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AN ACT  
RELATING TO BUSINESS LICENSES; CHANGING LICENSING  
REQUIREMENTS FOR CERTAIN BUSINESSES; CHANGING FINGERPRINT  
REQUIREMENTS FOR LIQUOR LICENSES; AMENDING SECTIONS OF THE  
LIQUOR CONTROL ACT.

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

Section 1. Section 60-6B-2 NMSA 1978 (being Laws 1981,  
Chapter 39, Section 38, as amended) is amended to read:

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

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

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

(2) submit to the director for approval a  
description, including floor plans, in a form prescribed by  
the director, that shows the proposed licensed premises for  
which the license application is submitted. The area  
represented by the approved description shall become the  
licensed premises;

(3) submit the name and street address of a

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

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

9 (a) a certified copy of its articles of  
10 incorporation or, if a foreign corporation, a certified copy  
11 of its certificate of authority;

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

20 (c) such additional information  
21 regarding the corporation as the director may require to  
22 assure full disclosure of the corporation's structure and  
23 financial responsibility;

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

1 (a) a certified copy of its certificate  
2 of limited partnership;

3 (b) the names and addresses of all  
4 general partners and of all limited partners contributing ten  
5 percent or more of the total value of contributions made to  
6 the limited partnership or entitled to ten percent or more of  
7 the profits earned or other income paid by the limited  
8 partnership. A limited partnership shall not receive a  
9 license if a partner or holder of a ten percent or greater  
10 interest in the applicant entity designated in this  
11 subsection would not be eligible to hold a license issued  
12 pursuant to the Liquor Control Act; and

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

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

19 (a) a copy of the articles of  
20 organization, with a copy of the certificate of filing with  
21 the public regulation commission;

22 (b) the name and addresses of all the  
23 managing members and all of the nonmanaging members that own  
24 a greater than ten percent interest in the limited liability  
25 company. Any direct or indirect parent entity of the limited

1 liability company with an interest of ten percent or more in  
2 the applicant entity shall submit application forms and  
3 qualify to hold a license; and

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

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

10 (a) the names and addresses of the  
11 trustees;

12 (b) the names and addresses of any  
13 beneficiaries having control over the property of the trust  
14 or receiving regular and substantial distributions of  
15 principal and income from the trust. Any beneficiary  
16 receiving regular and substantial distributions from the  
17 trust shall qualify to hold a license. The director may  
18 request a copy of the trust agreement for review, which trust  
19 agreement need not become part of the application.

20 Affidavits as to the operation and distribution of the  
21 principal and income may be requested in lieu of, or in  
22 addition to, the copy of the trust agreement that is supplied  
23 for review by the department; and

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

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

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

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

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

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

1 percent or greater interest in the applicant entity;

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

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

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

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

21 C. Upon submission of a sworn affidavit from each  
22 person who is required to file fingerprints stating that the  
23 person has not been convicted of a felony in any jurisdiction  
24 and pending the results of background investigations, a  
25 temporary license for ninety days may be issued. The

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 O. All costs of publication and posting shall be

1 paid by the applicant.

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

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

18 Section 2. Section 60-6B-6 NMSA 1978 (being Laws 1981,  
19 Chapter 39, Section 42, as amended) is amended to read:

20 "60-6B-6. CORPORATE LICENSEES--LIMITED PARTNERSHIP  
21 LICENSEES--REPORTING.--

22 A. A corporation that holds a license issued under  
23 the Liquor Control Act shall notify the director within  
24 thirty days after the occurrence of any change in the  
25 officers, directors or holders of more than ten percent of

1 the voting stock of the corporation, giving the names and  
2 addresses of the new officers, directors or stockholders. A  
3 corporate licensee shall also notify the director immediately  
4 of a change of agent by filing a new power of attorney. The  
5 director shall by regulation define what corporate changes,  
6 including but not limited to transfer of stock, merger and  
7 consolidation, constitute transfers of ownership of corporate  
8 licenses and shall, upon making such a determination, order  
9 appropriate compliance with the Liquor Control Act, provided  
10 that a transfer of ownership of a corporate license shall not  
11 be deemed to occur where ultimate ownership of the  
12 corporation does not change.

13 B. A limited partnership that holds a license  
14 issued under the Liquor Control Act shall notify the director  
15 within thirty days after the occurrence of any change of  
16 general partners or of limited partners contributing ten  
17 percent or more of the total value of contributions made to  
18 the limited partnership or entitled to ten percent or more of  
19 the profits earned or other compensation by way of income  
20 paid by the limited partnership. The director shall by  
21 regulation define what limited partnership changes constitute  
22 transfers of ownership of limited partnership licenses and  
23 shall, upon making such determination, order appropriate  
24 compliance with the Liquor Control Act, provided that a  
25 transfer of ownership of a licensee that is a limited

