other
20 person;

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

24 (4) deal in warehouse receipts for beer;

25 (5) conduct beer, wine, cider and spirituous

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1 liquor tastings and sell for consumption on or off premises,
2 but not for resale, beer produced and bottled by, or produced
3 and packaged for, the licensee, beer produced and bottled by or
4 for another New Mexico small brewer on the small brewer's
5 premises or wine or cider produced by a winegrower pursuant to
6 Section 60-6A-11 NMSA 1978 or spirituous liquor produced and
7 bottled by or for a craft distiller pursuant to Section
8 60-6A-6.1 NMSA 1978;

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

11 (7) at public celebrations off the small
12 brewer's premises, after the small brewer has paid the
13 applicable fee for a small brewer's public celebration permit,
14 conduct tastings and sell by the glass or in unbroken packages,
15 but not for resale, beer produced and bottled by or for the
16 small brewer or wine or cider produced by a winegrower pursuant
17 to Section 60-6A-11 NMSA 1978 or spirituous liquor produced and
18 bottled by or for a craft distiller pursuant to Section
19 60-6A-6.1 NMSA 1978;

20 (8) at private celebrations on or off the
21 small brewer's premises after the small brewer has paid the
22 applicable fees for a private celebration permit, sell by the
23 glass, beer produced and bottled by or for the small brewer or
24 wine or cider produced by a winegrower pursuant to Section
25 60-6A-11 NMSA 1978 or spirituous liquor produced and bottled by

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1 or for a craft distiller pursuant to Section 60-6A-6.1 NMSA
2 1978;

3 (9) buy or otherwise obtain wine or cider from
4 a winegrower or spirituous liquor from a craft distiller;

5 (10) for the purposes described in this
6 subsection, at no more than three other locations off the small
7 brewer's premises, after the small brewer has paid the
8 applicable fee for a small brewer's off-premises permit, after
9 the director has determined that the off-premises locations
10 meet the requirements of the Liquor Control Act and department
11 rules for new liquor license locations and after the director
12 has issued a small brewer's off-premises permit for each off-
13 premises location, conduct beer tastings and sell by the glass
14 or in unbroken packages for consumption off the small brewer's
15 off-premises location, but not for resale, beer produced and
16 bottled by or for the small brewer, beer produced and bottled
17 by or for another New Mexico small brewer or wine or cider
18 produced by a winegrower pursuant to Section 60-6A-11 NMSA
19 1978;

20 (11) allow members of the public, on the
21 licensed premises and under the direct supervision of the
22 licensee, to manufacture beer for personal consumption and not
23 for resale using the licensee's equipment and ingredients; and

24 (12) sell beer in a growler for consumption
25 off premises.

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1 C. Renewal of a small brewer's license shall be
2 conditioned upon submission to the department by the licensee
3 of a report showing proof that:

4 (1) no less than fifty percent of the gross
5 receipts from the sale of beer for the preceding twelve months
6 of the licensee's operation are derived from the sale of beer
7 produced by the licensee; or

8 (2) the licensee manufactures no less than
9 fifty barrels of beer per license year at the licensee's
10 premises.

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

24 E. Sales and tastings of beer, wine, [~~or~~] cider or
25 spirituous liquor authorized in this section shall be permitted

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1 during the hours set forth in Subsection A of Section 60-7A-1
2 NMSA 1978 and between the hours of 11:00 a.m. and midnight on
3 Sunday and shall conform to the limitations regarding Christmas
4 and voting-day sales found in Section 60-7A-1 NMSA 1978 and the
5 expansion of Sunday sales hours to 2:00 a.m. on January 1, when
6 December 31 falls on a Sunday.

7 F. As used in this section:

8 (1) "private celebration" means any
9 celebratory activity that is held in a private or public venue
10 not open to the general public and for which attendance is
11 subject to private invitation; and

12 (2) "public celebration" includes any state or
13 county fair, community fiesta, cultural or artistic event,
14 sporting competition of a seasonal nature or activities held on
15 an intermittent basis."

16 SECTION 18. Section 60-6A-32 NMSA 1978 (being Laws 1998,
17 Chapter 109, Section 7) is amended to read:

18 "60-6A-32. INTERSTATE WINE TASTINGS--COMPETITIONS--
19 PERMITS.--

20 A. Exempt from the procurement of any other license
21 or permit issued pursuant to the terms of the Liquor Control
22 Act, but not exempt from the procurement of a competition
23 permit, is a winemaker or winery licensed outside of New Mexico
24 that desires to participate in a regional wine, cider, beer or
25 spirituous liquor tasting or competition within New Mexico.

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1 One permit shall be issued by the director to an out-of-state
2 winemaker or winery for the duration of the wine tasting or
3 competition.

4 B. A person issued a competition permit pursuant to
5 this section may do any of the following:

6 (1) bring no more than twenty-five cases of
7 wine into New Mexico after indicating on [~~his~~] the permit
8 application the number of cases to be brought into the state;

9 (2) participate in the regional competition
10 and [~~any~~] wine tastings associated with the competition for
11 which the competition permit is issued;

12 (3) participate in the regional wine tasting
13 for which the competition permit is issued; and

14 (4) at a wine tasting for which [~~he~~] the
15 person is issued the permit, conduct tasting of wine and sell
16 by the glass or bottle or in unbroken packages for consumption
17 off the wine-tasting premises but not for resale, wine brought
18 into the state by [~~him~~] the person for the wine tasting or
19 competition.

20 C. Every application for the issuance of a
21 competition permit shall be on a form prescribed by the
22 director and accompanied by a permit fee of twenty-five dollars
23 (\$25.00).

24 D. As used in this section:

25 (1) "competition" means an event at which a

1 jury of wine tasters compares the quality of the wines entered
2 for judging and at which prizes are offered for the wines
3 judged to be of the best quality;

4 (2) "regional competition" means a competition
5 at which the wines to be judged are from more than one state or
6 country;

7 (3) "regional wine tasting" means a wine
8 tasting at which the wines offered for tasting are from more
9 than one state or country;

10 (4) "winemaker" means a person who
11 manufactures or produces wine;

12 (5) "winery" means an establishment at which
13 wine is manufactured or produced and that is licensed for that
14 purpose by the state or country in which it is located; and

15 (6) "wine tasting" means an event at which
16 wines are offered for tasting but not necessarily for sale and
17 not for comparison for the purpose of awarding prizes to the
18 wines of the best quality."

19 SECTION 19. Section 60-6B-4 NMSA 1978 (being Laws 1981,
20 Chapter 39, Section 40, as amended) is amended to read:

21 "60-6B-4. ISSUANCE OR TRANSFER OF LICENSE--APPROVAL OF
22 APPROPRIATE GOVERNING BODY.--

23 A. Prior to the approval of the issuance of a new
24 license, and prior to the approval of a transfer permitted by
25 Section 60-6B-3 or 60-6B-12 NMSA 1978, the director shall

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1 notify the governing body of the director's preliminary
2 approval of the issuance or transfer of the license. Notice to
3 the governing body shall be by certified mail.

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

9 C. Within forty-five days after receipt of a notice
10 of preliminary approval from the department, the governing body
11 shall hold a public hearing on the question of whether the
12 department should approve the proposed issuance or transfer.

13 D. The governing body shall give notice of the
14 public hearing, as required by Subsection C of this section,
15 and the notice shall:

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

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

23 (3) set forth:

24 (a) the date, time and place of the
25 hearing;

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1 (b) the name and address of the
2 licensee;

3 (c) the action proposed to be taken by
4 the department;

5 (d) the location of the licensee's
6 premises; and

7 (e) such other information as may be
8 required by the department; and

9 (4) be sent by certified mail to the
10 applicant.

11 E. The governing body may designate a hearing
12 officer to conduct the hearing. A record shall be made of the
13 hearing.

14 F. The governing body may disapprove the issuance
15 or transfer of the license if:

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

19 (2) the issuance or transfer would be in
20 violation of a zoning or other ordinance of the governing body;
21 or

22 (3) the issuance or transfer would be
23 detrimental to the public health, safety or morals of the
24 residents of the local option district.

25 G. Within thirty days after the public hearing, the

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

8 H. If the governing body disapproves the issuance
9 or transfer of the license, it shall notify the department
10 within the time required by Subsection G of this section
11 setting forth the reasons for the disapproval. A copy of the
12 minutes of the public hearing shall be submitted to the
13 department by the governing body with the notice of
14 disapproval. If the governing body disapproves of the issuance
15 or transfer of the license, the director shall disapprove the
16 issuance or transfer of the license.

17 I. If the governing body approves the issuance or
18 transfer of the license, it shall notify the department within
19 the time required by Subsection G of this section of its
20 approval. If the governing body approves of the issuance or
21 transfer of the license, the director shall approve the
22 issuance or transfer of the license.

23 J. Licenses may not be leased, sold or transferred
24 after June 30, 2026."

25 SECTION 20. Section 60-6C-1 NMSA 1978 (being Laws 1981,

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1 Chapter 39, Section 97, as amended) is amended to read:

2 "60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR
3 ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

4 A. The director may suspend or revoke the license
5 or permit or fine the licensee in an amount not more than ten
6 thousand dollars (\$10,000), or both, when ~~he~~ the director
7 finds that ~~any~~ a licensee has:

8 (1) violated any provision of the Liquor
9 Control Act or any ~~regulation~~ rule or order promulgated
10 pursuant to that act;

11 (2) been convicted of a felony pursuant to the
12 provisions of the Criminal Code, the Liquor Control Act or
13 federal law; or

14 (3) permitted ~~his~~ the licensee's licensed
15 premises to remain a public nuisance in the neighborhood where
16 it is located after written notice from the director that
17 investigation by the department has revealed that the
18 establishment is a public nuisance in the neighborhood.

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

23 (1) ~~his~~ the licensee's employee or agent
24 knowingly has sold, served, delivered or given ~~any~~ an
25 alcoholic beverage to a minor in violation of Section 60-7B-1

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1 NMSA 1978 or to an intoxicated person in violation of Section
2 60-7A-16 NMSA 1978, on two separate occasions within any
3 twelve-month period; or

4 (2) ~~[his]~~ the licensee's agent has made any
5 material false statement or concealed any material facts in
6 ~~[his]~~ the licensee's application for the license or permit
7 granted ~~[him]~~ the licensee pursuant to the provisions of the
8 Liquor Control Act.

9 C. ~~[Any]~~ A licensee aggrieved by a revocation,
10 suspension or fine proposed to be imposed by the director
11 pursuant to this section shall be entitled to the hearing
12 procedures set forth in Chapter 60, Article 6C NMSA 1978 before
13 the revocation, suspension or fine shall be effective.

14 D. ~~[Any]~~ A charge filed against a licensee by the
15 department and the resulting disposition of the charge shall be
16 reported to the department of public safety ~~[and local law~~
17 ~~enforcement agencies whose jurisdictions include the licensed~~
18 ~~establishment]~~.

19 E. For purposes of this section, "licensee"
20 includes any person issued an alcoholic beverage delivery
21 permit."

22 SECTION 21. Section 60-6C-2 NMSA 1978 (being Laws 1981,
23 Chapter 39, Section 98, as amended) is amended to read:

24 "60-6C-2. HEARINGS--LOCATION--OPEN TO PUBLIC--HEARING
25 OFFICER.--All hearings held pursuant to the provisions of the
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1 Liquor Control Act shall be conducted by the director or a
2 hearing officer appointed by the director and shall be held in
3 the county in which the licensed premises or the business of
4 the person issued an alcoholic beverage delivery permit that
5 [~~are~~] is the subject matter of the hearing [~~are~~] is located.
6 All such hearings shall be open to the public."

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

9 "60-6C-4. ADMINISTRATIVE PROCEEDINGS--COMPLAINTS--
10 INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS.--

11 A. Whenever a person lodges a signed, written
12 complaint with the department alleging that a licensee has
13 violated any of the provisions of the Liquor Control Act,
14 unless the complaint is deficient on its face, the director
15 shall request that the department of public safety investigate
16 the complaint.

17 B. The department of public safety shall
18 investigate the complaint and make a written report to the
19 director.

20 C. If the director believes from the report that
21 probable cause exists for filing charges against the licensee
22 for the revocation or suspension of [~~his~~] the licensee's
23 license or permit or for fining [~~him~~] the licensee, or for
24 both, [~~he~~] the director or [~~his~~] the director's designee shall
25 file in the department a charge against the licensee in the

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1 name of the state, stating the nature of the grounds relied
2 upon for the filing, the approximate date of the alleged
3 violation and the names and addresses of the witnesses who are
4 expected to give testimony or evidence against the licensee.

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

10 E. The director shall keep the original of the
11 charge and the order to show cause on file in ~~[his]~~ the
12 director's office.

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

18 G. The director shall have a copy of the charge and
19 a copy of the order to show cause sent to the licensee or the
20 licensee's resident agent at the agent's last known address by
21 certified mail at least fourteen days before the date set for
22 the hearing on the order to show cause.

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

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- 1 (1) the style of the proceedings;
- 2 (2) the nature of the proceedings, including a
3 copy of the charge and a copy of the order to show cause;
- 4 (3) the place, date and time of the hearing
5 and all continuances or recesses of the hearing;
- 6 (4) the appearance or nonappearance of the
7 licensee;
- 8 (5) if the licensee appears with an attorney,
9 the name and address of the attorney;
- 10 (6) a record of all evidence and testimony and
11 a copy or record of all exhibits introduced in evidence;
- 12 (7) the findings of fact and law as to whether
13 ~~[or not]~~ the licensee has violated the Liquor Control Act as
14 set out in the charge; and
- 15 (8) the decision of the director.

16 I. If the licensee fails to appear without good
17 cause at the time and place designated in the order to show
18 cause for the hearing, the director shall order the
19 nonappearance of the licensee to be entered in the record of
20 hearing and shall order the license or permit revoked or
21 suspended or the licensee fined, or both, on all the grounds
22 alleged in the charge and shall cause the record of hearing to
23 show the particulars in detail. In such a case, there shall be
24 no reopening, appeal or review of the proceedings unless
25 pursued by a co-owner of a license who did not receive notice

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1 of the hearing.

2 J. If the licensee admits guilt on all grounds set
3 out in the charge, the director shall order the revocation or
4 suspension of the license or permit or the licensee fined, or
5 both, and cause a record of hearing to be made showing the
6 facts and particulars of [~~his~~] the director's order of
7 revocation or suspension of the license or permit or fine of
8 the licensee, or both. In such a case, there shall be no
9 review or appeal of the proceedings.

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

13 (1) the director or the hearing officer shall
14 administer oaths to all witnesses, the department shall cause
15 all testimony and evidence in support of the grounds alleged in
16 the charge to be presented in the presence of the licensee and
17 the director shall allow the licensee or [~~his~~] the licensee's
18 attorney to cross-examine all witnesses;

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

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

25 (4) the department shall present any evidence

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1 or testimony in rebuttal of that produced by the licensee;

2 (5) the director or the hearing officer shall
3 make a finding on each ground alleged and a finding of the
4 guilt or innocence of the licensee on each ground;

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

9 (7) the rules of evidence shall not be
10 required to be observed, but the order of suspension or
11 revocation or fine, or both, shall be based upon substantial,
12 competent and relevant evidence and testimony appearing in the
13 record of hearing.

14 L. No admission of guilt, admission against
15 interest or transcript of testimony made or given in [~~any~~] a
16 hearing pursuant to this section shall be received or used in
17 [~~any~~] criminal proceedings wherein the licensee is a defendant;
18 provided, however, if the licensee commits perjury in a
19 hearing, the evidence shall be admissible in a perjury trial if
20 otherwise competent and relevant.

21 M. The director shall adopt reasonable
22 [~~regulations~~] rules setting forth uniform standards of
23 penalties concerning fines and suspensions imposed by the
24 director.

25 N. For purposes of this section, "licensee"

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1 includes a person issued an alcoholic beverage delivery
2 permit."

3 SECTION 23. Section 60-6C-6 NMSA 1978 (being Laws 1981,
4 Chapter 39, Section 102, as amended by Laws 1999, Chapter 265,
5 Section 75 and by Laws 1999, Chapter 277, Section 1) is amended
6 to read:

7 "60-6C-6. [~~NO INJUNCTION OR MANDAMUS PERMITTED~~] APPEAL.--

8 A. [~~No injunction or writ of mandamus or other~~
9 ~~legal or equitable process shall issue in any suit, action or~~
10 ~~proceeding to prevent or enjoin any finding of guilt or order~~
11 ~~of suspension or revocation or fine made by a liquor control~~
12 ~~hearing officer under the provisions of Section 60-6C-4 NMSA~~
13 ~~1978.] A licensee aggrieved or adversely affected by an order~~
14 of revocation, suspension or fine shall have the right to
15 appeal to the district court pursuant to the provisions of
16 Section 39-3-1.1 NMSA 1978.

17 B. No appeal shall have the effect of suspending
18 the operation of the order of suspension, revocation or fine,
19 but the liquor control hearing officer may, for good cause
20 shown and upon such terms and conditions as [~~he~~] the officer
21 may find are just, in [~~his~~] the officer's discretion suspend
22 the operation of the order of suspension, revocation or fine
23 pending the appeal. The court shall tax costs against the
24 losing party.

25 C. For purposes of this section, "licensee"

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1 includes a person issued an alcoholic beverage delivery permit
2 and includes a person issued a server permit pursuant to the
3 Alcohol Server Education Article of the Liquor Control Act."

4 SECTION 24. Section 60-6E-3 NMSA 1978 (being Laws 1999,
5 Chapter 277, Section 4) is amended to read:

6 "60-6E-3. DEFINITIONS.--As used in [~~Chapter 60, Article~~
7 ~~6D NMSA 1978~~] the Alcohol Server Education Article of the
8 Liquor Control Act:

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

10 B. "division" means the [~~alcohol and gaming~~]
11 alcoholic beverage control division of the regulation and
12 licensing department;

13 C. "licensee" means a person issued a license
14 pursuant to the provisions of the Liquor Control Act to sell,
15 serve or dispense alcoholic beverages for consumption and not
16 for resale;

17 D. "program" means an alcohol server education
18 course and examination approved by the director to be
19 administered by providers;

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

23 F. "server" means an individual who sells, serves,
24 or dispenses alcoholic beverages for consumption on or off
25 licensed premises, including persons who manage, direct or

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1 control the sale or service of alcohol and when the context
2 requires, includes a person who delivers alcoholic beverages.

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

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

9 SECTION 25. Section 60-6E-8 NMSA 1978 (being Laws 1999,
10 Chapter 277, Section 9) is amended to read:

11 "60-6E-8. SERVER PERMIT--SUSPENSION--REVOCATION--
12 ADMINISTRATIVE FINES--PENALTIES.--~~[In addition to any other~~
13 ~~penalties available]~~ The following penalties ~~[may be imposed]~~
14 are in addition to any other penalties available for sales to
15 minors or intoxicated persons in violation of the provisions of
16 the Liquor Control Act or rules of the division:

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

25 B. the director shall suspend a server's server

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1 permit for a period of one year when [~~he~~] the director finds
2 that the server is guilty of a second offense of selling,
3 serving, delivering or dispensing alcoholic beverages to
4 intoxicated persons in violation of Section 60-7A-16 NMSA 1978
5 or to minors in violation of Section 60-7B-1 NMSA 1978 arising
6 separately from the incident giving rise to [~~his~~] the server's
7 first offense;

8 C. the director shall permanently revoke a server's
9 server permit when [~~he~~] the director finds that the server is
10 guilty of a third offense of selling, serving, delivering or
11 dispensing alcoholic beverages to intoxicated persons in
12 violation of Section 60-7A-16 NMSA 1978 or to minors in
13 violation of Section 60-7B-1 NMSA 1978 arising separately from
14 the incidents giving rise to [~~his~~] the server's first and
15 second offenses;

16 D. no person whose server permit is suspended or
17 revoked pursuant to the provisions of this section may be a
18 server of alcoholic beverages on a licensed premises or deliver
19 alcoholic beverages during the period of suspension or
20 revocation;

21 E. no person whose server permit is suspended may
22 serve or deliver alcoholic beverages on or after the date of
23 suspension unless the person obtains a new server permit in
24 accordance with the provisions of [~~Article 6D of Chapter 60~~]
25 the Alcohol Server Education Article of the Liquor Control Act;

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1 and

2 F. nothing in [~~this~~] the Alcohol Server Education
3 Article of the Liquor Control Act shall be interpreted to waive
4 [~~any~~] a permit holder's or license holder's liability that may
5 arise pursuant to the provisions of [~~this~~] the Liquor Control
6 Act."

7 SECTION 26. Section 60-6E-9 NMSA 1978 (being Laws 1999,
8 Chapter 277, Section 10) is amended to read:

9 "60-6E-9. ALCOHOL SERVER EDUCATION--REQUIRED FOR LICENSE
10 RENEWAL.--A licensee seeking renewal of a license shall submit
11 to the division, as a condition of license renewal, proof that
12 the licensee, [~~his~~] the lessee, if any, and each server
13 employed by the licensee or lessee during the prior licensing
14 year have or had valid server permits at all times that
15 alcoholic beverages were sold, served, delivered or dispensed."

16 SECTION 27. Section 60-6E-10 NMSA 1978 (being Laws 1999,
17 Chapter 277, Section 11) is amended to read:

18 "60-6E-10. ADMINISTRATIVE PROCEEDINGS--HEARINGS.--

19 A. Hearings for the suspension or revocation of any
20 server's server permit or delivery permit or for imposing a
21 fine on the server, or both, shall be conducted in accordance
22 with the provisions of Sections 60-6C-2 through 60-6C-6 NMSA
23 1978.

24 B. The director may suspend or revoke a server
25 permit or delivery permit or impose a fine on a server, or

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1 impose a combination of those penalties, only if the server
2 violates the provisions of Section 60-7A-16 or 60-7B-1 NMSA
3 1978."

4 SECTION 28. Section 60-7A-4 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 50, as amended) is amended to read:

6 "60-7A-4. SALE, SHIPMENT AND DELIVERY UNLAWFUL.--

7 A. It is unlawful for ~~[any]~~ a person on ~~[his]~~ the
8 person's own behalf or as the agent of another person, except a
9 licensed New Mexico wholesaler or manufacturer or the agent of
10 either, to directly or indirectly sell or offer for sale for
11 shipment into the state or ship into the state, except as
12 provided in Section 60-7A-3 NMSA 1978, ~~[any]~~ alcoholic
13 beverages unless ~~[such]~~ the person or ~~[his]~~ the person's
14 principals ~~[has]~~ have secured a nonresident license as provided
15 in Section ~~[60-7A-7]~~ 60-6A-7 NMSA 1978.

16 B. It is a violation of the Liquor Control Act to
17 deliver any alcoholic beverages transported into the state
18 unless the delivery is made in accordance with Section 60-7A-3
19 NMSA 1978 or Section 4 of this 2021 act.

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

22 SECTION 29. Section 60-7A-12 NMSA 1978 (being Laws 1981,
23 Chapter 39, Section 78, as amended) is amended to read:

24 "60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES,
25 RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES

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1 AND CLUBS.--It is a violation of the Liquor Control Act for any
2 dispenser, canopy licensee, restaurant licensee, governmental
3 licensee or its lessee or club to:

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

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

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

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

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

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1 winegrower limited wholesaler's license issued pursuant to the
2 Liquor Control Act;

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

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

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

13 SECTION 30. Section 60-7A-16 NMSA 1978 (being Laws 1981,
14 Chapter 39, Section 93, as amended) is amended to read:

15 "60-7A-16. SALE TO INTOXICATED PERSONS.--It is a
16 violation of the Liquor Control Act for a person to sell,
17 deliver or serve alcoholic beverages to or to procure or aid in
18 the procurement of alcoholic beverages for an intoxicated
19 person if the person selling, delivering, serving, procuring or
20 aiding in procurement knows or has reason to know that [~~he~~] the
21 person is selling, delivering, serving, procuring or aiding in
22 procurement of alcoholic beverages for a person [~~that~~] who is
23 intoxicated."

24 SECTION 31. Section 60-7B-2 NMSA 1978 (being Laws 1981,
25 Chapter 39, Section 82, as amended) is amended to read:

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1 "60-7B-2. DOCUMENTARY EVIDENCE OF AGE AND IDENTITY.--

2 A. Evidence of the age and identity of the person
3 may be shown by any document [~~which~~] that contains a picture of
4 the person issued by a federal, state, county or municipal
5 government, or subdivision or agency thereof, including but not
6 limited to a motor vehicle operator's license or an
7 identification card issued to a member of the armed forces.

8 B. An identity document is valid for the purposes
9 of the Liquor Control Act even if it has expired.

10 C. It is unnecessary to ask for an identity
11 document if the person clearly looks older than thirty-five
12 years of age."

13 SECTION 32. Section 60-7B-5 NMSA 1978 (being Laws 1981,
14 Chapter 39, Section 85, as amended) is amended to read:

15 "60-7B-5. REFUSAL TO SELL, [~~OR~~] SERVE OR DELIVER
16 ALCOHOLIC BEVERAGES TO PERSON UNABLE TO PRODUCE IDENTITY
17 CARD.-- [~~Any~~]

18 A. A person licensed pursuant to the provisions of
19 the Liquor Control Act or any employee, agent or lessee of that
20 person [~~shall~~] may refuse to deliver, sell or serve alcoholic
21 beverages to any person who is unable to produce an identity
22 card as evidence that [~~he~~] the person is twenty-one years of
23 age or over.

24 B. An identity document is valid for the purposes
25 of the Liquor Control Act even if it has expired.

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[bracketed material] = delete

1 C. It is unnecessary to ask for an identity
2 document if the person clearly looks older than thirty-five
3 years of age."

4 SECTION 33. Section 60-7B-6 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 86, as amended) is amended to read:

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

17 SECTION 34. Section 60-7B-11 NMSA 1978 (being Laws 1981,
18 Chapter 39, Section 91, as amended) is amended to read:

19 "60-7B-11. EMPLOYMENT OF MINORS.--

20 A. Except as provided in Subsection B or C of this
21 section, it is a violation of the Liquor Control Act for any
22 person licensed pursuant to the provisions of the Liquor
23 Control Act or for any employee, agent or lessee of that person
24 knowingly to employ or use the service of any minor in the sale
25 and service of alcoholic beverages.

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1 B. A person holding a dispenser's, restaurant or
2 club license may employ persons [~~nineteen~~] eighteen years of
3 age or older to sell or serve alcoholic beverages in an
4 establishment that is held out to the public as a place where
5 meals are prepared and served and the primary source of revenue
6 is food, and where the sale or consumption of alcoholic
7 beverages is not the primary activity, except that a person
8 under twenty-one years of age shall not be employed as a
9 bartender or deliverer.

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

23 SECTION 35. REPEAL.--Sections 60-6A-25, 60-6A-28,
24 60-6B-1.1, 60-6B-10, 60-6B-11, 60-6B-15, 60-6E-6 and 60-7A-18
25 NMSA 1978 (being Laws 1983, Chapter 280, Sections 6 and 9, Laws
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1 1989, Chapter 292, Section 2, Laws 1981, Chapter 39, Sections
2 45 and 46, Laws 1988, Chapter 12, Section 3, Laws 1999, Chapter
3 277, Section 7 and Laws 1981, Chapter 39, Section 95, as
4 amended) are repealed.

5 SECTION 36. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2021.