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**HOUSE BILL 344**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**W. C. "Dub" Williams**

**AN ACT**

**RELATING TO ALCOHOLIC BEVERAGES; AMENDING A SECTION OF THE  
LIQUOR CONTROL ACT CONCERNING PENALTIES.**

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

**Section 1. Section 60-7B-1 NMSA 1978 (being Laws 1993,  
Chapter 68, Section 22, as amended by Laws 1998, Chapter 80,  
Section 1 and also by Laws 1998, Chapter 101, Section 1) is  
amended to read:**

**"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO  
MINORS-- POSSESSION. --**

**A. It is a violation of the Liquor Control Act for  
a person, including a person licensed pursuant to the  
provisions of the Liquor Control Act, or an employee, agent or  
lessee of that person, if he knows or has reason to know that  
he is violating the provisions of this section, to:**

**. 134302. 2**

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1 (1) sell, serve or give alcoholic beverages  
2 to a minor or permit a minor to consume alcoholic beverages on  
3 the licensed premises;

4 (2) buy alcoholic beverages for or procure  
5 the sale or service of alcoholic beverages to a minor;

6 (3) deliver alcoholic beverages to a minor;  
7 or

8 (4) aid or assist a minor to buy, procure or  
9 be served with alcoholic beverages.

10 B. It is not a violation of the Liquor Control  
11 Act, as provided in Subsection A or C of this section, when a  
12 parent or legal guardian of a minor serves alcoholic beverages  
13 to that minor on real property, other than licensed premises,  
14 under the control of the parent or legal guardian.

15 C. It is a violation of the Liquor Control Act for  
16 a minor to buy, attempt to buy, receive, possess or permit  
17 himself to be served with alcoholic beverages.

18 D. In the event a person other than a minor  
19 procures another person to sell, serve or deliver alcoholic  
20 beverages to a minor by actual or constructive  
21 misrepresentation of facts calculated to cause, or by a  
22 concealment of facts the concealment of which is calculated to  
23 cause, the person selling, serving or delivering the alcoholic  
24 beverages to the minor to believe that the minor is legally  
25 entitled to be sold, served or delivered alcoholic beverages

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1 and actually deceiving him by that misrepresentation or  
2 concealment, then that person and not the person so deceived  
3 by such misrepresentation or concealment shall have violated  
4 the Liquor Control Act.

5 E. As used in the Liquor Control Act, "minor"  
6 means a person under twenty-one years of age.

7 F. In addition to the penalties provided in  
8 Section 60-6C-1 NMSA 1978, a violation of the provisions of  
9 Subsection A of this section is a misdemeanor and the offender  
10 shall be punished in accordance with Section 31-19-1 NMSA  
11 1978. In addition to punishment imposed pursuant to that  
12 section, the offender shall be punished as follows:

13 (1) for a first violation, the offender shall  
14 be

15 [~~(a) fined an amount not more than one~~  
16 ~~thousand dollars (\$1,000); and~~

17 ~~(b)] ordered by the sentencing court to~~  
18 perform thirty hours of community service related to reducing  
19 the incidence of driving while under the influence of  
20 intoxicating liquor;

21 (2) for a second violation, the offender  
22 shall:

23 (a) [~~be fined an amount not more than~~  
24 ~~one thousand dollars (\$1,000);~~

25 ~~(b)] be ordered by the sentencing court~~

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1 to perform forty hours of community service related to  
2 reducing the incidence of driving while under the influence of  
3 intoxicating liquor; and

4 [~~(e)~~] (b) have his license, issued  
5 pursuant to the Alcohol Server Education Act, suspended for a  
6 period of sixty days; and

7 (3) for a third or subsequent violation, the  
8 offender shall:

9 (a) [~~be fined an amount not more than~~  
10 ~~one thousand dollars (\$1,000);~~

11 ~~(b)]~~ be ordered by the sentencing court  
12 to perform sixty hours of community service related to  
13 reducing the incidence of driving while under the influence of  
14 intoxicating liquor; and

15 [~~(e)~~] (b) have his license, issued  
16 pursuant to the Alcohol Server Education Act, suspended for a  
17 period of one year.

18 G. A violation of the provisions of Subsection C  
19 of this section is a misdemeanor and the offender shall be  
20 punished in accordance with Section 31-19-1 NMSA 1978. In  
21 addition to punishment imposed pursuant to that section, the  
22 offender shall be punished as follows:

23 (1) for a first violation, the offender shall  
24 be

25 [~~(a) fined an amount not more than one~~

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1 ~~thousand dollars (\$1,000); and~~

2                   **(b)**] ordered by the sentencing court to  
3 perform thirty hours of community service related to reducing  
4 the incidence of driving while under the influence of  
5 intoxicating liquor;

6                   (2) for a second violation, the offender  
7 shall:

8                               (a) [~~be fined an amount not more than~~  
9 ~~one thousand dollars (\$1,000);~~

10                              **(b)**] be ordered by the sentencing court  
11 to perform forty hours of community service related to  
12 reducing the incidence of driving while under the influence of  
13 intoxicating liquor; and

14                              [~~(c)~~] (b) have his driver's license  
15 suspended for a period of ninety days. If the minor is too  
16 young to possess a driver's license at the time of the  
17 violation, then ninety days shall be added to the date he  
18 would otherwise become eligible to obtain a driver's license;  
19 and

20                   (3) for a third or subsequent violation, the  
21 offender shall:

22                               (a) [~~be fined an amount not more than~~  
23 ~~one thousand dollars (\$1,000);~~

24                              **(b)**] be ordered by the sentencing court  
25 to perform sixty hours of community service related to

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1 reducing the incidence of driving while under the influence of  
2 intoxicating liquor; and

3 ~~[(e)]~~ (b) have his driver's license  
4 suspended for a period of two years or until the offender  
5 reaches twenty-one years of age, whichever period of time is  
6 greater.

7 H. A violation of the provisions of Subsection D  
8 of this section is a misdemeanor and the offender shall be  
9 punished in accordance with Section 31-19-1 NMSA 1978. In  
10 addition to punishment imposed pursuant to that section, the  
11 offender shall be punished as follows:

12 (1) for a first violation, the offender shall  
13 be

14 ~~[(a) fined an amount not more than one~~  
15 ~~thousand dollars (\$1,000); and~~

16 ~~(b)]~~ ordered by the sentencing court to  
17 perform thirty hours of community service related to reducing  
18 the incidence of driving while under the influence of  
19 intoxicating liquor;

20 (2) for a second violation, the offender  
21 shall be

22 ~~[(a) be fined an amount not more than~~  
23 ~~one thousand dollars (\$1,000); and~~

24 ~~(b)]~~ ordered by the sentencing court to  
25 perform forty hours of community service related to reducing

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1 the incidence of driving while under the influence of  
2 intoxicating liquor; and

3 (3) for a third or subsequent violation, the  
4 offender shall be:

5 (a) [~~fined an amount not more than one~~  
6 ~~thousand dollars (\$1,000);~~

7 ~~(b)]~~ ordered by the sentencing court to  
8 perform sixty hours of community service related to reducing  
9 the incidence of driving while under the influence of  
10 intoxicating liquor; and

11 [~~(c)~~] (b) sentenced to a jail term of  
12 not less than two days and not more than five days. "

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