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HOUSE BILL 603

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

INTRODUCED BY

Rod Montoya

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR RETAIL
RECIPROCITY BETWEEN SMALL BREWERS, WINEGROWERS AND CRAFT
DISTILLERS.

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

SECTION 1. 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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1 permit issued by the federal government to be a craft
2 distiller;

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

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

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

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

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

23 (4) the provisions of Section 60-6A-18 NMSA
24 1978 shall not apply to a craft distiller's license; and

25 (5) nothing in this section shall prevent a

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

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

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

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

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

14 (4) deal in warehouse receipts for spirituous
15 liquors;

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

20 (6) buy or otherwise obtain beer from a small
21 brewer or wine from a winegrower for the purposes described in
22 this subsection;

23 [~~6~~] (7) be deemed a manufacturer for
24 purposes of the Gross Receipts and Compensating Tax Act;

25 [~~7~~] (8) conduct spirituous liquor tastings

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1 and sell, by the glass or by the bottle, or in unbroken
2 packages for consumption off the premises but not for resale:

3 (a) spirituous liquors of the craft
4 distiller's own production [~~or~~];

5 (b) spirituous liquors produced by
6 another New Mexico craft distiller or New Mexico manufacturer
7 on the craft distiller's premises; and

8 (c) beer produced and bottled by or for
9 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 or wine
10 produced by a winegrower pursuant to Section 60-6A-11 NMSA
11 1978; provided that no more than thirty percent of the craft
12 distiller's gross receipts shall be from the sale of beer or
13 wine as provided in this subparagraph; and

14 [~~8~~] (9) at no more than three other
15 locations off the craft distiller's premises, after the craft
16 distiller has paid the applicable fee for a craft distiller's
17 off-premises permit, after the director has determined that the
18 off-premises locations meet the requirements of the Liquor
19 Control Act and department rules for new liquor license
20 locations and after the director has issued a craft distiller's
21 off-premises permit for each off-premises location, conduct
22 spirituous liquor tastings and sell by the glass, or in
23 unbroken packages for consumption off premises and not for
24 resale:

25 (a) spirituous liquors produced and

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1 bottled by or for the craft distiller [~~or~~];

2 (b) spirituous liquors produced and
3 bottled by or for another New Mexico craft distiller or
4 manufacturer;

5 (c) beer produced and bottled by or for
6 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978; and

7 (d) wine produced by a winegrower
8 pursuant to Section 60-6A-11 NMSA 1978.

9 C. For a public celebration off the craft
10 distiller's premises in any local option district permitting
11 the sale of alcoholic beverages, a craft distiller shall pay
12 ten dollars (\$10.00) to the department for a "craft distiller's
13 public celebration permit" to be issued under rules adopted by
14 the director. Upon request, the department may issue to a
15 craft distiller a public celebration permit for a location at
16 the public celebration that is to be shared with other craft
17 distillers, small brewers and winegrowers. As used in this
18 subsection, "public celebration" includes any state or county
19 fair, community fiesta, cultural or artistic event, sporting
20 competition of a seasonal nature or other activity held on an
21 intermittent basis.

22 D. Sales and tastings of spirituous liquors, beer
23 and wine authorized in this section shall be permitted during
24 the hours set forth in Subsection A of Section 60-7A-1 NMSA
25 1978 and between the hours of noon and midnight on Sunday and

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1 shall conform to the limitations regarding Christmas day sales
2 and the expansion of Sunday sales hours to 2:00 a.m. on January
3 1, when December 31 falls on a Sunday as set forth in Section
4 60-7A-1 NMSA 1978."

5 SECTION 2. Section 60-6A-11 NMSA 1978 (being Laws 1981,
6 Chapter 39, Section 28, as amended by Laws 2015, Chapter 102,
7 Section 4 and by Laws 2015, Chapter 105, Section 1 and also by
8 Laws 2015, Chapter 124, Section 1) is amended to read:

9 "60-6A-11. WINEGROWER'S LICENSE.--

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

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

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

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

9 (3) sell wines to a holder of a New Mexico
10 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;

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

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

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

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1 (9) conduct wine tastings and sell, by the
2 glass or by the bottle, or sell in unbroken packages for
3 consumption off the premises, but not for resale:

4 (a) wine of the winegrower's own
5 production;

6 (b) wine produced by another New Mexico
7 winegrower on the winegrower's premises; or

8 (c) beer produced and bottled by or for
9 a small brewer pursuant to Section ~~[60-2A-26.1]~~ 60-6A-26.1 NMSA
10 1978 or spirituous liquors produced and packaged by or for a
11 craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;
12 provided that no more than thirty percent of a winegrower's
13 gross receipts shall be from the sale of beer or spirituous
14 liquors as provided in this subparagraph;

15 (10) at no more than three off-premises
16 locations, and after the director has determined that the off-
17 premises locations meet the requirements of the Liquor Control
18 Act and the department rules for new liquor license locations,
19 conduct wine tastings, sell by the glass and sell in unbroken
20 packages for consumption off premises, but not for resale:

21 (a) wine of the winegrower's own
22 production;

23 (b) wine produced by another New Mexico
24 winegrower ~~[or]~~;

25 (c) beer produced and bottled by or for

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1 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 [~~after~~
2 ~~the director has determined that the off-premises locations~~
3 ~~meet the requirements of the Liquor Control Act and the~~
4 ~~department rules for new liquor license locations~~]; and

5 (d) spirituous liquors produced and
6 packaged by or for a craft distiller pursuant to Section
7 60-6A-6.1 NMSA 1978;

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

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

16 (13) sell wine or cider in a growler for
17 consumption off premises; and

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

23 C. Sales of wine [~~or~~], beer or spirituous liquors
24 as provided for in this section shall be permitted between the
25 hours of 7:00 a.m. and midnight Monday through Saturday, and

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1 the holder of a winegrower's license or public celebration
2 permit may conduct wine tastings and sell, by the glass or
3 bottle, or sell in unbroken packages for consumption off
4 premises, but not for resale, wine of the winegrower's own
5 production [~~or~~], beer [~~produced and bottled by or for a small~~
6 ~~brewer pursuant to Section 60-6A-26.1 NMSA 1978 on the~~
7 ~~winegrower's premises~~] or spirituous liquors as provided in
8 Paragraphs (9) and (10) of Subsection B of this section between
9 the hours of 12:00 noon and midnight on Sunday.

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

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 produced or
4 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 SECTION 3. Section 60-6A-26.1 NMSA 1978 (being Laws 1985,
13 Chapter 217, Section 5, as amended by Laws 2015, Chapter 102,
14 Section 5 and by Laws 2015, Chapter 124, Section 2) is amended
15 to read:

16 "60-6A-26.1. SMALL BREWER'S LICENSE.--

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

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

24 (1) manufacture or produce beer;

25 (2) package, label and export beer, whether

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1 manufactured, bottled or produced by the licensee or any other
2 person;

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

6 (4) deal in warehouse receipts for beer;

7 (5) conduct beer tastings and sell for
8 consumption on or off premises, but not for resale:

9 (a) beer produced and bottled by, or
10 produced and packaged for, the licensee;

11 (b) beer produced and bottled by or for
12 another New Mexico small brewer on the small brewer's premises;
13 or

14 (c) wine produced by a winegrower
15 pursuant to Section 60-6A-11 NMSA 1978 or spirituous liquors
16 produced and packaged by or for a craft distiller pursuant to
17 Section 60-6A-6.1 NMSA 1978; provided that no more than thirty
18 percent of a small brewer's gross receipts shall be from the
19 sale of wine or spirituous liquors as provided in this
20 subparagraph;

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

23 (7) at public celebrations off the small
24 brewer's premises, after the small brewer has paid the
25 applicable fee for a small brewer's public celebration permit,

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1 conduct tastings and sell by the glass or in unbroken packages,
2 but not for resale, beer produced and bottled by or for the
3 small brewer or wine produced by a winegrower pursuant to
4 Section 60-6A-11 NMSA 1978;

5 (8) buy or otherwise obtain wine from a
6 winegrower or spirituous liquor from a craft distiller;

7 (9) for the purposes described in this
8 subsection, at no more than three other locations off the small
9 brewer's premises, after the small brewer has paid the
10 applicable fee for a small brewer's off-premises permit, after
11 the director has determined that the off-premises locations
12 meet the requirements of the Liquor Control Act and department
13 rules for new liquor license locations and after the director
14 has issued a small brewer's off-premises permit for each off-
15 premises location, conduct beer tastings and sell by the glass
16 or in unbroken packages for consumption off ~~[the small brewer's~~
17 ~~off-premises location]~~ premises, but not for resale:

18 (a) beer produced and bottled by or for
19 the small brewer;

20 (b) beer produced and bottled by or for
21 another New Mexico small brewer ~~[or]~~;

22 (c) wine produced by a winegrower
23 pursuant to Section 60-6A-11 NMSA 1978; or

24 (d) spirituous liquors produced and
25 packaged by or for a craft distiller pursuant to Section

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1 60-6A-6.1 NMSA 1978;

2 (10) allow members of the public, on the
3 licensed premises and under the direct supervision of the
4 licensee, to manufacture beer for personal consumption and not
5 for resale using the licensee's equipment and ingredients; and

6 (11) sell beer in a growler for consumption
7 off premises.

8 C. At public celebrations off the small brewer's
9 premises in a local option district permitting the sale of
10 alcoholic beverages, the holder of a small brewer's license
11 shall pay ten dollars (\$10.00) to the alcohol and gaming
12 division of the regulation and licensing department for a
13 "small brewer's public celebration permit" to be issued under
14 rules adopted by the director. Upon request, the alcohol and
15 gaming division of the regulation and licensing department may
16 issue to a holder of a small brewer's license a public
17 celebration permit for a location at the public celebration
18 that is to be shared with other small brewers and winegrowers.
19 As used in this subsection, "public celebration" includes a
20 state or county fair, community fiesta, cultural or artistic
21 event, sporting competition of a seasonal nature or activities
22 held on an intermittent basis.

23 D. Sales and tastings of beer [~~or~~], wine or
24 spirituous liquors authorized in this section shall be
25 permitted during the hours set forth in Subsection A of Section

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

6 SECTION 4. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2019.

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