

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 255

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

AN ACT

RELATING TO LIQUOR CONTROL; AMENDING AND ENACTING SECTIONS OF
THE LIQUOR CONTROL ACT TO PERMIT CERTAIN PERSONS TO DELIVER
ALCOHOLIC BEVERAGES; ADDING A NEW TYPE OF RESTAURANT LICENSE
THAT ALLOWS SALE OF ALCOHOLIC BEVERAGES IN RESTAURANTS;
IMPOSING LICENSE ISSUANCE FEES; PROVIDING DEDUCTIONS FROM THE
INCOME TAX, CORPORATE INCOME TAX AND GROSS RECEIPTS TAX FOR
CERTAIN LICENSE HOLDERS; IMPOSING A RETAILER'S TAX ON RETAILERS
PURSUANT TO THE LIQUOR EXCISE TAX ACT.

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

SECTION 1. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] DEDUCTION--INCOME FROM LEASING A LIQUOR
LICENSE.--

A. Prior to January 1, 2026, a taxpayer who is a

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underscored material = new
[bracketed material] = delete

1 liquor license lessor and who held the license on June 30, 2021
2 may claim a deduction from net income in an amount equal to the
3 gross receipts from sales of alcoholic beverages made by each
4 liquor license lessee in an amount:

5 (1) if the liquor license is a dispenser's
6 license, not to exceed fifty thousand dollars (\$50,000) for
7 each of four taxable years; and

8 (2) if the liquor license is a retailer's
9 license, not to exceed twenty-five thousand dollars (\$25,000)
10 for each of four taxable years.

11 B. Married individuals filing separate returns for
12 a taxable year for which they could have filed a joint return
13 may each claim only one-half of a deduction provided by this
14 section that would have been claimed on a joint return.

15 C. A taxpayer may claim the deduction provided by
16 this section in proportion to the taxpayer's ownership interest
17 if the taxpayer owns an interest in a business entity that is
18 taxed for federal income tax purposes as a partnership or
19 limited liability company and that business entity has met all
20 of the requirements to be eligible for the deduction. The
21 total deduction claimed in the aggregate by all members of the
22 partnership or association with respect to the deduction shall
23 not exceed the amount of the deduction that could have been
24 claimed by a sole owner of the business.

25 D. A taxpayer allowed a deduction pursuant to this

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1 section shall report the amount of the deduction to the
2 department in a manner required by the department.

3 E. The department shall compile an annual report on
4 the deduction provided by this section that shall include the
5 number of taxpayers that claimed the deduction, the aggregate
6 amount of deductions claimed and any other information
7 necessary to evaluate the cost of the deduction. The
8 department shall provide the report to the revenue
9 stabilization and tax policy committee and the legislative
10 finance committee with an analysis of the cost of the
11 deduction.

12 F. As used in this section:

13 (1) "alcoholic beverage" means alcoholic
14 beverage as defined in the Liquor Control Act;

15 (2) "dispenser's license" means a license
16 issued pursuant to the provisions of the Liquor Control Act
17 allowing the licensee to sell, offer for sale or have in the
18 person's possession with the intent to sell alcoholic beverages
19 both by the drink for consumption on the licensed premises and
20 in unbroken packages, including growlers, for consumption and
21 not for resale off the licensed premises;

22 (3) "growler" means a clean, refillable,
23 resealable container that has a liquid capacity that does not
24 exceed one gallon and that is intended and used for the sale of
25 beer, wine or cider;

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1 (4) "liquor license" means a retailer's
2 license issued pursuant to Section 60-6A-2 NMSA 1978, a
3 dispenser's license issued pursuant to Section 60-6A-3 NMSA
4 1978 or a dispenser's license issued pursuant to Section
5 60-6A-12 NMSA 1978 issued prior to July 1, 2021;

6 (5) "liquor license lessee" means a person
7 that leases a liquor license from a liquor license lessor;

8 (6) "liquor license lessor" means a person
9 that leases a liquor license to a third party; and

10 (7) "retailer's license" means a license
11 issued pursuant to the provisions of the Liquor Control Act
12 allowing the licensee to sell, offer for sale or have in the
13 person's possession with the intent to sell alcoholic beverages
14 in unbroken packages, including growlers, for consumption and
15 not for resale off the licensed premises."

16 SECTION 2. A new section of the Corporate Income and
17 Franchise Tax Act is enacted to read:

18 "[NEW MATERIAL] DEDUCTION--INCOME FROM LEASING A LIQUOR
19 LICENSE.--

20 A. Prior to January 1, 2026, a taxpayer that is a
21 liquor license lessor and that held the license on June 30,
22 2021 may claim a deduction from taxable income in an amount
23 equal to the gross receipts from sales of alcoholic beverages
24 made by each liquor license lessee in an amount:

25 (1) if the liquor license is a dispenser's

1 license, not to exceed fifty thousand dollars (\$50,000) for
2 each of four taxable years; and

3 (2) if the liquor license is a retailer's
4 license, not to exceed twenty-five thousand dollars (\$25,000)
5 for each of four taxable years.

6 B. A taxpayer allowed a deduction pursuant to this
7 section shall report the amount of the deduction to the
8 department in a manner required by the department.

9 C. The department shall compile an annual report on
10 the deduction provided by this section that shall include the
11 number of taxpayers that claimed the deduction, the aggregate
12 amount of deductions claimed and any other information
13 necessary to evaluate the cost of the deduction. The
14 department shall provide the report to the revenue
15 stabilization and tax policy committee and the legislative
16 finance committee with an analysis of the cost of the
17 deduction.

18 D. As used in this section:

19 (1) "alcoholic beverage" means alcoholic
20 beverage as defined in the Liquor Control Act;

21 (2) "dispenser's license" means a license
22 issued pursuant to the provisions of the Liquor Control Act
23 allowing the licensee to sell, offer for sale or have in the
24 person's possession with the intent to sell alcoholic beverages
25 both by the drink for consumption on the licensed premises and

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1 in unbroken packages, including growlers, for consumption and
2 not for resale off the licensed premises;

3 (3) "growler" means a clean, refillable,
4 resealable container that has a liquid capacity that does not
5 exceed one gallon and that is intended and used for the sale of
6 beer, wine or cider;

7 (4) "liquor license" means a retailer's
8 license issued pursuant to Section 60-6A-2 NMSA 1978, a
9 dispenser's license issued pursuant to Section 60-6A-3 NMSA
10 1978 or a dispenser's license issued pursuant to Section
11 60-6A-12 NMSA 1978 issued prior to July 1, 2021;

12 (5) "liquor license lessee" means a person
13 that leases a liquor license from a liquor license lessor;

14 (6) "liquor license lessor" means a person
15 that leases a liquor license to a third party; and

16 (7) "retailer's license" means a license
17 issued pursuant to the provisions of the Liquor Control Act
18 allowing the licensee to sell, offer for sale or have in the
19 person's possession with the intent to sell alcoholic beverages
20 in unbroken packages, including growlers, for consumption and
21 not for resale off the licensed premises."

22 SECTION 3. A new section of the Gross Receipts and
23 Compensating Tax Act is enacted to read:

24 "[NEW MATERIAL] DEDUCTION--SALES MADE BY RETAILER'S OR
25 DISPENSER'S LICENSE HOLDER.--

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1 A. Prior to January 1, 2026, a liquor license
2 holder who held the license on June 30, 2021 may deduct from
3 gross receipts the following receipts:

4 (1) for each dispenser's license, up to fifty
5 thousand dollars (\$50,000) of receipts from the sale of
6 alcoholic beverages for taxable years 2022 through 2025; and

7 (2) for each retailer's license, up to
8 twenty-five thousand dollars (\$25,000) of receipts from the
9 sale of alcoholic beverages per year for four consecutive
10 taxable years.

11 B. A taxpayer allowed a deduction pursuant to this
12 section shall report the amount of the deduction separately in
13 a manner required by the department.

14 C. The department shall compile an annual report on
15 the deduction provided by this section that shall include the
16 number of taxpayers that claimed the deduction, the aggregate
17 amount of deductions claimed and any other information
18 necessary to evaluate the effectiveness of the deduction. The
19 department shall compile and present the report to the revenue
20 stabilization and tax policy committee and the legislative
21 finance committee with an analysis of the cost of the
22 deduction.

23 D. As used in this section:

24 (1) "alcoholic beverage" means alcoholic
25 beverage as defined in the Liquor Control Act;

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1 (2) "dispenser's license" means a license
2 issued pursuant to the provisions of the Liquor Control Act
3 allowing the licensee to sell, offer for sale or have in the
4 person's possession with the intent to sell alcoholic beverages
5 both by the drink for consumption on the licensed premises and
6 in unbroken packages, including growlers, for consumption and
7 not for resale off the licensed premises;

8 (3) "growler" means a clean, refillable,
9 resealable container that has a liquid capacity that does not
10 exceed one gallon and that is intended and used for the sale of
11 beer, wine or cider;

12 (4) "liquor license holder" means a person
13 that holds a retailer's license issued pursuant to Section
14 60-6A-2 NMSA 1978, a dispenser's license issued pursuant to
15 Section 60-6A-3 NMSA 1978 or a dispenser's license issued
16 pursuant to Section 60-6A-12 NMSA 1978 issued prior to July 1,
17 2021; and

18 (5) "retailer's license" means a license
19 issued pursuant to the provisions of the Liquor Control Act
20 allowing the licensee to sell, offer for sale or have in the
21 person's possession with the intent to sell alcoholic beverages
22 in unbroken packages, including growlers, for consumption and
23 not for resale off the licensed premises."

24 SECTION 4. A new section of the Liquor Control Act is
25 enacted to read:

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1 "[NEW MATERIAL] ALCOHOLIC BEVERAGE DELIVERY PERMIT--THIRD-
2 PARTY DELIVERY LICENSE.--

3 A. A person otherwise qualified pursuant to the
4 provisions of the Liquor Control Act may apply for and the
5 department may issue an alcoholic beverage delivery permit
6 authorizing the person to deliver alcoholic beverages if the
7 applicant holds a valid retailer's, dispenser's, craft
8 distiller's, winegrower's, small brewer's or restaurant license
9 and if the indoor retail space is less than ten thousand square
10 feet in size.

11 B. An alcoholic beverage delivery permit issued to
12 a valid restaurant licensee shall only convey the authority to
13 deliver alcoholic beverages concurrently with the delivery of a
14 minimum of ten dollars (\$10.00) worth of food; provided that
15 under no circumstances shall the delivery of alcoholic
16 beverages be more than seven hundred fifty milliliters of wine,
17 six twelve-ounce containers of prepackaged wine, beer, cider or
18 spirituous liquors or one locally produced growler.

19 C. An alcoholic beverage delivery permit is not
20 transferable from person to person or from one location to
21 another.

22 D. An alcoholic beverage delivery permit issued
23 pursuant to this section is valid for one year from the date of
24 issuance. An alcoholic beverage delivery permittee may renew
25 an alcoholic beverage delivery permit annually as required by

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1 the department.

2 E. The director shall promulgate rules to implement
3 the provisions of this section, which shall include the
4 following requirements and restrictions:

5 (1) an alcoholic beverage delivery permittee
6 shall deliver alcoholic beverages only in unbroken packages or
7 growlers;

8 (2) payment for alcoholic beverages shall be
9 received only at the licensed premises of the selling licensee
10 personally or by other means, including telephonically,
11 electronically, via website, application or internet platform;

12 (3) a licensee shall not change the price
13 charged for an alcoholic beverage because that beverage is
14 purchased for delivery; provided that a separate fee may be
15 charged for delivery; and further provided that the fee shall
16 be disclosed to the customer at the time of the purchase;

17 (4) deliveries of alcoholic beverages shall
18 occur only during the hours the selling licensee is authorized
19 to sell alcoholic beverages;

20 (5) an alcoholic beverage delivery permittee
21 shall not deliver an alcoholic beverage to a business, a
22 commercial establishment, a college or university campus or a
23 school campus that is not a home school;

24 (6) an alcoholic beverage delivery permittee
25 delivering alcoholic beverages shall obtain valid proof of the

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1 recipient's identity and age;

2 (7) deliveries of alcoholic beverages shall
3 not be made to an intoxicated person in violation of Section
4 60-7A-16 NMSA 1978 or to a minor in violation of Section
5 60-7B-1 NMSA 1978;

6 (8) while delivering alcoholic beverages, an
7 alcoholic beverage delivery permittee shall have in the
8 permittee's possession only alcoholic beverages that have been
9 purchased for delivery; and

10 (9) while delivering alcoholic beverages, an
11 alcoholic beverage delivery permittee shall have in the
12 permittee's possession the original or an electronic or
13 physical copy of the permittee's alcoholic beverage delivery
14 permit.

15 F. A licensee that holds an alcoholic beverage
16 delivery permit issued pursuant to this section may utilize an
17 employee who is at least twenty-one years of age and who holds
18 a valid server permit to deliver alcoholic beverages.

19 G. A licensee that holds an alcoholic beverage
20 delivery permit issued pursuant to this section may contract
21 with a third-party alcohol delivery service licensed by the
22 department; provided that the licensee, the third-party alcohol
23 delivery service and the server who delivers alcohol may be
24 separately liable for violations of the Liquor Control Act,
25 including for the delivery of alcohol to an intoxicated person

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1 or to a minor.

2 H. The department, by rule, shall create a third-
3 party alcohol delivery permit and, at a minimum, condition the
4 issuance of a third-party alcohol delivery permit on:

5 (1) requiring that all delivery employees of
6 the third-party alcohol delivery service hold a valid New
7 Mexico alcohol server permit; and

8 (2) requiring proof of general liability
9 insurance coverage with a liquor liability endorsement in an
10 amount not less than one million dollars (\$1,000,000) per
11 occurrence.

12 I. A person, company or licensee that wishes to
13 deliver retail sales of alcohol in New Mexico on behalf of
14 valid retailer's, dispenser's, craft distiller's, winegrower's,
15 small brewer's or restaurant licensees that also hold a valid
16 alcoholic beverage delivery permit shall obtain a third-party
17 alcohol delivery license from the department.

18 J. An applicant for a third-party alcohol delivery
19 license is required to be authorized to do business in this
20 state, may not share in the profits of the sale of alcohol with
21 a licensee and may only charge a delivery fee that is disclosed
22 to the buyer at the time of sale.

23 K. A third-party alcohol delivery licensee shall
24 not have the ability to buy, hold or deliver alcohol under its
25 own license but to only allow for delivery of alcohol from a

1 licensed premises and from a qualified licensee with a valid
2 alcoholic beverage delivery permit to the buyer.

3 L. A third-party alcohol delivery licensee shall be
4 independently liable for the delivery of alcoholic beverages to
5 an intoxicated person or to a minor or for any violation of the
6 Liquor Control Act and be subject to suspension, revocation or
7 administrative fine pursuant to Sections 60-6C-1 through
8 60-6C-6 NMSA 1978.

9 M. A third-party alcohol delivery license shall be
10 valid for one year, and may be renewed."

11 SECTION 5. A new section of the Liquor Excise Tax Act,
12 Section 7-17-5.2 NMSA 1978, is enacted to read:

13 "7-17-5.2. [NEW MATERIAL] RETAILER'S TAX.--

14 A. An excise tax is imposed on a retailer that
15 sells alcoholic beverages in this state on which the tax
16 imposed by this section has not been paid. The tax imposed by
17 this section may be referred to as the "retailer's tax".

18 B. The rate of the retailer's tax is two percent
19 and is applied to the price paid for alcoholic beverages sold
20 by the retailer. If the price paid does not represent the
21 value of the alcoholic beverage sold, the tax rate shall be
22 applied to the reasonable value of the alcoholic beverage at
23 the time it was sold.

24 C. As used in this section, "retailer" means a
25 person having a place of business and who sells, offers for

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1 sale or possesses for the purpose of selling alcoholic
2 beverages to customers of the business."

3 SECTION 6. Section 7-17-9 NMSA 1978 (being Laws 1966,
4 Chapter 49, Section 7, as amended) is amended to read:

5 "7-17-9. EXEMPTION--CERTAIN SALES TO OR BY
6 INSTRUMENTALITIES OF ARMED FORCES.--Exempted from the [~~tax~~]
7 taxes imposed by [~~Section~~] Sections 7-17-5 and 7-17-5.2 NMSA
8 1978 are alcoholic beverages sold to or by any instrumentality
9 of the armed forces of the United States engaged in resale
10 activities."

11 SECTION 7. Section 7-17-10 NMSA 1978 (being Laws 1966,
12 Chapter 49, Section 8, as amended) is amended to read:

13 "7-17-10. DATE PAYMENT DUE.--The [~~tax~~] taxes imposed by
14 the Liquor Excise Tax Act [~~is~~] are to be paid on or before the
15 twenty-fifth day of the month following the month in which the
16 taxable event occurs."

17 SECTION 8. Section 7-17-12 NMSA 1978 (being Laws 1984,
18 Chapter 85, Section 8, as amended) is amended to read:

19 "7-17-12. INTERPRETATION OF ACT--ADMINISTRATION AND
20 ENFORCEMENT OF TAX.--

21 A. The department shall interpret the provisions of
22 the Liquor Excise Tax Act.

23 B. The department shall administer and enforce the
24 collection of the [~~liquor excise tax~~] taxes imposed pursuant to
25 the Liquor Excise Tax Act, and the Tax Administration Act

1 applies to the administration and enforcement of [~~the tax~~]
2 those taxes."

3 SECTION 9. Section 60-3A-3 NMSA 1978 (being Laws 1981,
4 Chapter 39, Section 3, as amended by Laws 2019, Chapter 29,
5 Section 2 and by Laws 2019, Chapter 229, Section 3) is amended
6 to read:

7 "60-3A-3. DEFINITIONS.--As used in the Liquor Control
8 Act:

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

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

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

23 D. "cider" means an alcoholic beverage made from
24 the normal alcoholic fermentation of the juice of sound, ripe
25 apples or pears that contains not less than one-half of one

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1 percent alcohol by volume and not more than eight and one-half
2 percent alcohol by volume;

3 E. "club" means:

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

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

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

25 (2) an airline passenger membership club

1 operated by an air common carrier that maintains or operates a
2 clubroom at an [~~international~~] airport terminal. As used in
3 this paragraph, "air common carrier" means a person engaged in
4 regularly scheduled air transportation between fixed termini
5 under a certificate of public convenience and necessity issued
6 by the federal aviation administration;

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

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

20 H. "director" means the chief of the New Mexico
21 state police division of the department of public safety when
22 the term is used in reference to the enforcement and
23 investigatory provisions of the Liquor Control Act and means
24 the director of the alcoholic beverage control division of the
25 regulation and licensing department when the term is used in

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1 reference to the licensing provisions of the Liquor Control
2 Act;

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

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

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

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

22 M. "growler" means a clean, refillable, resealable
23 container that has a liquid capacity that does not exceed one
24 gallon and that is intended and used for the sale of New
25 Mexico-produced beer, wine or cider for consumption off

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1 premises;

2 N. "hotel" means an establishment or complex having
3 a resident of New Mexico as a proprietor or manager and where,
4 in consideration of payment, ~~[meals]~~ food and lodging are
5 regularly furnished to the general public. The establishment
6 or complex must maintain for the use of its guests a minimum of
7 twenty-five sleeping rooms;

8 O. "licensed premises" means the contiguous areas
9 ~~[or areas connected by indoor passageways of a structure and~~
10 ~~the outside dining, recreation and lounge areas]~~ of the
11 structure and the grounds ~~[and vineyards of a structure that is~~
12 ~~a winery]~~ that are under the direct control of the licensee
13 ~~[and from which the licensee is authorized to sell, serve or~~
14 ~~allow the consumption of alcoholic beverages under the~~
15 ~~provisions of its license];~~ provided that ~~[in the case of a~~
16 ~~restaurant]~~ "licensed premises" includes a restaurant that has
17 operated continuously in two separate structures since July 1,
18 1987 and that is located in a local option district that has
19 voted to disapprove the transfer of liquor licenses into that
20 local option district, hotel, golf course, ski area or
21 racetrack and all public and private rooms, facilities and
22 areas in which alcoholic beverages are sold or served in the
23 customary operating procedures of the restaurant, hotel, golf
24 course, ski area or racetrack. "Licensed premises" also
25 includes rural dispenser licenses located in the unincorporated

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1 areas of a county with a population of less than thirty
2 thousand, located in buildings in existence as of January 1,
3 2012, that are within one hundred fifty feet of one another and
4 that are under the direct control of the license holder;

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

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

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

18 S. "package" means [~~an immediate~~] a container of
19 alcoholic beverages that is filled or packed by a manufacturer
20 or wine bottler for sale by the manufacturer or wine bottler to
21 wholesalers;

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

24 U. "rectifier" means a person who blends, mixes or
25 distills alcohol with other liquids or substances for the

1 purpose of making an alcoholic beverage for the purpose of sale
2 other than to the consumer by the drink, and includes all
3 bottlers of spirituous liquors;

4 V. "restaurant" means an establishment having a New
5 Mexico resident as a proprietor or manager that is held out to
6 the public as a place where ~~[meals are]~~ food is prepared and
7 served primarily for on-premises consumption to the general
8 public in consideration of payment and that has a dining room,
9 a kitchen and the employees necessary for preparing, cooking
10 and serving ~~[meals]~~ food; provided that "restaurant" does not
11 include establishments as defined in rules promulgated by the
12 director serving only hamburgers, sandwiches, salads and other
13 fast foods;

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

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

24 Y. "spirituous liquors" means alcoholic beverages
25 as defined in Subsection A of this section except fermented

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1 beverages such as wine, beer and cider [~~and ale~~];

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

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

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

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

17 DD. "winer" means a winegrower; and

18 EE. "winery" means a [~~facility~~] licensed premise in
19 which a winegrower manufactures and stores wine or cider."

20 SECTION 10. Section 60-6A-4 NMSA 1978 (being Laws 1981,
21 Chapter 39, Section 21, as amended) is amended to read:

22 "60-6A-4. RESTAURANT LICENSE.--

23 A. A local option district may approve the issuance
24 of restaurant licenses for the sale of beer and wine by holding
25 an election on that question pursuant to the procedures set out

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1 in Section 60-5A-1 NMSA 1978. The election also may be
2 initiated by a resolution adopted by the governing body of the
3 local option district without a petition from qualified
4 electors having been submitted.

5 B. A local option district that has approved the
6 issuance of restaurant licenses for the sale of beer and wine
7 is deemed to have approved the issuance of restaurant licenses
8 for the sale of beer, wine and spirituous liquors in
9 restaurants unless the local option district affirmatively
10 adopts an opt-out ordinance. This subsection shall not apply
11 to a class B county having a population of between fifty-six
12 thousand and fifty-seven thousand according to the 1980 federal
13 decennial census.

14 C. A restaurant license issued or renewed on or
15 after July 1, 2021 that permits the sale and service of beer
16 and wine only shall be designated a restaurant A license. The
17 license shall be issued in accordance with the provisions of
18 this section and rules adopted by the department.

19 D. A restaurant license issued on or after July 1,
20 2021 that permits the sale and service of beer, wine and
21 spirituous liquors shall be designated a restaurant B license.
22 The license shall be issued in accordance with the provisions
23 of this section and rules adopted by the department.

24 ~~[B.]~~ E. After the approval of restaurant licenses
25 by the qualified electors of the local option district for the

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1 sale of beer and wine and upon completion of all requirements
2 in the Liquor Control Act for the issuance of licenses, a
3 restaurant located or to be located within the local option
4 district may receive a restaurant A license to sell, serve or
5 allow the consumption of beer and wine subject to the following
6 requirements and restrictions:

7 (1) the applicant shall submit evidence to the
8 department that the applicant has a current valid food service
9 establishment permit;

10 (2) the applicant shall satisfy the director
11 that the primary source of revenue from the operation of the
12 restaurant will be derived from [~~meals~~] food and not from the
13 sale of beer and wine;

14 (3) the director shall condition renewal upon
15 a requirement that no less than sixty percent of gross receipts
16 from the preceding twelve months' operation of the licensed
17 restaurant was derived from the sale of [~~meals~~] food;

18 (4) upon application for renewal, the licensee
19 shall submit an annual report to the director indicating the
20 annual gross receipts from the sale of [~~meals~~] food and from
21 beer and wine sales;

22 ~~[(5) restaurant licensees shall not sell beer
23 and wine for consumption off the licensed premises;~~

24 ~~(6)]~~ (5) all sales, services and consumption
25 of beer and wine authorized by a restaurant A license shall

1 cease at the time [~~meal~~] food sales and services cease or at
 2 11:00 p.m., whichever time is earlier;

3 [~~(7)~~] (6) if Sunday sales have been approved
 4 in the local option district, a restaurant licensee may serve
 5 beer and wine on Sundays until the time meal sales and services
 6 cease or 11:00 p.m., whichever time is earlier; and

7 [~~(8)~~] (7) a restaurant A license shall not be
 8 transferable from person to person [~~or~~] but shall be
 9 transferrable from one location to another location within the
 10 same local option district.

11 F. Upon completion of all requirements in the
 12 Liquor Control Act for the issuance of licenses on and after
 13 July 1, 2021, and barring the adoption of an opt-out ordinance
 14 by the governing body of a local option district, a restaurant
 15 located or to be located within the local option district may
 16 receive a restaurant B license to sell, serve or allow the
 17 consumption of beer, wine and spirituous liquors subject to the
 18 following requirements and restrictions:

19 (1) the applicant shall submit evidence to the
 20 department that the applicant has a current valid food service
 21 establishment permit;

22 (2) the applicant shall satisfy the director
 23 that the primary source of revenue from the operation of the
 24 restaurant will be derived from the sale of food and not from
 25 the sale of beer, wine and spirituous liquors;

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1 (3) the director shall condition renewal upon
2 a requirement that no less than sixty percent of gross receipts
3 from the preceding twelve months' operation of the licensed
4 restaurant was derived from the sale of food;

5 (4) upon application for renewal, the licensee
6 shall submit an annual report to the director indicating the
7 annual gross receipts from the sale of food and from beer, wine
8 and spirituous liquors sales;

9 (5) if Sunday sales have been approved in the
10 local option district, a restaurant B licensee may serve beer,
11 wine and spirituous liquors on Sundays until the time meal
12 sales and services cease or 11:00 p.m., whichever time is
13 earlier; and

14 (6) a restaurant B license shall not be
15 transferable from person to person but shall be transferable
16 from one location to another location within the same local
17 option district.

18 ~~[G.]~~ G. The provisions of Section 60-6A-18 NMSA
19 1978 shall not apply to restaurant licenses.

20 ~~[D.]~~ H. Nothing in this section shall prevent a
21 restaurant licensee from receiving other licenses pursuant to
22 the Liquor Control Act."

23 SECTION 11. Section 60-6A-6.1 NMSA 1978 (being Laws 2011,
24 Chapter 110, Section 3, as amended) is amended to read:

25 "60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

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

6 (1) the applicant submits evidence to the
7 department that the applicant has a valid and appropriate
8 permit issued by the federal government to be a craft
9 distiller;

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

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

17 (b) the manufacture of no less than [~~one~~
18 ~~thousand~~] five hundred proof gallons of spirituous liquors per
19 license year at the licensee's premises; and

20 (c) submission to the department by the
21 licensee of a report showing the number of proof gallons of
22 spirituous liquors manufactured by the licensee at the
23 licensee's premises and the annual gross receipts from the sale
24 of spirituous liquors produced by the licensee and from the
25 licensee's sale of distilled spirituous liquors produced by

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1 other New Mexico licensed craft distillers;

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

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

7 (5) nothing in this section shall prevent a
8 craft distiller from receiving other licenses pursuant to the
9 Liquor Control Act.

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

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

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

17 (3) sell only spirituous liquors that are
18 packaged by or for the craft distiller to a person holding a
19 wholesaler's license, a craft distiller's license, ~~[or]~~ a
20 manufacturer's license, a small brewer's license or a
21 winegrower's license;

22 (4) deal in warehouse receipts for spirituous
23 liquors;

24 (5) buy spirituous liquors from other persons,
25 including licensees and permittees under the Liquor Control

1 Act, for use in blending, flavoring, mixing or bottling of
2 spirituous liquors;

3 (6) buy or otherwise obtain beer from a small
4 brewer or wine or cider from a winegrower for the purposes
5 described in this subsection;

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

8 [~~7~~] (8) conduct spirituous liquor, wine,
9 cider or beer tastings and sell, by the glass or by the bottle,
10 or in unbroken packages for consumption off the premises but
11 not for resale, spirituous liquors of the craft distiller's own
12 production or spirituous liquors produced by another New Mexico
13 craft distiller or New Mexico manufacturer on the craft
14 distiller's premises, wine or cider produced by a winegrower
15 pursuant to Section 60-6A-11 NMSA 1978 or beer produced and
16 bottled by or for a small brewer pursuant to Section 60-6A-26.1
17 NMSA 1978; and

18 [~~8~~] (9) at no more than three other
19 locations off the craft distiller's premises, after the craft
20 distiller has paid the applicable fee for a craft distiller's
21 off-premises permit, after the director has determined that the
22 off-premises locations meet the requirements of the Liquor
23 Control Act and department rules for new liquor license
24 locations and after the director has issued a craft distiller's
25 off-premises permit for each off-premises location, conduct

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1 spirituous liquor, wine, cider or beer tastings and sell by the
2 glass, or in unbroken packages for consumption and not for
3 resale, spirituous liquors produced and bottled by or for the
4 craft distiller or spirituous liquors produced and bottled by
5 or for another New Mexico craft distiller or manufacturer, wine
6 or cider produced by a winegrower pursuant to Section 60-6A-11
7 NMSA 1978 or beer produced and bottled by or for a small brewer
8 pursuant to Section 60-6A-26.1 NMSA 1978.

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

19 D. At private celebrations on or off the craft
20 distiller's premises after the craft distiller has paid the
21 applicable fees and been issued the appropriate permit, the
22 craft distiller may sell by the glass spirituous liquors
23 produced by or for the craft distiller, wine or cider produced
24 by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer
25 produced and bottled by or for a small brewer pursuant to

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1 Section 60-6A-26.1 NMSA 1978.

2 E. Sales and tastings of spirituous liquors, wine,
3 cider and beer authorized in this section shall be permitted
4 during the hours set forth in Subsection A of Section 60-7A-1
5 NMSA 1978 and between the hours of 11:00 a.m. and midnight on
6 Sunday and shall conform to the limitations regarding Christmas
7 day sales and the expansion of Sunday sales hours to 2:00 a.m.
8 on January 1, when December 31 falls on a Sunday as set forth
9 in Section 60-7A-1 NMSA 1978.

10 F. As used in this section:

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

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

19 **SECTION 12.** Section 60-6A-10 NMSA 1978 (being Laws 1981,
20 Chapter 39, Section 27, as amended) is amended to read:

21 "60-6A-10. GOVERNMENTAL LICENSE.--

22 A. A governmental entity may sell alcoholic
23 beverages directly or through its lessee at a governmental
24 facility if the governing body applies to the director for a
25 governmental license. The governmental entity and its lessee

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1 shall be subject to all state laws and regulations governing
2 dispensers.

3 B. A governmental license may be leased to a
4 qualified lessee and may only be used by the lessee for its
5 operation during events authorized by the governmental entity
6 at the governmental facility designated on the governmental
7 license. The governmental entity and its lessee shall not sell
8 alcoholic beverages for consumption off the licensed premises.
9 On the licensed premises of a [~~municipal baseball park~~]
10 governmental facility, the sale or service of alcoholic
11 beverages in unbroken packages is allowed. Alcoholic beverages
12 shall not be removed from the licensed premises of a [~~municipal~~
13 ~~baseball park~~] governmental facility. A server as defined in
14 Section 60-6E-3 NMSA 1978 is not required to be present in a
15 [~~skybox~~] suite to serve alcoholic beverages to the person
16 leasing the [~~skybox~~] suite or the person's guests.

17 C. A governmental entity holding a governmental
18 license shall annually and not less than sixty days prior to
19 the date for renewal of its license submit to the director
20 documentary proof that its lessee is fully qualified to be a
21 lessee of a governmental license. If the director finds that
22 the lessee is qualified to lease a governmental license, the
23 director shall renew the license for an additional period of
24 one year. If the director determines that the proof is
25 inadequate, the director shall notify the governing body of the

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1 decision and shall conduct a hearing as provided by law. If
2 the director finds that the lessee does not qualify and the
3 governmental entity does not change its lessee, the director
4 shall revoke the license.

5 D. The provisions of Section 60-6A-18 NMSA 1978
6 shall not apply to governmental licenses.

7 E. For the purposes of this section:

8 (1) "governmental entity" means a
9 municipality, a county, a state fair that is held for less than
10 ten days per year, the state fair commission, a state museum, a
11 state university or the spaceport authority;

12 (2) "governmental facility" means locations on
13 property owned or operated by a governmental entity, including
14 county fairs; state fairs held for less than ten days per year;
15 convention centers; airports; civic centers; food service
16 facilities in state museums; auditoriums; all facilities on the
17 New Mexico state fairgrounds; facilities used for athletic
18 competitions; golf courses, including golf courses required to
19 be used for municipal purposes notwithstanding that there may
20 be an existing club license at the same location operated by
21 the same club licensee; other facilities used for cultural or
22 artistic performances; and all spaceport authority facilities
23 [~~but "governmental facility" does not include tennis~~
24 ~~facilities~~];

25 (3) "lessee" means an individual, corporation,

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1 partnership, firm or association that fulfills the requirements
2 set forth in Subsections A through D of Section 60-6B-2 NMSA
3 1978; and

4 ~~[(4) "municipal baseball park" means a~~
5 ~~governmental facility owned by a governmental entity in a class~~
6 ~~A county having a population of three hundred fifty thousand or~~
7 ~~more pursuant to the most recent federal decennial census that~~
8 ~~is the home stadium of an affiliate of a professional baseball~~
9 ~~team and that may be used throughout the year for baseball~~
10 ~~games and other events; and~~

11 ~~(5) "skybox"]~~ (4) "suite" means a room or
12 area of seating ~~[of a municipal baseball park]~~ at an event,
13 separated from the general seating ~~[and usually located in the~~
14 ~~upper decks of the park]~~, leased to a person for that person's
15 exclusive use during ~~[baseball games]~~ events and at any other
16 time throughout the year.

17 F. The provisions of Section 60-6B-10 NMSA 1978,
18 with respect to golf courses owned by a governmental entity and
19 civic centers owned and operated by a governmental entity,
20 shall not apply to governmental licenses."

21 SECTION 13. Section 60-6A-11 NMSA 1978 (being Laws 1981,
22 Chapter 39, Section 28, as amended) is amended to read:

23 "60-6A-11. WINEGROWER'S LICENSE.--

24 A. A person in this state who produces wine or
25 cider is exempt from the procurement of any other license

1 pursuant to the terms of the Liquor Control Act, but not from
2 the procurement of a winegrower's license. Except during
3 periods of shortage or reduced availability, at least fifty
4 percent of a winegrower's overall annual production of wine
5 shall be produced from grapes or other agricultural products
6 grown in this state pursuant to rules adopted by the director;
7 provided, however, that, for purposes of determining annual
8 production and compliance with the fifty percent New Mexico
9 grown provision of this subsection, the calculation of a
10 winegrower's overall annual production of wine shall not
11 include the winegrower's production of wine for out-of-state
12 wine producer license holders.

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

15 (1) manufacture or produce wine or cider,
16 including blending, mixing, flavoring, coloring, bottling and
17 labeling, whether the wine or cider is manufactured or produced
18 for a winegrower or an out-of-state wine producer holding a
19 permit issued pursuant to the Federal Alcohol Administration
20 Act and a valid license in a state that authorizes the wine or
21 cider producer to manufacture, produce, store or sell wine or
22 cider;

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

25 (3) sell wines or ciders to a holder of a New

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1 Mexico winegrower's, wine wholesaler's, wholesaler's, [Ø] wine
2 exporter's, craft distiller's or small brewer's license or to a
3 winegrower's agent;

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

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

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

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

17 (8) buy or otherwise obtain beer from a small
18 brewer or spirituous liquor from a craft distiller for the
19 purposes described in this subsection;

20 (9) conduct wine, [Ø] cider, beer or
21 spirituous liquor tastings and sell, by the glass or by the
22 bottle, or sell in unbroken packages for consumption off the
23 premises, but not for resale, wine or cider of the winegrower's
24 own production, wine or cider produced by another New Mexico
25 winegrower on the winegrower's premises, [Ø] beer produced and

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1 bottled by or for a small brewer pursuant to Section 60-6A-26.1
2 NMSA 1978 or spirituous liquor produced and bottled by or for a
3 craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

4 (10) at no more than three off-premises
5 locations, conduct wine, ~~[or]~~ cider, beer or spirituous liquor
6 tastings, sell by the glass and sell in unbroken packages for
7 consumption off premises, but not for resale, wine or cider of
8 the winegrower's own production, wine or cider produced by
9 another New Mexico winegrower or beer produced and bottled by
10 or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978
11 or spirituous liquor produced and bottled by or for a craft
12 distiller pursuant to Section 60-6A-6.1 NMSA 1978 after the
13 director has determined that the off-premises locations meet
14 the requirements of the Liquor Control Act and the department
15 rules for new liquor license locations;

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

18 (12) at public celebrations on or off the
19 winegrower's premises, after the winegrower has paid the
20 applicable fees and been issued the appropriate permit, to
21 conduct wine or cider tastings, sell by the glass or the
22 bottle, or sell in unbroken packages, for consumption off
23 premises, but not for resale, wine or cider produced by or for
24 the winegrower, beer produced and bottled by or for a small
25 brewer pursuant to Section 60-6A-26.1 NMSA 1978 or spirituous

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1 liquor produced and bottled by or for a craft distiller
2 pursuant to Section 60-6A-6.1 NMSA 1978;

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

6 (a) by the glass or bottle, wine or
7 cider produced by or for the winegrower; ~~[or]~~

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

10 (c) by the drink, spirituous liquors
11 produced and bottled by or for a craft distiller pursuant to
12 Section 60-6A-6.1 NMSA 1978;

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

15 (15) in accordance with the provisions of this
16 section that relate to the sale of wine or cider, accept and
17 fulfill an order for wine or cider that is placed via an
18 internet website, whether the financial transaction related to
19 the order is administered by the licensee or the licensee's
20 agent.

21 C. Sales of wine, ~~[or]~~ cider, ~~[or]~~ beer or
22 spirituous liquor as provided for in this section shall be
23 permitted between the hours of 7:00 a.m. and midnight Monday
24 through Saturday, and the holder of a winegrower's license or
25 public celebration permit may conduct wine or cider tastings

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1 and sell, by the glass or bottle, or sell in unbroken packages
2 for consumption off premises, but not for resale, wine or cider
3 of the winegrower's own production or beer produced and bottled
4 by or for a small brewer pursuant to Section 60-6A-26.1 NMSA
5 1978 on the winegrower's premises between the hours of 11:00
6 a.m. and midnight on Sunday.

7 D. At public and private celebrations on or off the
8 winegrower's premises in any local option district permitting
9 the sale of alcoholic beverages, the holder of a winegrower's
10 license shall pay ten dollars (\$10.00) to the [~~alcohol and~~
11 ~~gaming~~] alcoholic beverage control division of the regulation
12 and licensing department for a "winegrower's public celebration
13 permit" or a "winegrower's private celebration permit" to be
14 issued under rules adopted by the director. Upon request, the
15 [~~alcohol and gaming~~] alcoholic beverage control division of the
16 regulation and licensing department may issue to a holder of a
17 winegrower's license a public celebration permit for a location
18 at the public celebration that is to be shared with other
19 winegrowers and small brewers.

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

25 (1) less than five thousand gallons per year,

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1 twenty-five dollars (\$25.00) per year;

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

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

7 F. As used in this section:

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

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

16 SECTION 14. Section 60-6A-15 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 32, as amended) is amended to read:

18 "60-6A-15. LICENSE AND PERMIT FEES.--Except for calendar
19 years 2022 through 2031 for license holders who purchased their
20 license during the calendar years 2017 through 2021, who shall
21 be charged no fee for the issuance or renewal of a license,
22 every application for the issuance or renewal of the following
23 licenses and permits shall be accompanied by a [~~license~~] fee in
24 the following specified amounts:

25 A. manufacturer's license as a distiller, except a

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1 brandy manufacturer, three thousand dollars (\$3,000);

2 B. manufacturer's license as a brewer, three
3 thousand dollars (\$3,000);

4 C. manufacturer's license as a rectifier, one
5 thousand fifty dollars (\$1,050);

6 D. wholesaler's license to sell all alcoholic
7 beverages for resale only, two thousand five hundred dollars
8 (\$2,500);

9 E. wholesaler's license to sell spirituous liquors
10 and wine for resale only, one thousand seven hundred fifty
11 dollars (\$1,750);

12 F. wholesaler's license to sell spirituous liquors
13 for resale only, one thousand five hundred dollars (\$1,500);

14 G. wholesaler's license to sell beer and wine for
15 resale only, one thousand five hundred dollars (\$1,500);

16 H. wholesaler's license to sell beer for resale
17 only, one thousand dollars (\$1,000);

18 I. wholesaler's license to sell wine for resale
19 only, seven hundred fifty dollars (\$750);

20 J. retailer's license, one thousand three hundred
21 dollars (\$1,300);

22 K. dispenser's license, one thousand three hundred
23 dollars (\$1,300);

24 L. canopy license, one thousand three hundred
25 dollars (\$1,300);

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1 M. restaurant A license, one thousand fifty dollars
2 (\$1,050);

3 N. restaurant B license shall be based upon the
4 seating capacity of the restaurant:

5 (1) zero to twenty-five seats, two thousand
6 five hundred dollars (\$2,500);

7 (2) twenty-six to fifty seats, five thousand
8 dollars (\$5,000);

9 (3) fifty-one to one hundred seats, seven
10 thousand five hundred dollars (\$7,500); and

11 (4) more than one hundred seats, ten thousand
12 dollars (\$10,000);

13 [~~N.~~] O. club license, for clubs with more than two
14 hundred fifty members, one thousand two hundred fifty dollars
15 (\$1,250), and for clubs with two hundred fifty members or
16 fewer, two hundred fifty dollars (\$250);

17 [~~Ø.~~] P. wine bottler's license to sell to
18 wholesalers only, five hundred dollars (\$500);

19 [~~P.~~] Q. public service license, one thousand two
20 hundred fifty dollars (\$1,250);

21 [~~Q.~~] R. nonresident licenses, for a total billing
22 to New Mexico wholesalers:

23 (1) in excess of:

24 \$3,000,000 annually \$10,500;

25 1,000,000 annually 5,250;

underscored material = new
[bracketed material] = delete

1 500,000 annually 3,750;

2 200,000 annually 2,700;

3 100,000 annually 1,800;

4 and

5 50,000 annually 900;

6 and

7 (2) of \$50,000 or less \$300;

8 [~~R.~~] S. wine wholesaler's license, for persons with
9 sales of five thousand gallons of wine per year or less,
10 twenty-five dollars (\$25.00), and for persons with sales in
11 excess of five thousand gallons of wine per year, one hundred
12 dollars (\$100); [~~and~~

13 ~~S.~~] T. beer bottler's license, two hundred dollars
14 (\$200);

15 U. third-party alcohol delivery license, not to
16 exceed one thousand dollars (\$1,000);

17 V. alcoholic beverage delivery permit, not to
18 exceed three hundred dollars (\$300); and

19 W. retailer's, dispenser's or canopy licenses, if
20 the licensee held the license on June 30, 2021, there shall be
21 no renewal fee for applications filed by the licensee or
22 successor licensees on or before June 30, 2026."

23 SECTION 15. Section 60-6A-26.1 NMSA 1978 (being Laws
24 1985, Chapter 217, Section 5, as amended) is amended to read:

25 "60-6A-26.1. SMALL BREWER'S LICENSE.--

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underscoring material = new
[bracketed material] = delete

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

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

8 (1) manufacture or produce beer;

9 (2) package, label and export beer, whether
10 manufactured, bottled or produced by the licensee or any other
11 person;

12 (3) sell only beer that is packaged by or for
13 the licensee to a person holding a wholesaler's license, ~~[or]~~ a
14 small brewer's license, a craft distiller's license or a
15 winegrower's license;

16 (4) deal in warehouse receipts for beer;

17 (5) conduct beer, wine, cider and spirituous
18 liquor tastings and sell for consumption on or off premises,
19 but not for resale, beer produced and bottled by, or produced
20 and packaged for, the licensee, beer produced and bottled by or
21 for another New Mexico small brewer on the small brewer's
22 premises or wine or cider produced by a winegrower pursuant to
23 Section 60-6A-11 NMSA 1978 or spirituous liquor produced and
24 bottled by or for a craft distiller pursuant to Section
25 60-6A-6.1 NMSA 1978;

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

3 (7) at public celebrations off the small
4 brewer's premises, after the small brewer has paid the
5 applicable fee for a small brewer's public celebration permit,
6 conduct tastings and sell by the glass or in unbroken packages,
7 but not for resale, beer produced and bottled by or for the
8 small brewer or wine or cider produced by a winegrower pursuant
9 to Section 60-6A-11 NMSA 1978 or spirituous liquor produced and
10 bottled by or for a craft distiller pursuant to Section
11 60-6A-6.1 NMSA 1978;

12 (8) at private celebrations on or off the
13 small brewer's premises after the small brewer has paid the
14 applicable fees for a private celebration permit, sell by the
15 glass, beer produced and bottled by or for the small brewer or
16 wine or cider produced by a winegrower pursuant to Section
17 60-6A-11 NMSA 1978 or spirituous liquor produced and bottled by
18 or for a craft distiller pursuant to Section 60-6A-6.1 NMSA
19 1978;

20 (9) buy or otherwise obtain wine or cider from
21 a winegrower or spirituous liquor from a craft distiller;

22 (10) for the purposes described in this
23 subsection, at no more than three other locations off the small
24 brewer's premises, after the small brewer has paid the
25 applicable fee for a small brewer's off-premises permit, after

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1 the director has determined that the off-premises locations
2 meet the requirements of the Liquor Control Act and department
3 rules for new liquor license locations and after the director
4 has issued a small brewer's off-premises permit for each off-
5 premises location, conduct beer tastings and sell by the glass
6 or in unbroken packages for consumption off the small brewer's
7 off-premises location, but not for resale, beer produced and
8 bottled by or for the small brewer, beer produced and bottled
9 by or for another New Mexico small brewer, [~~or~~] wine or cider
10 produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978
11 or spirituous liquor produced and bottled by or for a craft
12 distiller pursuant to Section 60-6A-6.1 NMSA 1978;

13 (11) allow members of the public, on the
14 licensed premises and under the direct supervision of the
15 licensee, to manufacture beer for personal consumption and not
16 for resale using the licensee's equipment and ingredients; and

17 (12) sell beer in a growler for consumption
18 off premises.

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

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

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

4 D. At public and private celebrations on or off the
5 small brewer's premises in a local option district permitting
6 the sale of alcoholic beverages, the holder of a small brewer's
7 license shall pay ten dollars (\$10.00) to the [~~alcohol and~~
8 ~~gaming~~] alcoholic beverage control division of the regulation
9 and licensing department for a "small brewer's public
10 celebration permit" or a "small brewer's private celebration
11 permit" to be issued under rules adopted by the director. Upon
12 request, the [~~alcohol and gaming~~] alcoholic beverage control
13 division of the regulation and licensing department may issue
14 to a holder of a small brewer's license a public celebration
15 permit for a location at the public celebration that is to be
16 shared with other small brewers and winegrowers.

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

25 F. As used in this section:

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

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

9 SECTION 16. Section 60-6A-32 NMSA 1978 (being Laws 1998,
10 Chapter 109, Section 7) is amended to read:

11 "60-6A-32. INTERSTATE WINE TASTINGS--COMPETITIONS--
12 PERMITS.--

13 A. Exempt from the procurement of any other license
14 or permit issued pursuant to the terms of the Liquor Control
15 Act, but not exempt from the procurement of a competition
16 permit, is a winemaker or winery licensed outside of New Mexico
17 that desires to participate in a regional wine, cider, beer or
18 spirituous liquor tasting or competition within New Mexico.
19 One permit shall be issued by the director to an out-of-state
20 winemaker or winery for the duration of the wine tasting or
21 competition.

22 B. A person issued a competition permit pursuant to
23 this section may do any of the following:

24 (1) bring no more than twenty-five cases of
25 wine into New Mexico after indicating on [~~his~~] the permit

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1 application the number of cases to be brought into the state;

2 (2) participate in the regional competition
3 and ~~[any]~~ wine tastings associated with the competition for
4 which the competition permit is issued;

5 (3) participate in the regional wine tasting
6 for which the competition permit is issued; and

7 (4) at a wine tasting for which ~~[he]~~ the
8 person is issued the permit, conduct tasting of wine and sell
9 by the glass or bottle or in unbroken packages for consumption
10 off the wine-tasting premises but not for resale, wine brought
11 into the state by ~~[him]~~ the person for the wine tasting or
12 competition.

13 C. Every application for the issuance of a
14 competition permit shall be on a form prescribed by the
15 director and accompanied by a permit fee of twenty-five dollars
16 (\$25.00).

17 D. As used in this section:

18 (1) "competition" means an event at which a
19 jury of wine tasters compares the quality of the wines entered
20 for judging and at which prizes are offered for the wines
21 judged to be of the best quality;

22 (2) "regional competition" means a competition
23 at which the wines to be judged are from more than one state or
24 country;

25 (3) "regional wine tasting" means a wine

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1 tasting at which the wines offered for tasting are from more
2 than one state or country;

3 (4) "winemaker" means a person who
4 manufactures or produces wine;

5 (5) "winery" means an establishment at which
6 wine is manufactured or produced and that is licensed for that
7 purpose by the state or country in which it is located; and

8 (6) "wine tasting" means an event at which
9 wines are offered for tasting but not necessarily for sale and
10 not for comparison for the purpose of awarding prizes to the
11 wines of the best quality."

12 SECTION 17. Section 60-6C-1 NMSA 1978 (being Laws 1981,
13 Chapter 39, Section 97, as amended) is amended to read:

14 "60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR
15 ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

16 A. The director may suspend or revoke the license
17 or permit or fine the licensee in an amount not more than ten
18 thousand dollars (\$10,000), or both, when ~~[he]~~ the director
19 finds that ~~[any]~~ a licensee has:

20 (1) violated any provision of the Liquor
21 Control Act or any ~~[regulation]~~ rule or order promulgated
22 pursuant to that act;

23 (2) been convicted of a felony pursuant to the
24 provisions of the Criminal Code, the Liquor Control Act or
25 federal law; or

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1 (3) permitted ~~[his]~~ the licensee's licensed
2 premises to remain a public nuisance in the neighborhood where
3 it is located after written notice from the director that
4 investigation by the department has revealed that the
5 establishment is a public nuisance in the neighborhood.

6 B. The director shall suspend or revoke the license
7 or permit and may fine the licensee in an amount not to exceed
8 ten thousand dollars (\$10,000), or both, when ~~[he]~~ the director
9 finds that any licensee or:

10 (1) ~~[his]~~ the licensee's employee or agent
11 knowingly has sold, served, delivered or given ~~[any]~~ an
12 alcoholic beverage to a minor in violation of Section 60-7B-1
13 NMSA 1978 or to an intoxicated person in violation of Section
14 60-7A-16 NMSA 1978, on two separate occasions within any
15 twelve-month period; or

16 (2) ~~[his]~~ the licensee's agent has made any
17 material false statement or concealed any material facts in
18 ~~[his]~~ the licensee's application for the license or permit
19 granted ~~[him]~~ the licensee pursuant to the provisions of the
20 Liquor Control Act.

21 C. ~~[Any]~~ A licensee aggrieved by a revocation,
22 suspension or fine proposed to be imposed by the director
23 pursuant to this section shall be entitled to the hearing
24 procedures set forth in Chapter 60, Article 6C NMSA 1978 before
25 the revocation, suspension or fine shall be effective.

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1 D. ~~[Any]~~ A charge filed against a licensee by the
2 department and the resulting disposition of the charge shall be
3 reported to the department of public safety ~~[and local law~~
4 ~~enforcement agencies whose jurisdictions include the licensed~~
5 ~~establishment]~~.

6 E. For purposes of this section, "licensee"
7 includes any person issued an alcoholic beverage delivery
8 permit."

9 SECTION 18. Section 60-6C-2 NMSA 1978 (being Laws 1981,
10 Chapter 39, Section 98, as amended) is amended to read:

11 "60-6C-2. HEARINGS--LOCATION--OPEN TO PUBLIC--HEARING
12 OFFICER.--All hearings held pursuant to the provisions of the
13 Liquor Control Act shall be conducted by the director or a
14 hearing officer appointed by the director and shall be held in
15 the county in which the licensed premises or the business of
16 the person issued an alcoholic beverage delivery permit that
17 ~~[are]~~ is the subject matter of the hearing ~~[are]~~ is located.
18 All such hearings shall be open to the public."

19 SECTION 19. Section 60-6C-4 NMSA 1978 (being Laws 1981,
20 Chapter 39, Section 100, as amended) is amended to read:

21 "60-6C-4. ADMINISTRATIVE PROCEEDINGS--COMPLAINTS--
22 INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS.--

23 A. Whenever a person lodges a signed, written
24 complaint with the department alleging that a licensee has
25 violated any of the provisions of the Liquor Control Act,

1 unless the complaint is deficient on its face, the director
2 shall request that the department of public safety investigate
3 the complaint.

4 B. The department of public safety shall
5 investigate the complaint and make a written report to the
6 director.

7 C. If the director believes from the report that
8 probable cause exists for filing charges against the licensee
9 for the revocation or suspension of [~~his~~] the licensee's
10 license or permit or for fining [~~him~~] the licensee, or for
11 both, [~~he~~] the director or [~~his~~] the director's designee shall
12 file in the department a charge against the licensee in the
13 name of the state, stating the nature of the grounds relied
14 upon for the filing, the approximate date of the alleged
15 violation and the names and addresses of the witnesses who are
16 expected to give testimony or evidence against the licensee.

17 D. After charges have been filed, the director
18 shall issue a signed order for the licensee to appear at a
19 hearing to explain, on the basis of any ground set out in the
20 charge, why the license or permit should not be revoked or
21 suspended or why the licensee should not be fined, or both.

22 E. The director shall keep the original of the
23 charge and the order to show cause on file in [~~his~~] the
24 director's office.

25 F. The director shall appoint a hearing officer no

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1 later than ten days prior to the date set for the hearing at
2 which the licensee shall appear to explain why [~~his~~] the
3 licensee's license or permit should not be revoked or suspended
4 or why the licensee should not be fined, or both.

5 G. The director shall have a copy of the charge and
6 a copy of the order to show cause sent to the licensee or the
7 licensee's resident agent at the agent's last known address by
8 certified mail at least fourteen days before the date set for
9 the hearing on the order to show cause.

10 H. At [~~any~~] a hearing on an order to show cause,
11 the director shall cause a record of hearing to be made, which
12 shall record:

- 13 (1) the style of the proceedings;
- 14 (2) the nature of the proceedings, including a
15 copy of the charge and a copy of the order to show cause;
- 16 (3) the place, date and time of the hearing
17 and all continuances or recesses of the hearing;
- 18 (4) the appearance or nonappearance of the
19 licensee;
- 20 (5) if the licensee appears with an attorney,
21 the name and address of the attorney;
- 22 (6) a record of all evidence and testimony and
23 a copy or record of all exhibits introduced in evidence;
- 24 (7) the findings of fact and law as to whether
25 [~~or not~~] the licensee has violated the Liquor Control Act as

1 set out in the charge; and

2 (8) the decision of the director.

3 I. If the licensee fails to appear without good
4 cause at the time and place designated in the order to show
5 cause for the hearing, the director shall order the
6 nonappearance of the licensee to be entered in the record of
7 hearing and shall order the license or permit revoked or
8 suspended or the licensee fined, or both, on all the grounds
9 alleged in the charge and shall cause the record of hearing to
10 show the particulars in detail. In such a case, there shall be
11 no reopening, appeal or review of the proceedings unless
12 pursued by a co-owner of a license who did not receive notice
13 of the hearing.

14 J. If the licensee admits guilt on all grounds set
15 out in the charge, the director shall order the revocation or
16 suspension of the license or permit or the licensee fined, or
17 both, and cause a record of hearing to be made showing the
18 facts and particulars of [~~his~~] the director's order of
19 revocation or suspension of the license or permit or fine of
20 the licensee, or both. In such a case, there shall be no
21 review or appeal of the proceedings.

22 K. If the licensee appears at the hearing and does
23 not testify or denies guilt of any [~~or all~~] of the grounds set
24 out in the charge, the hearing shall proceed as follows:

25 (1) the director or the hearing officer shall

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1 administer oaths to all witnesses, the department shall cause
2 all testimony and evidence in support of the grounds alleged in
3 the charge to be presented in the presence of the licensee and
4 the director shall allow the licensee or [~~his~~] the licensee's
5 attorney to cross-examine all witnesses;

6 (2) the licensee shall be allowed to present
7 testimony and evidence [~~he~~] the licensee may have in denial or
8 in mitigation of the grounds set out in the charge;

9 (3) the department shall have the right to
10 cross-examine the licensee or any witness testifying in [~~his~~]
11 the licensee's favor;

12 (4) the department shall present any evidence
13 or testimony in rebuttal of that produced by the licensee;

14 (5) the director or the hearing officer shall
15 make a finding on each ground alleged and a finding of the
16 guilt or innocence of the licensee on each ground;

17 (6) if the licensee is found guilty on any
18 ground alleged and proved, the director shall make [~~his~~] an
19 order of revocation or suspension of the license or permit or
20 fine of the licensee, or both; and

21 (7) the rules of evidence shall not be
22 required to be observed, but the order of suspension or
23 revocation or fine, or both, shall be based upon substantial,
24 competent and relevant evidence and testimony appearing in the
25 record of hearing.

1 L. No admission of guilt, admission against
 2 interest or transcript of testimony made or given in [~~any~~] a
 3 hearing pursuant to this section shall be received or used in
 4 [~~any~~] criminal proceedings wherein the licensee is a defendant;
 5 provided, however, if the licensee commits perjury in a
 6 hearing, the evidence shall be admissible in a perjury trial if
 7 otherwise competent and relevant.

8 M. The director shall adopt reasonable
 9 [~~regulations~~] rules setting forth uniform standards of
 10 penalties concerning fines and suspensions imposed by the
 11 director.

12 N. For purposes of this section, "licensee"
 13 includes a person issued an alcoholic beverage delivery
 14 permit."

15 SECTION 20. Section 60-6C-6 NMSA 1978 (being Laws 1981,
 16 Chapter 39, Section 102, as amended by Laws 1999, Chapter 265,
 17 Section 75 and by Laws 1999, Chapter 277, Section 1) is amended
 18 to read:

19 "60-6C-6. [~~NO INJUNCTION OR MANDAMUS PERMITTED~~] APPEAL.--

20 A. [~~No injunction or writ of mandamus or other~~
 21 ~~legal or equitable process shall issue in any suit, action or~~
 22 ~~proceeding to prevent or enjoin any finding of guilt or order~~
 23 ~~of suspension or revocation or fine made by a liquor control~~
 24 ~~hearing officer under the provisions of Section 60-6C-4 NMSA~~
 25 ~~1978.~~] A licensee aggrieved or adversely affected by an order

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1 of revocation, suspension or fine shall have the right to
2 appeal to the district court pursuant to the provisions of
3 Section 39-3-1.1 NMSA 1978.

4 B. No appeal shall have the effect of suspending
5 the operation of the order of suspension, revocation or fine,
6 but the liquor control hearing officer may, for good cause
7 shown and upon such terms and conditions as ~~[he]~~ the officer
8 may find are just, in ~~[his]~~ the officer's discretion suspend
9 the operation of the order of suspension, revocation or fine
10 pending the appeal. The court shall tax costs against the
11 losing party.

12 C. For purposes of this section, "licensee"
13 includes a person issued an alcoholic beverage delivery permit
14 and includes a person issued a server permit pursuant to the
15 Alcohol Server Education Article of the Liquor Control Act."

16 SECTION 21. Section 60-6E-3 NMSA 1978 (being Laws 1999,
17 Chapter 277, Section 4) is amended to read:

18 "60-6E-3. DEFINITIONS.--As used in ~~[Chapter 60, Article~~
19 ~~6D NMSA 1978]~~ the Alcohol Server Education Article of the
20 Liquor Control Act:

21 A. "director" means the director of the division;

22 B. "division" means the ~~[alcohol and gaming]~~
23 alcoholic beverage control division of the regulation and
24 licensing department;

25 C. "licensee" means a person issued a license

1 pursuant to the provisions of the Liquor Control Act to sell,
 2 serve or dispense alcoholic beverages for consumption and not
 3 for resale;

4 D. "program" means an alcohol server education
 5 course and examination approved by the director to be
 6 administered by providers;

7 E. "provider" means an individual, partnership,
 8 corporation, public or private school or any other legal entity
 9 certified by the director to provide a program;

10 F. "server" means an individual who sells, serves,
 11 or dispenses alcoholic beverages for consumption on or off
 12 licensed premises, including persons who manage, direct or
 13 control the sale or service of alcohol and when the context
 14 requires, includes a person who delivers alcoholic beverages.

15 "Server" does not include officers of a corporate licensee or
 16 lessee who do not manage, direct or control the sale, delivery
 17 or service of alcohol; and

18 G. "server permit" means an authorization issued by
 19 the director for a person to be employed or engaged to sell,
 20 serve or dispense alcoholic beverages."

21 SECTION 22. Section 60-6E-8 NMSA 1978 (being Laws 1999,
 22 Chapter 277, Section 9) is amended to read:

23 "60-6E-8. SERVER PERMIT--SUSPENSION--REVOCATION--
 24 ADMINISTRATIVE FINES--PENALTIES.--~~[In addition to any other~~
 25 ~~penalties available]~~ The following penalties ~~[may be imposed]~~

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1 are in addition to any other penalties available for sales to
2 minors or intoxicated persons in violation of the provisions of
3 the Liquor Control Act or rules of the division:

4 A. the director may suspend a server's server
5 permit for a period of thirty days or fine the server in an
6 amount not to exceed five hundred dollars (\$500), or both, when
7 [~~he~~] the director finds that the server is guilty of a first
8 offense of selling, serving, delivering or dispensing an
9 alcoholic beverage to an intoxicated person in violation of
10 Section 60-7A-16 NMSA 1978 or to a minor in violation of
11 Section 60-7B-1 NMSA 1978;

12 B. the director shall suspend a server's server
13 permit for a period of one year when [~~he~~] the director finds
14 that the server is guilty of a second offense of selling,
15 serving, delivering or dispensing alcoholic beverages to
16 intoxicated persons in violation of Section 60-7A-16 NMSA 1978
17 or to minors in violation of Section 60-7B-1 NMSA 1978 arising
18 separately from the incident giving rise to [~~his~~] the server's
19 first offense;

20 C. the director shall permanently revoke a server's
21 server permit when [~~he~~] the director finds that the server is
22 guilty of a third offense of selling, serving, delivering or
23 dispensing alcoholic beverages to intoxicated persons in
24 violation of Section 60-7A-16 NMSA 1978 or to minors in
25 violation of Section 60-7B-1 NMSA 1978 arising separately from

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1 the incidents giving rise to [~~his~~] the server's first and
 2 second offenses;

3 D. no person whose server permit is suspended or
 4 revoked pursuant to the provisions of this section may be a
 5 server of alcoholic beverages on a licensed premises or deliver
 6 alcoholic beverages during the period of suspension or
 7 revocation;

8 E. no person whose server permit is suspended may
 9 serve or deliver alcoholic beverages on or after the date of
 10 suspension unless the person obtains a new server permit in
 11 accordance with the provisions of [~~Article 6D of Chapter 60~~]
 12 the Alcohol Server Education Article of the Liquor Control Act;
 13 and

14 F. nothing in [~~this~~] the Alcohol Server Education
 15 Article of the Liquor Control Act shall be interpreted to waive
 16 [~~any~~] a permit holder's or license holder's liability that may
 17 arise pursuant to the provisions of [~~this~~] the Liquor Control
 18 Act."

19 **SECTION 23.** Section 60-6E-9 NMSA 1978 (being Laws 1999,
 20 Chapter 277, Section 10) is amended to read:

21 "60-6E-9. ALCOHOL SERVER EDUCATION--REQUIRED FOR LICENSE
 22 RENEWAL.--A licensee seeking renewal of a license shall submit
 23 to the division, as a condition of license renewal, proof that
 24 the licensee, [~~his~~] the lessee, if any, and each server
 25 employed by the licensee or lessee during the prior licensing

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1 year have or had valid server permits at all times that
2 alcoholic beverages were sold, served, delivered or dispensed."

3 SECTION 24. Section 60-6E-10 NMSA 1978 (being Laws 1999,
4 Chapter 277, Section 11) is amended to read:

5 "60-6E-10. ADMINISTRATIVE PROCEEDINGS--HEARINGS.--

6 A. Hearings for the suspension or revocation of any
7 server's server permit or delivery permit or for imposing a
8 fine on the server, or both, shall be conducted in accordance
9 with the provisions of Sections 60-6C-2 through 60-6C-6 NMSA
10 1978.

11 B. The director may suspend or revoke a server
12 permit or delivery permit or impose a fine on a server, or
13 impose a combination of those penalties, only if the server
14 violates the provisions of Section 60-7A-16 or 60-7B-1 NMSA
15 1978."

16 SECTION 25. Section 60-7A-4 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 50, as amended) is amended to read:

18 "60-7A-4. SALE, SHIPMENT AND DELIVERY UNLAWFUL.--

19 A. It is unlawful for [~~any~~] a person on [~~his~~] the
20 person's own behalf or as the agent of another person, except a
21 licensed New Mexico wholesaler or manufacturer or the agent of
22 either, to directly or indirectly sell or offer for sale for
23 shipment into the state or ship into the state, except as
24 provided in Section 60-7A-3 NMSA 1978, [~~any~~] alcoholic
25 beverages unless [~~such~~] the person or [~~his~~] the person's

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1 principals [~~has~~] have secured a nonresident license as provided
 2 in Section [~~60-7A-7~~] 60-6A-7 NMSA 1978.

3 B. It is a violation of the Liquor Control Act to
 4 deliver any alcoholic beverages transported into the state
 5 unless the delivery is made in accordance with Section 60-7A-3
 6 NMSA 1978 or Section 4 of this 2021 act.

7 C. As used in this section, "into the state [~~of New~~
 8 ~~Mexico~~]" means into the exterior boundaries of the state."

9 SECTION 26. Section 60-7A-12 NMSA 1978 (being Laws 1981,
 10 Chapter 39, Section 78, as amended) is amended to read:

11 "60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES,
 12 RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES
 13 AND CLUBS.--It is a violation of the Liquor Control Act for any
 14 dispenser, canopy licensee, restaurant licensee, governmental
 15 licensee or its lessee or club to:

16 A. receive any alcoholic beverages for the purpose
 17 or with the intent of reselling the alcoholic beverages from
 18 any person unless the person is duly licensed to sell alcoholic
 19 beverages to dispensers for resale;

20 B. sell; possess for the purpose of sale; or bottle
 21 bulk wine for sale other than by the drink for immediate
 22 consumption on its licensed premises;

23 C. directly, indirectly or through subterfuge, own,
 24 operate or control any interest in a wholesale liquor
 25 establishment or liquor manufacturing or wine bottling firm;

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1 provided that this section shall not prevent:

2 (1) a dispenser from owning an interest in a
3 legal entity, directly or indirectly or through an affiliate,
4 that wholesales alcoholic beverages and that operates or
5 controls an interest in an establishment operating pursuant to
6 the provisions of Subsection B of Section 60-7A-10 NMSA 1978;
7 or

8 (2) a small brewer or winegrower licensed
9 pursuant to the Domestic Winery, Small Brewery and Craft
10 Distillery Act from holding an interest in a legal entity,
11 directly or indirectly or through an affiliate, that holds a
12 restaurant or a dispenser's license and a small brewer and
13 winegrower limited wholesaler's license issued pursuant to the
14 Liquor Control Act;

15 D. sell or possess for the purpose of sale any
16 alcoholic beverages at any location or place except its
17 licensed premises or the location permitted pursuant to the
18 provisions of Section 60-6A-12 NMSA 1978;

19 E. employ or engage a person to sell, serve or
20 dispense alcoholic beverages if the person has not received
21 alcohol server training within thirty days of employment; or

22 F. employ or engage a person to sell, serve,
23 deliver or dispense alcoholic beverages during a period when
24 the server permit of that person is suspended or revoked."

25 SECTION 27. Section 60-7A-16 NMSA 1978 (being Laws 1981,

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1 Chapter 39, Section 93, as amended) is amended to read:

2 "60-7A-16. SALE TO INTOXICATED PERSONS.--It is a
3 violation of the Liquor Control Act for a person to sell,
4 deliver or serve alcoholic beverages to or to procure or aid in
5 the procurement of alcoholic beverages for an intoxicated
6 person if the person selling, delivering, serving, procuring or
7 aiding in procurement knows or has reason to know that [~~he~~] the
8 person is selling, delivering, serving, procuring or aiding in
9 procurement of alcoholic beverages for a person [~~that~~] who is
10 intoxicated."

11 SECTION 28. Section 60-7B-2 NMSA 1978 (being Laws 1981,
12 Chapter 39, Section 82, as amended) is amended to read:

13 "60-7B-2. DOCUMENTARY EVIDENCE OF AGE AND IDENTITY.--

14 A. Evidence of the age and identity of the person
15 may be shown by any document [~~which~~] that contains a picture of
16 the person issued by a federal, state, county or municipal
17 government, or subdivision or agency thereof, including but not
18 limited to a motor vehicle operator's license or an
19 identification card issued to a member of the armed forces.

20 B. An identity document is valid for the purposes
21 of the Liquor Control Act even if it has expired.

22 C. It is unnecessary to ask for an identity
23 document if the person clearly looks older than thirty-five
24 years of age."

25 SECTION 29. Section 60-7B-5 NMSA 1978 (being Laws 1981,

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1 Chapter 39, Section 85, as amended) is amended to read:

2 "60-7B-5. REFUSAL TO SELL, [~~OR~~] SERVE OR DELIVER
3 ALCOHOLIC BEVERAGES TO PERSON UNABLE TO PRODUCE IDENTITY
4 CARD.--~~[Any]~~

5 A. A person licensed pursuant to the provisions of
6 the Liquor Control Act or any employee, agent or lessee of that
7 person [~~shall~~] may refuse to deliver, sell or serve alcoholic
8 beverages to any person who is unable to produce an identity
9 card as evidence that [~~he~~] the person is twenty-one years of
10 age or over.

11 B. An identity document is valid for the purposes
12 of the Liquor Control Act even if it has expired.

13 C. It is unnecessary to ask for an identity
14 document if the person clearly looks older than thirty-five
15 years of age."

16 **SECTION 30.** Section 60-7B-6 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 86, as amended) is amended to read:

18 "60-7B-6. DEMANDING AND SEEING IDENTITY CARD BEFORE
19 FURNISHING ALCOHOLIC BEVERAGES.--In any criminal prosecution or
20 in any proceedings for the suspension or revocation of a
21 license or alcoholic beverage delivery permit or in any
22 proceeding for violation of a municipal or county ordinance
23 prohibiting the gift, sale or service of alcoholic beverages to
24 minors, proof that the accused licensee or alcoholic beverage
25 delivery permittee in good faith demanded and was shown an

1 identity card as evidence the person is twenty-one years of age
2 or older before furnishing any alcoholic beverages to a minor
3 shall be a defense to the prosecution or proceedings."

4 SECTION 31. Section 60-7B-11 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 91, as amended) is amended to read:

6 "60-7B-11. EMPLOYMENT OF MINORS.--

7 A. Except as provided in Subsection B or C of this
8 section, it is a violation of the Liquor Control Act for any
9 person licensed pursuant to the provisions of the Liquor
10 Control Act or for any employee, agent or lessee of that person
11 knowingly to employ or use the service of any minor in the sale
12 and service of alcoholic beverages.

13 B. A person holding a dispenser's, restaurant or
14 club license may employ persons [~~nineteen~~] eighteen years of
15 age or older to sell or serve alcoholic beverages in an
16 establishment that is held out to the public as a place where
17 meals are prepared and served and the primary source of revenue
18 is food, and where the sale or consumption of alcoholic
19 beverages is not the primary activity, except that a person
20 under twenty-one years of age shall not be employed as a
21 bartender or deliverer.

22 C. A person holding a wholesaler's license may
23 employ persons eighteen years of age or older who are licensed
24 pursuant to the New Mexico Commercial Driver's License Act to
25 engage in activities customary to warehouse operations and to

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1 handle and deliver alcoholic beverages to licensees holding a
2 dispenser's, retailer's, restaurant, club, small brewer,
3 winegrower, craft distiller, manufacturer's, rectifier or any
4 other license that allows for the purchase and delivery of
5 alcoholic beverages by a licensed wholesaler, as long as the
6 minor delivers sealed, unbroken packages, including containers
7 such as bottles, cans and kegs. A person under the age of
8 twenty-one shall not be allowed to sample alcoholic beverages
9 to accounts."

10 SECTION 32. REPEAL.--Sections 60-6A-25, 60-6B-1.1,
11 60-6B-10, 60-6B-11, 60-6B-15, 60-6E-6 and 60-7A-18 NMSA 1978
12 (being Laws 1983, Chapter 280, Section 6, Laws 1989, Chapter
13 292, Section 2, Laws 1981, Chapter 39, Sections 45 and 46, Laws
14 1988, Chapter 12, Section 3, Laws 1999, Chapter 277, Section 7
15 and Laws 1981, Chapter 39, Section 95, as amended) are
16 repealed.

17 SECTION 33. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2021.