

HOUSE BILL 489

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Javier Martínez

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; ADDING PEARS TO THE DEFINITION OF "CIDER" IN THE LIQUOR EXCISE TAX ACT AND THE LIQUOR CONTROL ACT AND RAISING THE MAXIMUM ALCOHOL CONTENT OF CIDER; AMENDING THE DEFINITION OF "MICROBREWERY" IN THE LIQUOR EXCISE TAX ACT; AMENDING RATES OF THE LIQUOR EXCISE TAX; AMENDING THE DEFINITIONS OF "SPIRITUOUS LIQUORS" AND "WINEGROWER" IN THE LIQUOR CONTROL ACT; PROVIDING FOR PRIVATE CELEBRATION CRAFT DISTILLER'S, WINEGROWER'S AND SMALL BREWER'S PERMITS; CHANGING THE HOURS OF OPERATION OF A CRAFT DISTILLER, WINEGROWER AND SMALL BREWER; ESTABLISHING CRITERIA FOR RENEWAL OF A SMALL

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BREWER'S LICENSE.

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

SECTION 1. Section 7-17-2 NMSA 1978 (being Laws 1966, Chapter 49, Section 2, as amended by Laws 2013, Chapter 94, Section 1 and by Laws 2013, Chapter 95, Section 1) is amended to read:

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

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

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

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

D. "department" means the taxation and revenue

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department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "fortified wine" means wine containing more than fourteen percent alcohol by volume when bottled or packaged by the manufacturer, but "fortified wine" does not include:

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

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

(3) vermouth and sherry;

F. "microbrewer" means

~~[(1) for years prior to 2014, a person who produces fewer than five thousand barrels of beer in a year;~~

~~(2) for years 2014 through 2023, a person who produces fewer than fifteen thousand barrels of beer in a year;~~
and

~~(3) for year 2024 and subsequent years, a person who produces fewer than five thousand barrels of beer in a year]~~ a person who produces less than two hundred thousand barrels of beer per year;

G. "person" includes, to the extent permitted by law, a federal, state or other governmental unit or subdivision

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or an agency, department, institution or instrumentality thereof;

H. "small winegrower" means a winegrower who produces less than one million five hundred thousand liters of wine in a year;

I. "spirituous [~~liquor~~] liquors" means alcoholic beverages, except fermented beverages such as wine, beer, cider and ale;

J. "wholesaler" means a person holding a license issued under Section 60-6A-1 NMSA 1978 or a person selling alcoholic beverages that were not purchased from a person holding a license issued under Section 60-6A-1 NMSA 1978;

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

L. "winegrower" means a person licensed pursuant to Section 60-6A-11 NMSA 1978."

SECTION 2. Section 7-17-5 NMSA 1978 (being Laws 1993, Chapter 65, Section 8, as amended by Laws 2013, Chapter 94, Section 2 and by Laws 2013, Chapter 95, Section 2) is amended to read:

"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

A. There is imposed on a wholesaler who sells

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alcoholic beverages on which the tax imposed by this section has not been paid an excise tax, to be referred to as the "liquor excise tax", at the following rates on alcoholic beverages sold:

(1) on spirituous liquors, except as provided in Paragraph (9) of this subsection, one dollar sixty cents (\$1.60) per liter;

(2) on beer, except as provided in Paragraph (5) of this subsection, forty-one cents (\$.41) per gallon;

(3) on wine, except as provided in Paragraphs (4) and (6) of this subsection, forty-five cents (\$.45) per liter;

(4) on fortified wine, one dollar fifty cents (\$1.50) per liter;

(5) on beer manufactured or produced by a microbrewer and sold in this state, provided that proof is furnished to the department that the beer was manufactured or produced by a microbrewer, eight cents (\$.08) per gallon on the first ~~ten~~ HCEDC→sixty thirty←HCEDC thousand barrels sold HCEDC→and ,←HCEDC twenty-eight cents (\$.28) per gallon for all barrels sold over ~~ten~~ HCEDC→sixty thirty←HCEDC thousand barrels but ~~fewer~~ less than ~~fifteen~~ HCEDC→two hundred sixty←HCEDC thousand barrels HCEDC→and forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold←HCEDC;

(6) on wine manufactured or produced by a

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small winegrower and sold in this state, provided that proof is furnished to the department that the wine was manufactured or produced by a small winegrower:

(a) ten cents (\$.10) per liter on the first eighty thousand liters sold;

(b) twenty cents (\$.20) per liter on each liter sold over eighty thousand liters but not over nine hundred fifty thousand liters; and

(c) thirty cents (\$.30) per liter on each liter sold over nine hundred fifty thousand liters but not over one million five hundred thousand liters; [~~and~~]

(7) on cider, except as provided in Paragraph (8) of this subsection, forty-one cents (\$.41) per gallon;

(8) on cider manufactured or produced by a small winegrower and sold in this state, provided that proof is furnished to the department that the cider was manufactured or produced by a small winegrower, eight cents (\$.08) per gallon on the first HCEDC→sixty thirty←HCEDC thousand barrels sold HCEDC→and ,←HCEDC twenty-eight cents (\$.28) per gallon for all barrels sold over HCEDC→sixty thirty←HCEDC thousand barrels but less than HCEDC→two hundred sixty←HCEDC thousand barrels HCEDC→and forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold←HCEDC; and

(9) on spirituous liquors manufactured or produced by a craft distiller licensed pursuant to Section

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60-6A-6.1 NMSA 1978 HCEDC→~~and sold in this state~~←HCEDC,
provided that proof is provided to the department that the
spirituous liquors were manufactured or produced by a craft
distiller, for products up to ten percent alcohol by volume,
eight cents (\$.08) per liter HCEDC→for the first two hundred
fifty thousand liters sold and twenty-eight cents (\$.28) per
liter for the next two hundred fifty thousand liters sold←HCEDC
and for products over ten percent alcohol by volume, thirty-two
cents (\$.32) per liter on the first HCEDC→~~three hundred~~
~~seventy-five thousand~~←HCEDC HCEDC→one hundred seventy-five
thousand liters sold and sixty-five cents (\$.65) per liter on
the next two hundred thousand←HCEDC liters sold.

B. The volume of wine transferred from one
winegrower to another winegrower for processing, bottling or
storage and subsequent return to the transferor shall be
excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable
volume of wine of the transferee. Wine transferred from an
initial winegrower to a second winegrower remains a tax
liability of the transferor, provided that if the wine is
transferred to the transferee for the transferee's use or for
resale, the transferee then assumes the liability for the tax
due pursuant to this section.

C. A transfer of wine from a winegrower to a
wholesaler for distribution of the wine transfers the liability
for payment of the liquor excise tax to the wholesaler upon the

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sale of the wine by the wholesaler."

SECTION 3. Section 60-3A-3 NMSA 1978 (being Laws 1981, Chapter 39, Section 3, as amended by Laws 2016, Chapter 73, Section 1 and by Laws 2016, Chapter 76, Section 1) is amended to read:

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

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

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

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

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

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one-half percent alcohol by volume;

E. "club" means:

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

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

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

(2) an airline passenger membership club operated by an air common carrier that maintains or operates a

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clubroom at an international airport terminal. As used in this paragraph, "air common carrier" means a person engaged in regularly scheduled air transportation between fixed termini under a certificate of public convenience and necessity issued by the federal aviation administration;

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

G. "department" means the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcohol and gaming division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

H. "director" means the chief of the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcohol and gaming division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control

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Act;

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

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

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

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

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

N. "hotel" means an establishment or complex having a resident of New Mexico as a proprietor or manager and where, in consideration of payment, meals and lodging are regularly

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furnished to the general public. The establishment or complex must maintain for the use of its guests a minimum of twenty-five sleeping rooms;

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

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P. "local option district" means a county that has voted to approve the sale, serving or public consumption of alcoholic beverages, or an incorporated municipality that falls within a county that has voted to approve the sale, serving or public consumption of alcoholic beverages, or an incorporated municipality of over five thousand population that has independently voted to approve the sale, serving or public consumption of alcoholic beverages under the terms of the Liquor Control Act or any former act;

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

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

S. "package" means an immediate container of alcoholic beverages that is filled or packed by a manufacturer or wine bottler for sale by the manufacturer or wine bottler to wholesalers;

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

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

V. "restaurant" means an establishment having a New

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Mexico resident as a proprietor or manager that is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided that "restaurant" does not include establishments as defined in rules promulgated by the director serving only hamburgers, sandwiches, salads and other fast foods;

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

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

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

Z. "wholesaler" means a person whose place of business is located in New Mexico and who sells, offers for sale or possesses for the purpose of sale any alcoholic

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beverages for resale by the purchaser;

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

BB. "wine bottler" means a New Mexico wholesaler who is licensed to sell wine at wholesale for resale only and who buys wine in bulk and bottles it for wholesale resale;

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

DD. "winer" means a winegrower; and

EE. "winery" means a facility in which a winegrower manufactures and stores wine or cider."

SECTION 4. Section 60-6A-6.1 NMSA 1978 (being Laws 2011, Chapter 110, Section 3, as amended) is amended to read:

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

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

(1) the applicant submits evidence to the department that the applicant has a valid and appropriate

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permit issued by the federal government to be a craft distiller;

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

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

(b) the manufacture of no less than one thousand proof gallons of spirituous liquors per license year at the licensee's premises; and

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

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

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

(5) nothing in this section shall prevent a

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craft distiller from receiving other licenses pursuant to the Liquor Control Act.

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

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

(2) store, transport, import or export spirituous liquors;

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

(4) deal in warehouse receipts for spirituous liquors;

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

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

(7) conduct spirituous liquor tastings and sell, by the glass or by the bottle, or in unbroken packages for consumption off the premises but not for resale, spirituous liquors of the craft distiller's own production or spirituous

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liquors produced by another New Mexico craft distiller or New Mexico manufacturer on the craft distiller's premises; and

(8) at no more than three other locations off the craft distiller's premises, after the craft distiller has paid the applicable fee for a craft distiller's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a craft distiller's off-premises permit for each off-premises location, conduct spirituous liquor tastings and sell by the glass, or in unbroken packages for consumption and not for resale, spirituous liquors produced and bottled by or for the craft distiller or spirituous liquors produced and bottled by or for another New Mexico craft distiller or manufacturer.

C. For a public or private celebration on or off the craft distiller's premises in any local option district permitting the sale of alcoholic beverages, a craft distiller shall pay ten dollars (\$10.00) to the department for a "craft distiller's public celebration permit" or a "craft distiller's private celebration permit" to be issued under rules adopted by the director. Upon request, the department may issue to a craft distiller a public celebration permit for a location at the public celebration that is to be shared with other craft distillers, small brewers and winegrowers. ~~[As used in this~~

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~~subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or other activity held on an intermittent basis.]~~

D. At private celebrations on or off the craft distiller's premises after the craft distiller has paid the applicable fees and been issued the appropriate permit, the craft distiller may sell by the glass spirituous liquors produced by or for the craft distiller.

~~[D-]~~ E. Sales and tastings of spirituous liquors authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of ~~noon~~ 11:00 a.m. and midnight on Sunday and shall conform to the limitations regarding Christmas day sales and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday as set forth in Section 60-7A-1 NMSA 1978.

F. As used in this section:

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

(2) "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on

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an intermittent basis."

SECTION 5. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended by Laws 2015, Chapter 102, Section 4 and by Laws 2015, Chapter 105, Section 1 and also by Laws 2015, Chapter 124, Section 1) is amended to read:

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

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

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

(1) manufacture or produce wine or cider, including blending, mixing, flavoring, coloring, bottling and labeling, whether the wine or cider is manufactured or produced

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for a winegrower or an out-of-state wine producer holding a permit issued pursuant to the Federal Alcohol Administration Act and a valid license in a state that authorizes the wine or cider producer to manufacture, produce, store or sell wine or cider;

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

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

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

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

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

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

(8) buy or otherwise obtain beer from a small brewer for the purposes described in this subsection;

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(9) conduct wine or cider tastings and sell, by the glass or by the bottle, or sell in unbroken packages for consumption off the premises, but not for resale, wine or cider of the winegrower's own production, wine or cider produced by another New Mexico winegrower on the winegrower's premises or beer produced and bottled by or for a small brewer pursuant to Section [~~60-2A-26.1~~] 60-6A-26.1 NMSA 1978;

(10) at no more than three off-premises locations, conduct wine or cider tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale, wine or cider of the winegrower's own production, wine or cider produced by another New Mexico winegrower or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and the department rules for new liquor license locations;

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

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

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the winegrower;

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

(a) by the glass or bottle, wine or cider produced by or for the winegrower; or

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

[~~(13)~~] (14) sell wine or cider in a growler for consumption off premises; and

[~~(14)~~] (15) in accordance with the provisions of this section that relate to the sale of wine or cider, accept and fulfill an order for wine or cider that is placed via an internet [~~web site~~] website, whether the financial transaction related to the order is administered by the licensee or the licensee's agent.

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

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between the hours of [~~12:00 noon~~] 11:00 a.m. and midnight on Sunday.

D. At public and private celebrations on or off the winegrower's premises in any local option district permitting the sale of alcoholic beverages, the holder of a winegrower's license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "winegrower's public celebration permit" or a "winegrower's private celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other winegrowers and small brewers. [~~As used in this subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.~~]

E. Every application for the issuance or annual renewal of a winegrower's license shall be on a form prescribed by the director and accompanied by a license fee to be computed as follows on the basis of total annual wine or cider produced or blended:

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

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

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

F. As used in this section:

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

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

SECTION 6. Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended by Laws 2015, Chapter 102, Section 5 and by Laws 2015, Chapter 124, Section 2) is amended to read:

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

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

B. A small brewer's license authorizes the person

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to whom it is issued to:

- (1) manufacture or produce beer;
- (2) package, label and export beer, whether manufactured, bottled or produced by the licensee or any other person;
- (3) sell only beer that is packaged by or for the licensee to a person holding a wholesaler's license or a small brewer's license;
- (4) deal in warehouse receipts for beer;
- (5) conduct beer tastings and sell for consumption on or off premises, but not for resale, beer produced and bottled by, or produced and packaged for, the licensee, beer produced and bottled by or for another New Mexico small brewer on the small brewer's premises or wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;
- (6) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;
- (7) at public celebrations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's public celebration permit, conduct tastings and sell by the glass or in unbroken packages, but not for resale, beer produced and bottled by or for the small brewer or wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

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

~~(8)~~ (9) buy or otherwise obtain wine or cider from a winegrower;

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

~~(10)~~ (11) allow members of the public, on the licensed premises and under the direct supervision of the

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licensee, to manufacture beer for personal consumption and not for resale using the licensee's equipment and ingredients; and
[~~(11)~~] (12) sell beer in a growler for consumption off premises.

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

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

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

~~[6-]~~ D. At public and private celebrations on or off the small brewer's premises in a local option district permitting the sale of alcoholic beverages, the holder of a small brewer's license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "small brewer's public celebration permit" or a "small brewer's private celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a small brewer's license a public celebration permit for a location at the public celebration

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that is to be shared with other small brewers and winegrowers.
~~[As used in this subsection, "public celebration" includes a state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.]~~

D.] E. Sales and tastings of beer [☉], wine or cider authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of [~~noon~~] 11:00 a.m. and midnight on Sunday and shall conform to the limitations regarding Christmas and voting-day sales found in Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday.

F. As used in this section:

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

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

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

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