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HOUSE BILL 262

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY  
MIGUEL P. GARCIA

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING THE LIQUOR CONTROL ACT  
TO PROHIBIT CERTAIN LICENSE TRANSFERS; PROVIDING FOR PERMANENT  
LICENSE REVOCATION UNDER CERTAIN CONDITIONS; AMENDING AND  
ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of the Liquor Control Act is  
enacted to read:

"[NEW MATERIAL] PROHIBITED TRANSFERS.--No transfer of  
ownership or location of a license issued pursuant to the  
provisions of the Liquor Control Act shall be permitted from the  
date that a licensee is charged with a felony until the date the  
charge against the licensee is dropped, the licensee is  
acquitted of the charge or the licensee is convicted of a  
felony. As used in this section, "licensee" includes an officer

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1 or director of a corporation, a partner in a limited  
2 partnership, a general partner, a joint venturer or a trustee or  
3 partner in a legal entity, if the corporation, limited  
4 partnership or other legal entity is a licensee. "

5 Section 2. Section 60-6B-1 NMSA 1978 (being Laws 1981,  
6 Chapter 39, Section 37, as amended) is amended to read:

7 "60-6B-1. PERSONS PROHIBITED FROM RECEIVING OR HOLDING  
8 LICENSES. --The following classes of persons shall be prohibited  
9 from receiving or holding licenses [~~under~~] pursuant to the  
10 provisions of the Liquor Control Act:

11 A. a person who has been convicted of two separate  
12 misdemeanor or petty misdemeanor violations of the Liquor  
13 Control Act in any calendar year [~~or of any felony~~], unless the  
14 person is restored to the privilege of receiving and holding  
15 licenses by the governor or unless the director determines that  
16 the person merits the public trust, in which case the person  
17 shall receive licenses under reasonable terms and conditions  
18 fixed by the director, which shall include that the person pay  
19 an administrative penalty of two thousand five hundred dollars  
20 (\$2,500) for each license held by that person;

21 B. a person who has been convicted of a felony;

22 [~~B.-~~] C. a person whose spouse had been convicted of  
23 a felony unless the person demonstrates that the convicted  
24 spouse will have no involvement in the operation of the license;

25 [~~C.-~~] D. a minor; or

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1           ~~[D-]~~ E. a corporation that is not duly qualified to  
2 do business in New Mexico, unless the licensee holds a public  
3 service license or a nonresident license issued ~~[under]~~ as  
4 provided in Section 60-6A-7 NMSA 1978; provided, however, that a  
5 corporation that owns stock in a corporation that owns a New  
6 Mexico liquor license does not need to be qualified to do  
7 business in New Mexico regardless of the size of the ownership  
8 interest."

9           Section 3. Section 60-6C-1 NMSA 1978 (being Laws 1981,  
10 Chapter 39, Section 97, as amended) is amended to read:

11           "60-6C-1. GROUND FOR SUSPENSION, REVOCATION OR  
12 ADMINISTRATIVE FINE--REPORTING REQUIREMENT. --

13           A. The director may suspend or revoke the license or  
14 permit or fine the licensee in an amount not more than ten  
15 thousand dollars (\$10,000), or both, when he finds that any  
16 licensee has:

17                           (1) violated any provision of the Liquor  
18 Control Act or any regulation or order promulgated pursuant to  
19 that act; ~~[(2) been convicted of a felony pursuant to the~~  
20 ~~provisions of the Criminal Code, the Liquor Control Act or~~  
21 ~~federal law;]~~ or

22                           ~~[(3)]~~ (2) permitted his licensed premises to  
23 remain a public nuisance in the neighborhood where it is located  
24 after written notice from the director that investigation by the  
25 department has revealed that the establishment is a public

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1 nuisance in the neighborhood.

2 B. The director shall revoke the license or permit  
3 of a licensee if he finds that the licensee has been convicted  
4 of a felony.

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

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

14 (2) his agent has made any material false  
15 statement or concealed any material facts in his application for  
16 the license or permit granted him pursuant to the provisions of  
17 the Liquor Control Act.

18 [~~C.~~] D. In addition to other penalties provided in  
19 this section, any retailer or dispenser who violates the  
20 provisions of Section 60-7A-16 or 60-7B-1 NMSA 1978 by selling,  
21 serving or delivering alcoholic beverages to an intoxicated  
22 person or a minor through a drive-up window at a minimum shall  
23 have:

24 (1) upon a first violation of this subsection,  
25 the privilege to sell alcoholic beverages or any other goods

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1 from his drive-up window suspended by the director for a period  
2 of two weeks;

3 (2) upon a second violation of this subsection,  
4 the privilege to sell alcoholic beverages or any other goods  
5 from his drive-up window suspended by the director for a period  
6 of thirty days;

7 (3) upon a third violation of this subsection,  
8 the privilege to sell alcoholic beverages or any other goods  
9 from his drive-up window suspended by the director for a period  
10 of sixty days; and

11 (4) upon a fourth violation of this subsection  
12 within two years of any other violations of Section 60-7A-16 or  
13 60-7B-1 NMSA 1978, the privilege to sell alcoholic beverages or  
14 any other goods from his drive-up window revoked by the director  
15 and the drive-up window permanently closed.

16 [~~D.~~] E. Any licensee aggrieved by a revocation,  
17 suspension or fine proposed to be imposed by the director  
18 pursuant to this section shall be entitled to the hearing  
19 procedures set forth in [~~Article 6C of~~] Chapter 60, Article 6C  
20 NMSA 1978 before the revocation, suspension or fine shall be  
21 effective.

22 [~~E.~~] F. Any charge filed against a licensee by the  
23 department and the resulting disposition of the charge shall be  
24 reported to the department of public safety and local law  
25 enforcement agencies whose jurisdictions include the licensed

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1 establishment. "

2 Section 4. Section 60-6C-8 NMSA 1978 (being Laws 1981,  
3 Chapter 39, Section 104) is amended to read:

4 "60-6C-8. RESTRICTION ON LICENSE AFTER REVOCATION. -- If a  
5 license is revoked [~~under~~] pursuant to the provisions of the  
6 Liquor Control Act, the licensee shall not be issued or be the  
7 transferee of a license within two years of the date of the  
8 revocation; provided, if the license is revoked because the  
9 licensee has been convicted of a felony, the license shall be  
10 permanently revoked. "

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