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HOUSE BILL 362

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

DAVID M PARSONS

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PRESCRIBING CRIMINAL  
PENALTIES FOR PROVIDING ALCOHOLIC BEVERAGES TO A MINOR;  
PROVIDING AN EXCEPTION; AMENDING A SECTION OF THE LIQUOR  
CONTROL ACT.

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

Section 1. Section 60-7B-1 NMSA 1978 (being Laws 1993,  
Chapter 68, Section 22) is amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO  
MINORS-- POSSESSION. --

A. It is a violation of the Liquor Control Act for  
[any] a person, including a person licensed pursuant to the  
provisions of the Liquor Control Act, or [any] an employee,  
agent or lessee of that person, if he knows or has reason to  
know that he is violating the provisions of this section, to:

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1 (1) sell, serve or give [~~any~~] alcoholic  
2 beverages to a minor or permit a minor to consume alcoholic  
3 beverages on the licensed premises;

4 (2) buy alcoholic beverages for or procure  
5 the sale or service of alcoholic beverages to a minor;

6 (3) deliver alcoholic beverages to a minor;  
7 or

8 (4) aid or assist a minor to buy, procure or  
9 be served with alcoholic beverages.

10 B. It is not a violation of the Liquor Control  
11 Act, as provided in Subsection A or C of this section, when a  
12 parent or legal guardian of a minor serves alcoholic beverages  
13 to that minor on real property, other than licensed premises,  
14 under the control of the parent or legal guardian; provided  
15 that the parent or legal guardian ensures that the minor  
16 remains on the real property under the control of the parent  
17 or legal guardian until the minor is no longer under the  
18 influence of the alcoholic beverages.

19 [~~B.~~] C. It is a violation of the Liquor Control  
20 Act for [~~any~~] a minor to buy, attempt to buy, receive, possess  
21 or permit himself to be served with [~~any~~] alcoholic beverages.

22 [~~C.~~] D. In the event [~~any~~] a person [~~except~~] other  
23 than a minor procures [~~any other~~] another person to sell,  
24 serve or deliver [~~any~~] alcoholic beverages to a minor by  
25 actual or constructive misrepresentation of [~~any~~] facts

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1 calculated to cause, or by a concealment of [~~any~~] facts the  
2 concealment of which is calculated to cause, the person  
3 selling, serving or delivering the alcoholic beverages to the  
4 minor to believe that [~~such~~] the minor is legally entitled to  
5 be sold, served or delivered alcoholic beverages and actually  
6 deceiving him by [~~such~~] that misrepresentation or concealment,  
7 then that person and not the person so deceived by [~~such~~] the  
8 misrepresentation or concealment shall have violated the  
9 Liquor Control Act.

10 [~~D-~~] E. As used in the Liquor Control Act, "minor"  
11 means [~~any~~] a person under twenty-one years of age.

12 [~~E-~~] F. Violation of this section by a minor with  
13 respect to possession is a petty misdemeanor. Upon  
14 conviction, the offender may be sentenced in accordance with  
15 Section 31-19-1 NMSA 1978. Any sentence imposed pursuant to  
16 this subsection may be suspended in the discretion of the  
17 court upon the condition that:

18 (1) the minor [~~accepts~~] accept the suspension  
19 of his driver's license for a period not to exceed three  
20 months, whereupon the trial court may dismiss the possession  
21 of alcoholic beverage charge and it shall not be considered a  
22 conviction. In the event the minor's driver's license is to  
23 be suspended, the trial court shall inform the motor vehicle  
24 division of the taxation and revenue department of the action;  
25 provided, however, if the minor drives during the period of

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1 suspension, then the court may impose a fine, jail sentence or  
2 both, [~~such~~] the fine and sentence not to exceed the ~~maximums~~  
3 imposed for petty misdemeanors or may impose punishment  
4 pursuant to Paragraph (2) of this subsection; and

5 (2) the minor assist in a community project  
6 designated by the court, up to fifty hours, whereupon the  
7 trial court may dismiss the possession of alcoholic beverage  
8 charge and it shall not be considered a conviction."

9 Section 2. EFFECTIVE DATE. --The effective date of the  
10 provisions of this act is July 1, 1998.

1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
3  
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6 February 4, 1998  
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9 Mr. Speaker:  
10

11 Your RULES AND ORDER OF BUSINESS COMMITTEE, to  
12 whom has been referred  
13

14  
15 HOUSE BILL 362  
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17 has had it under consideration and finds same to be GERMANE  
18 in accordance with constitutional provisions.  
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21 Respectfully submitted,  
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R. David Pederson, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Gubbels, Hobbs, Lujan, Rodella, Ryan, Sanchez

Absent: None

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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 February 13, 1998  
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8 Mr. Speaker:  
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10 Your JUDICIARY COMMITTEE, to whom has been referred  
11

12 HOUSE BILL 362  
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14 has had it under consideration and reports same with  
15 recommendation that it DO PASS.  
16

17 Respectfully submitted,  
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20 \_\_\_\_\_  
21 Thomas P. Foy, Chairman  
22  
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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998

3 Page 8

4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

5  
6 (Chief Clerk)

(Chief Clerk)

7  
8 Date \_\_\_\_\_

9  
10 The roll call vote was 9 For 0 Against

11 Yes: 9

12 Excused: King, Mallory, Pederson, Sanchez

13 Absent: None

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

Page 9

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

February 16, 1998

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 362

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

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Shannon Robinson, Chairman

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

Page 10

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Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Boitano, Ingle, Smith, Vernon

Absent: None

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

Page 11

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

February 17, 1998

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 362

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

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Fernando R. Macias, Chairman

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

Page 12

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Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 2 Against

Yes: 5

No: Tsosie, McSorley

Excused: Sanchez

Absent: None

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

Page 13

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

February 16, 1998

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 362

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

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Shannon Robinson, Chairman

FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Boitano, Ingle, Smith, Vernon

Absent: None

H0362PA1