

AN ACT

RELATING TO WINEGROWERS; CONSOLIDATING LICENSES; AMENDING,  
REPEALING AND ENACTING SECTIONS OF THE LIQUOR CONTROL ACT.

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

Section 1. Section 60-3A-3 NMSA 1978 (being Laws 1981,  
Chapter 39, Section 3, as amended) is amended to read:

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

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

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

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

D. "club" means:

(1) any nonprofit group, including an  
auxiliary or subsidiary group, organized and operated under

the laws of this state with a membership of not less than fifty members who pay membership dues at the rate of not less than five dollars (\$5.00) per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the director finds:

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

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

(2) an airline passenger membership club operated by an air common carrier which maintains or operates a clubroom at an international airport terminal. For the purposes of this paragraph, "air common carrier" means a person engaged in regularly scheduled air transportation between fixed termini under a certificate of public

convenience and necessity issued by the civil aeronautics board;

E. "commission" means the secretary of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;

F. "department" means the special investigations division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;

G. "director" means the director of the special investigations division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;

H. "dispenser" means any person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in his possession with the intent to sell

alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages for consumption and not for resale off the licensed premises;

I. "distiller" means any person engaged in manufacturing spirituous liquors;

J. "governing body" means the board of county commissioners of a county or the city council or city commissioners of a municipality;

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

L. "licensed premises" means the contiguous areas or areas connected by indoor passageways of a structure and the outside dining, recreation and lounge areas of the structure which are under the direct control of the licensee and from which the licensee is authorized to sell, serve or allow the consumption of alcoholic beverages under the provisions of its license; provided that in the case of a restaurant, hotel or racetrack, "licensed premises" includes all public and private rooms, facilities and areas in which alcoholic beverages are sold or served in the customary operating procedures of the restaurant, hotel or racetrack;

M "local option district" means any county which has voted to approve the sale, serving or public consumption of alcoholic beverages, or any incorporated municipality which falls within a county which has voted to approve the sale, serving or public consumption of alcoholic beverages, or any incorporated municipality of over five thousand population which has independently voted to approve the sale, serving or public consumption of alcoholic beverages under the terms of the Liquor Control Act or any former act;

N. "manufacturer" means a distiller, rectifier, brewer or winer;

O. "minor" means any person under twenty-one years of age;

P. "package" means any immediate container of alcoholic beverages which is filled or packed by a manufacturer or wine bottler for sale by the manufacturer or wine bottler to wholesalers;

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

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

S. "restaurant" means any establishment having a New Mexico resident as a proprietor or manager which is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and which has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided that "restaurant" does not include establishments as defined in regulations promulgated by the director serving only hamburgers, sandwiches, salads and other fast foods;

T. "retailer" means any person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in his possession with the intent to sell any alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises;

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

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

W. "wine" includes the words "fruit juices" and means alcoholic beverages obtained by the fermentation of the natural sugar contained in fruit or other agricultural

products, with or without the addition of sugar or other products, which do not contain less than one-half of one percent nor more than twenty-one percent alcohol by volume;

X. "wine bottler" means any New Mexico wholesaler who is licensed to sell wine at wholesale for resale only and who buys wine in bulk and bottles it for wholesale resale;

Y. "winegrower" means any person who owns or operates a business for the manufacture of wine; and

Z. "winer" means a winegrower. "

Section 2. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended) is amended to read:

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

A. Exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license, is any person in this state who produces wine. Except during periods of shortage or reduced availability, at least fifty percent of a winegrower's overall annual production of wine shall be produced from grapes or other agricultural products grown in this state pursuant to regulations adopted by the director.

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

(1) manufacture or produce wine, including blending, mixing, flavoring, coloring, bottling and labeling,

whether the wine is manufactured or produced by or for the winegrower;

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

(3) sell wines to a holder of a New Mexico winegrower's, wine wholesaler's, wholesaler's or wine exporter's license or to a winegrower's agent;

(4) deal in warehouse receipts for wine;

(5) sell wines in other states or foreign jurisdictions to the holders of any license issued under the authority of that state or foreign jurisdiction authorizing the purchase of wine;

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

(7) conduct wine tastings and sell, by the glass or by the bottle or sell in unbroken packages for consumption off the premises but not for resale wine of his own production on the winegrower's premises;

(8) at no more than three off-premises locations, conduct wine tastings and sell in unbroken packages for consumption off premises, but not for resale, wine of his own production after the director has determined that the off-premises locations meet the requirements of the



Liquor Control Act and the department regulations for new liquor license locations;

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

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

(11) apply to the department for a permit to join with other licensed winegrowers to sell wine produced by or for winegrowers at a common facility at which there may be products of two or more licensed winegrowers offered for tasting and sale by the glass or bottle or for sale in unbroken packages for consumption off premises but not for resale.

C. Except as limited by Subsection D of Section 60-7A-1 NMSA 1978, sales of wine as provided for in this section shall be permitted between the hours of 7:00 a.m. and midnight Monday through Saturday, and the holder of a winegrower's license or public celebration permit may conduct wine tastings and sell, by the glass or bottle or in unbroken packages for consumption off premises but not for resale, wine of his own production on the winegrower's premises

between the hours of 12:00 noon and midnight on Sunday.

D. At public celebrations off the winegrower's premises in any local option district permitting the sale of alcoholic beverages, the holder of a winegrower's license shall pay ten dollars (\$10.00) to the department for a "winegrower's public celebration permit" to be issued under rules adopted by the director. Upon request, the department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other permittees. As used in this subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event or sporting competition of a seasonal nature or activities held on an intermittent basis.

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

(1) less than five thousand gallons per year, twenty-five dollars (\$25.00) per year;

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

(3) over one hundred thousand gallons per

year, two hundred fifty dollars (\$250) per year. "

Section 3. Section 60-6A-22 NMSA 1978 (being Laws 1983, Chapter 280, Section 3, as amended) is amended to read:

"60-6A-22. DEFINITIONS. -- As used in the Domestic Winery and Small Brewery Act:

A. "brandy" means an alcoholic liquor distilled from wine or from fermented fruit juice;

B. "beer" means any fermented beverage containing more than one-half percent alcohol obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereal in water, and includes porter, beer, ale and stout;

C. "small brewer" means any person who owns or operates a business for the manufacture of beer but does not manufacture more than two hundred thousand barrels of beer per year;

D. "public celebration" means any state fair, county fair, community fiesta, cultural or artistic performance;

E. "wine" means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar, or any such alcoholic beverage to which is added grape brandy, fruit brandy or spirits of wine which is distilled from the particular agricultural products of which the wine

is made, and other rectified wine products by whatever name which do not contain more than fifteen percent added flavoring, coloring and blending material and which contain not more than twenty-four percent of alcohol by volume, and includes vermouth;

F. "wine blender" means a person authorized to operate a bonded wine cellar pursuant to a permit issued for that purpose under the internal revenue laws of the United States but who does not have facilities or equipment for the conversion of grapes, berries or other fruit into wine and does not engage in the production of wine in commercial quantities; provided that any person who produces or blends not to exceed three hundred gallons of wine per year shall not, because of such production or blending, be considered a wine blender; and

G. "winer" means a person licensed as a winegrower. "

Section 4. Section 60-6A-24 NMSA 1978 (being Laws 1983, Chapter 280, Section 5, as amended) is amended to read:

"60-6A-24. WINE BLENDER'S LICENSE. --

A. In any local option district, a person qualified under the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery and Small Brewery Act, may apply for and be issued a wine blender's license.

B. A wine blender's license authorizes the person to whom it is issued to:

(1) package, rectify, blend, mix, flavor, color, label and export wine, whether manufactured or produced by him or any other person;

(2) sell only wine packaged by or for him to a person holding a New Mexico wine wholesaler's, wholesaler's, winegrower's or wine exporter's license or to a winegrower's agent;

(3) deal in warehouse receipts for wine; and

(4) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act.

C. A wine blender's license does not authorize the person to whom it is issued:

(1) to crush, ferment and produce wine from grapes, berries and other fruits;

(2) to obtain or be issued a winer's license, a retailer's license or a dispenser's license;

(3) to buy, sell, receive or deliver wine from persons other than authorized licensees; or

(4) to conduct wine tastings or sell for consumption off premises, at retail, or to sponsor wine tastings, either on or off the wine blender's premises."

Section 5. Section 60-6A-27 NMSA 1978 (being Laws 1983, Chapter 280, Section 8, as amended) is amended to read:

"60- 6A- 27. LICENSE FEES. -- Every application for the issuance or annual renewal of the following licenses and permits shall be accompanied by a license fee or permit fee in the following specified amounts:

A. brandy manufacturer's license, seven hundred fifty dollars (\$750);

B. small brewer's license, seven hundred fifty dollars (\$750);

C. wine blender's license, seven hundred fifty dollars (\$750);

D. wine exporter's license, five hundred dollars (\$500); and

E. small brewer's public celebrations permit, ten dollars (\$10.00) for each public celebration. "

Section 6. Section 60- 6A- 29 NMSA 1978 (being Laws 1988, Chapter 60, Section 1) is amended to read:

"60- 6A- 29. WINE WHOLESALER' S LICENSE. --

A. In any local option district, a winegrower licensed under the Liquor Control Act may apply for and be issued a license as a wine wholesaler of wines produced by or for New Mexico winegrowers.

B. No wine wholesaler shall sell, offer for sale or ship wine not received at and shipped from the premises specified in the wine wholesaler's license.

C. No wine wholesaler shall sell or offer for

sale wine to any person other than the holder of a New Mexico wine wholesaler's, wholesaler's, retailer's, dispenser's, canopy, restaurant or club license or a governmental licensee or its lessee.

D. Nothing contained in this section shall prevent the sale, transportation or shipment of wine by a wine wholesaler to any person outside the state when shipped under permit from the department. "

Section 7. A new section of the Liquor Control Act is enacted to read:

"INTERSTATE WINE TASTINGS--COMPETITIONS--PERMITS. --

A. Exempt from the procurement of any other license or permit issued pursuant to the terms of the Liquor Control Act, but not exempt from the procurement of a competition permit, is a winemaker or winery licensed outside of New Mexico that desires to participate in a regional wine tasting or competition within New Mexico. One permit shall be issued by the director to an out-of-state winemaker or winery for the duration of the wine tasting or competition.

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

(1) bring no more than twenty-five cases of wine into New Mexico after indicating on his permit application the number of cases to be brought into the state;

(2) participate in the regional competition

and any wine tastings associated with the competition for which the competition permit is issued;

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

(4) at a wine tasting for which he is issued the permit, conduct tasting of wine and sell by the glass or bottle or in unbroken packages for consumption off the wine tasting premises but not for resale, wine brought into the state by him for the wine tasting or competition.

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

D. As used in this section:

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

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

(3) "regional wine tasting" means a wine tasting at which the wines offered for tasting are from more than one state or country;

(4) "winemaker" means a person who



manufactures or produces wine;

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

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

Section 8. REPEAL. -- Section 60-6A-23 NMSA 1978 (being Laws 1983, Chapter 280, Section 4, as amended) is repealed.

Section 9. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1998. \_\_\_\_\_