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AN ACT

RELATING TO EXECUTIVE REORGANIZATION; RENAMING THE ALCOHOL AND GAMING DIVISION; UPDATING STATUTORY REFERENCES; PROVIDING FOR TRANSFERS.

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

SECTION 1. Section 9-16-4 NMSA 1978 (being Laws 1983, Chapter 297, Section 20, as amended) is amended to read:

"9-16-4. DEPARTMENT ESTABLISHED.--The "regulation and licensing department" is created in the executive branch.

The department shall not be a cabinet department. The department shall consist of but not be limited to the following divisions:

- A. the administrative services division;
- B. the construction industries division;
- C. the financial institutions division;
- D. the securities division;
- E. the manufactured housing division; and
- F. the alcoholic beverage control division."

SECTION 2. 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:

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

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

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

15           D. "cider" means an alcoholic beverage made from  
16 the normal alcoholic fermentation of the juice of sound, ripe  
17 apples that contains not less than one-half of one percent  
18 alcohol by volume and not more than seven percent alcohol by  
19 volume;

20           E. "club" means:

21               (1) any nonprofit group, including an  
22 auxiliary or subsidiary group, organized and operated under  
23 the laws of this state, with a membership of not less than  
24 fifty members who pay membership dues at the rate of not less  
25 than five dollars (\$5.00) per year and who, under the

1 constitution and bylaws of the club, have all voting rights  
2 and full membership privileges, and which group is the owner,  
3 lessee or occupant of premises used exclusively for club  
4 purposes and which group the director finds:

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

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

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

24 F. "commission" means the secretary of public  
25 safety when the term is used in reference to the enforcement

1 and investigatory provisions of the Liquor Control Act and  
2 means the superintendent of regulation and licensing when the  
3 term is used in reference to the licensing provisions of the  
4 Liquor Control Act;

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

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

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

1 premises;

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

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

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

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

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

23 O. "licensed premises" means the contiguous areas  
24 or areas connected by indoor passageways of a structure and  
25 the outside dining, recreation and lounge areas of the

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

21 P. "local option district" means a county that has  
22 voted to approve the sale, serving or public consumption of  
23 alcoholic beverages, or an incorporated municipality that  
24 falls within a county that has voted to approve the sale,  
25 serving or public consumption of alcoholic beverages, or an

1 incorporated municipality of over five thousand population  
2 that has independently voted to approve the sale, serving or  
3 public consumption of alcoholic beverages under the terms of  
4 the Liquor Control Act or any former act;

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

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

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

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

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

21 V. "restaurant" means an establishment having a  
22 New Mexico resident as a proprietor or manager that is held  
23 out to the public as a place where meals are prepared and  
24 served primarily for on-premises consumption to the general  
25 public in consideration of payment and that has a dining

1 room, a kitchen and the employees necessary for preparing,  
2 cooking and serving meals; provided that "restaurant" does  
3 not include establishments as defined in rules promulgated by  
4 the director serving only hamburgers, sandwiches, salads and  
5 other fast foods;

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

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

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

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

25 AA. "wine" includes the words "fruit juices" and



1 means alcoholic beverages obtained by the fermentation of the  
2 natural sugar contained in fruit or other agricultural  
3 products, with or without the addition of sugar or other  
4 products, that do not contain less than one-half percent nor  
5 more than twenty-one percent alcohol by volume;

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

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

11 DD. "winer" means a winegrower; and

12 EE. "winery" means a facility in which a  
13 winegrower manufactures and stores wine."

14 SECTION 3. Section 60-3A-7 NMSA 1978 (being Laws 1987,  
15 Chapter 254, Section 25, as amended) is amended to read:

16 "60-3A-7. AUTHORITY OF THE ALCOHOLIC BEVERAGE CONTROL  
17 DIVISION.--The alcoholic beverage control division of the  
18 regulation and licensing department has the authority over  
19 all matters relating to the issuance, denial, suspension or  
20 revocation of licenses under the Liquor Control Act. The  
21 director of the division may request the department of public  
22 safety to provide investigatory and enforcement support as  
23 deemed necessary."

24 SECTION 4. Section 60-3A-8 NMSA 1978 (being Laws 2001,  
25 Chapter 86, Section 5) is amended to read:

1           "60-3A-8. POWERS AND DUTIES OF THE DIRECTOR OF THE  
2 ALCOHOLIC BEVERAGE CONTROL DIVISION.--The director of the  
3 alcoholic beverage control division of the regulation and  
4 licensing department is responsible for the operation of the  
5 division. It is the director's duty to supervise all  
6 operations of the division and to:

7           A. administer the laws that the division  
8 administers, including the Liquor Control Act. The director  
9 shall request the department of public safety to enforce the  
10 provisions of the Liquor Control Act as deemed necessary;

11           B. exercise general supervisory authority over all  
12 employees of the division;

13           C. organize the division into units to enable it  
14 to function most effectively;

15           D. confer authority and delegate responsibility as  
16 is necessary and appropriate;

17           E. employ, within the limitations of current  
18 appropriations and personnel laws, persons as are required to  
19 discharge the director's duties;

20           F. undertake studies and conduct courses of  
21 instruction for division employees that will improve the  
22 operations of the division and advance its purposes; and

23           G. require compliance by employees of the division  
24 with the director's verbal and written instructions by  
25 whatever disciplinary means appropriate."

1 SECTION 5. TEMPORARY PROVISION--TRANSFERS OF PROPERTY,  
2 CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.--On the  
3 effective date of this act, all:

4 A. functions, personnel, appropriations, money,  
5 records, furniture, equipment and other property of the  
6 alcohol and gaming division of the regulation and licensing  
7 department are transferred to the alcoholic beverage control  
8 division of that department;

9 B. contractual obligations of the alcohol and  
10 gaming division of the regulation and licensing department  
11 shall be deemed to be references to the alcoholic beverage  
12 control division of that department; and

13 C. references in law to the alcohol and gaming  
14 division of the regulation and licensing department shall be  
15 deemed to be references to the alcoholic beverage control  
16 division of that department. \_\_\_\_\_

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