

HOUSE BILL 212

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; AMENDING THE LIQUOR EXCISE TAX ACT;
CHANGING THE RATES OF THE TAX TO A PERCENTAGE BASIS; CHANGING
THE DISTRIBUTIONS OF THE TAX; CREATING THE ALCOHOL AND
SUBSTANCE USE HARMS ALLEVIATION FUND; DEFINING "BARRELS" IN THE
ACT; ELIMINATING FORTIFIED WINE AS A SPECIFIC TYPE OF ALCOHOLIC
BEVERAGE; REPEALING THE LOCAL DWI GRANT PROGRAM ACT.

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

SECTION 1. Section 7-1-6.40 NMSA 1978 (being Laws 1997,
Chapter 182, Section 1, as amended) is amended to read:

"7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--~~[LOCAL DWI
GRANT FUND--CERTAIN MUNICIPALITIES]~~ DRUG COURT FUND--ALCOHOL
AND SUBSTANCE USE HARMS ALLEVIATION FUND.--

~~[A. A distribution pursuant to Section 7-1-6.1 NMSA
1978 in an amount equal to forty-five percent of the net~~

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1 ~~receipts attributable to the liquor excise tax shall be made to~~
2 ~~the local DWI grant fund.~~

3 ~~B. A distribution pursuant to Section 7-1-6.1 NMSA~~
4 ~~1978 of twenty thousand seven hundred fifty dollars (\$20,750)~~
5 ~~monthly from the net receipts attributable to the liquor excise~~
6 ~~tax shall be made to a municipality that is located in a class~~
7 ~~A county and that has a population according to the most recent~~
8 ~~federal decennial census of more than thirty thousand but less~~
9 ~~than sixty thousand and shall be used by the municipality only~~
10 ~~for the provision of alcohol treatment and rehabilitation~~
11 ~~services for street inebriates.]~~

12 A. A distribution pursuant to Section 7-1-6.1 NMSA
13 1978 shall be made to the alcohol and substance use harms
14 alleviation fund in an amount equal to the net receipts
15 attributable to the liquor excise tax, less two million eighty-
16 four thousand dollars (\$2,084,000) monthly and the amount
17 distributed pursuant to Subsection B of this section.

18 ~~[C. Beginning July 1, 2019]~~ B. A distribution
19 pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to
20 [five percent of] two hundred fifty thousand dollars (\$250,000)
21 monthly from the net receipts attributable to the liquor excise
22 tax shall be made to the drug court fund."

23 **SECTION 2.** Section 7-17-2 NMSA 1978 (being Laws 1966,
24 Chapter 49, Section 2, as amended) is amended to read:

25 "7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax

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1 Act:

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

9 B. "barrel" means the equivalent of thirty-one
10 gallons;

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

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

20 [~~D.~~] E. "department" means the taxation and revenue
21 department, the secretary of taxation and revenue or any
22 employee of the department exercising authority lawfully
23 delegated to that employee by the secretary;

24 [~~E.~~] ~~"fortified wine" means wine containing more~~
25 ~~than fourteen percent alcohol by volume when bottled or~~

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1 ~~packaged by the manufacturer, but "fortified wine" does not~~
2 ~~include:~~

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

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

9 ~~(3) vermouth and sherry;]~~

10 F. "microbrewer" means a person who produces less
11 than two hundred thousand barrels of beer per year;

12 G. "person" includes, to the extent permitted by
13 law, a federal, state or other governmental unit or subdivision
14 or an agency, department, institution or instrumentality
15 thereof;

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

19 I. "spirituous liquors" means alcoholic beverages,
20 except fermented beverages such as wine, beer, cider and ale;

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

25 K. "wine" means an alcoholic beverage other than

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1 cider that is obtained by the fermentation of the natural sugar
2 contained in fruit or other agricultural products, with or
3 without the addition of sugar or other products, and that does
4 not contain more than twenty-one percent alcohol by volume; and

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

7 SECTION 3. Section 7-17-5 NMSA 1978 (being Laws 1993,
8 Chapter 65, Section 8, as amended) is amended to read:

9 "7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

10 A. There is imposed on a wholesaler who sells
11 alcoholic beverages on which the tax imposed by this section
12 has not been paid an excise tax, to be referred to as the
13 "liquor excise tax", at the ~~[following]~~ rates provided in
14 Subsections B through D of this section on the price paid for
15 alcoholic beverages sold by the wholesaler.

16 ~~[(1) on spirituous liquors, except as provided~~
17 ~~in Paragraph (9) of this subsection, one dollar sixty cents~~
18 ~~(\$1.60) per liter;~~

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

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

25 ~~(4) on fortified wine, one dollar fifty cents~~

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1 ~~(\$1.50) per liter;~~

2 ~~(5) on beer manufactured or produced by a~~
3 ~~microbrewer and sold in this state, provided that proof is~~
4 ~~furnished to the department that the beer was manufactured or~~
5 ~~produced by a microbrewer, eight cents (\$.08) per gallon on the~~
6 ~~first thirty thousand barrels sold, twenty-eight cents (\$.28)~~
7 ~~per gallon for all barrels sold over thirty thousand barrels~~
8 ~~but less than sixty thousand barrels and forty-one cents (\$.41)~~
9 ~~per gallon for sixty thousand or more barrels sold;~~

10 ~~(6) on wine manufactured or produced by a~~
11 ~~small winegrower and sold in this state, provided that proof is~~
12 ~~furnished to the department that the wine was manufactured or~~
13 ~~produced by a small winegrower:~~

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

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

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

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

24 ~~(8) on cider manufactured or produced by a~~
25 ~~small winegrower and sold in this state, provided that proof is~~

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1 ~~furnished to the department that the cider was manufactured or~~
2 ~~produced by a small winegrower, eight cents (\$.08) per gallon~~
3 ~~on the first thirty thousand barrels sold, twenty-eight cents~~
4 ~~(\$.28) per gallon for all barrels sold over thirty thousand~~
5 ~~barrels but less than sixty thousand barrels and forty-one~~
6 ~~cents (\$.41) per gallon for sixty thousand or more barrels~~
7 ~~sold; and~~

8 ~~(9) on spirituous liquors manufactured or~~
9 ~~produced by a craft distiller licensed pursuant to Section~~
10 ~~60-6A-6.1 NMSA 1978, provided that proof is provided to the~~
11 ~~department that the spirituous liquors were manufactured or~~
12 ~~produced by a craft distiller, for products up to ten percent~~
13 ~~alcohol by volume, eight cents (\$.08) per liter for the first~~
14 ~~two hundred fifty thousand liters sold and twenty-eight cents~~
15 ~~(\$.28) per liter for the next two hundred fifty thousand liters~~
16 ~~sold and for products over ten percent alcohol by volume,~~
17 ~~thirty-two cents (\$.32) per liter on the first one hundred~~
18 ~~seventy-five thousand liters sold and sixty-five cents (\$.65)~~
19 ~~per liter on the next two hundred thousand liters sold.]~~

20 B. The liquor excise tax imposed on spirituous
21 liquors is as follows:

22 (1) if manufactured or produced by a craft
23 distiller licensed pursuant to Section 60-6A-6.1 NMSA 1978;
24 provided that proof is provided to the department that the
25 spirituous liquors were manufactured or produced by a craft

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1 distiller:

2 (a) for products up to ten percent
3 alcohol by volume: 1) six-tenths percent for the first two
4 hundred fifty thousand liters sold; 2) two and one-tenth
5 percent for the next two hundred fifty thousand liters sold;
6 and 3) twelve percent for each liter sold thereafter; and

7 (b) for products over ten percent
8 alcohol by volume: 1) two and four-tenths percent for the
9 first two hundred fifty thousand liters sold; 2) four and
10 eight-tenths percent for the next two hundred fifty thousand
11 liters sold; and 3) twelve percent for each liter sold
12 thereafter; and

13 (2) for all other spirituous liquors, twelve
14 percent.

15 C. The liquor excise tax imposed on wine is as
16 follows:

17 (1) if manufactured or produced by a small
18 winegrower and sold in this state; provided that proof is
19 furnished to the department that the wine was manufactured or
20 produced by a small winegrower:

21 (a) two percent for the first eighty
22 thousand liters sold;

23 (b) four percent for each liter sold
24 over eighty thousand liters but not over nine hundred fifty
25 thousand liters; and

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1 (c) six percent for each liter sold over
2 nine hundred fifty thousand liters but not over one million
3 five hundred thousand liters; and

4 (2) for all other wine, nine percent.

5 D. The liquor excise tax imposed on beer and cider
6 is as follows:

7 (1) if manufactured or produced by a
8 microbrewer or small winegrower and sold in this state;
9 provided that proof is furnished to the department that the
10 beer or cider was manufactured or produced by a microbrewer or
11 small winegrower:

12 (a) one and two-tenths percent for the
13 first thirty thousand barrels sold;

14 (b) five percent for all barrels sold
15 over thirty thousand barrels but less than sixty thousand
16 barrels; and

17 (c) six percent for sixty thousand or
18 more barrels sold; and

19 (2) for all other beer and cider, six percent.

20 [B.] E. The volume of wine transferred from one
21 winegrower to another winegrower for processing, bottling or
22 storage and subsequent return to the transferor shall be
23 excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable
24 volume of wine of the transferee. Wine transferred from an
25 initial winegrower to a second winegrower remains a tax

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1 liability of the transferor, provided that if the wine is
2 transferred to the transferee for the transferee's use or for
3 resale, the transferee then assumes the liability for the tax
4 due pursuant to this section.

5 ~~[G.]~~ F. A transfer of wine from a winegrower to a
6 wholesaler for distribution of the wine transfers the liability
7 for payment of the liquor excise tax to the wholesaler upon the
8 sale of the wine by the wholesaler."

9 SECTION 4. ~~[NEW MATERIAL]~~ ALCOHOL AND SUBSTANCE USE HARMS
10 ALLEVIATION FUND.--

11 A. The "alcohol and substance use harms alleviation
12 fund" is created as a nonreverting fund in the state treasury.
13 The fund consists of appropriations, distributions, gifts,
14 grants, donations and bequests made to the fund and income from
15 investment of the fund. The department of finance and
16 administration shall administer the fund, and money in the fund
17 is subject to appropriation by the legislature for alcohol and
18 substance use harms prevention, treatment and recovery services
19 to individuals throughout New Mexico, including on lands of
20 Indian nations, tribes and pueblos.

21 B. Money in the fund shall be expended by warrant
22 of the secretary of finance and administration pursuant to
23 vouchers signed by the secretary or the secretary's authorized
24 representative.

25 SECTION 5. TEMPORARY PROVISION--TRANSFER OF FUNDS.--Any

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1 unexpended and unencumbered balance in the local DWI grant fund
2 shall be transferred to the alcohol and substance use harms
3 alleviation fund.

4 SECTION 6. REPEAL.--Sections 11-6A-1 through 11-6A-6 NMSA
5 1978 (being Laws 1993, Chapter 65, Sections 1 through 5 and
6 Laws 1997, Chapter 182, Section 2, as amended) are repealed.

7 SECTION 7. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2025.