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HOUSE BILL

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

FOR THE ECONOMIC AND RURAL DEVELOPMENT COMMITTEE

AN ACT

RELATING TO LIQUOR CONTROL; REVISING THE DEFINITION OF  
"ALCOHOLIC BEVERAGE" TO INCLUDE FROZEN AND POWDERED ALCOHOL;  
ADDING A DEFINITION FOR "GROWLER"; REVISING PROVISIONS RELATING  
TO LIQUOR LICENSE APPLICATION REQUIREMENTS, PUBLIC HEARINGS,  
THE SERVICE, SALE AND PRODUCTION OF ALCOHOLIC BEVERAGES AND THE  
TRANSFER OF LICENSES; RECONCILING CONFLICTING AMENDMENTS TO THE  
SAME SECTION OF LAW BY REPEALING LAWS 2001, CHAPTER 248,  
SECTION 2.

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

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

"60-3A-1. SHORT TITLE.--Chapter 60, Articles 3A, 4B, [4E]  
5A, 6A, 6B, 6C, 6E, 7A, 7B and 8A [~~of Chapter 60~~] NMSA 1978 may  
be cited as the "Liquor Control Act"."

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1           SECTION 2. Section 60-3A-3 NMSA 1978 (being Laws 1981,  
2 Chapter 39, Section 3, as amended) is amended to read:

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

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

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

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

19           D. "club" means:

20                   (1) any nonprofit group, including an  
21 auxiliary or subsidiary group, organized and operated under the  
22 laws of this state, with a membership of not less than fifty  
23 members who pay membership dues at the rate of not less than  
24 five dollars (\$5.00) per year and who, under the constitution  
25 and bylaws of the club, have all voting rights and full

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1 membership privileges, and which group is the owner, lessee or  
2 occupant of premises used exclusively for club purposes and  
3 which group the director finds:

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

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

16 (2) an airline passenger membership club  
17 operated by an air common carrier that maintains or operates a  
18 clubroom at an international airport terminal. As used in this  
19 paragraph, "air common carrier" means a person engaged in  
20 regularly scheduled air transportation between fixed termini  
21 under a certificate of public convenience and necessity issued  
22 by the federal aviation administration;

23 E. "commission" means the secretary of public  
24 safety when the term is used in reference to the enforcement  
25 and investigatory provisions of the Liquor Control Act and

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1 means the superintendent of regulation and licensing when the  
2 term is used in reference to the licensing provisions of the  
3 Liquor Control Act;

4 F. "department" means the special investigations  
5 division of the department of public safety when the term is  
6 used in reference to the enforcement and investigatory  
7 provisions of the Liquor Control Act and means the director of  
8 the alcohol and gaming division of the regulation and licensing  
9 department when the term is used in reference to the licensing  
10 provisions of the Liquor Control Act;

11 G. "director" means the director of the special  
12 investigations division of the department of public safety  
13 when the term is used in reference to the enforcement and  
14 investigatory provisions of the Liquor Control Act and means  
15 the director of the alcohol and gaming division of the  
16 regulation and licensing department when the term is used in  
17 reference to the licensing provisions of the Liquor Control  
18 Act;

19 H. "dispenser" means a person licensed under the  
20 provisions of the Liquor Control Act selling, offering for sale  
21 or having in the person's possession with the intent to sell  
22 alcoholic beverages both by the drink for consumption on the  
23 licensed premises and in unbroken packages for consumption and  
24 not for resale off the licensed premises;

25 I. "distiller" means a person engaged in

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1 manufacturing spirituous liquors;

2 J. "golf course" means a tract of land and  
3 facilities used for playing golf and other recreational  
4 activities that includes tees, fairways, greens, hazards,  
5 putting greens, driving ranges, recreational facilities,  
6 patios, pro shops, cart paths and public and private roads that  
7 are located within the tract of land;

8 K. "governing body" means the board of county  
9 commissioners of a county or the city council or city  
10 commissioners of a municipality;

11 L. "growler" means a clean, refillable, resealable  
12 container that has a liquid capacity that does not exceed one  
13 gallon and that is intended and used for the sale of beer, wine  
14 or cider for consumption off premises;

15 [~~H.~~] M. "hotel" means an establishment or complex  
16 having a resident of New Mexico as a proprietor or manager and  
17 where, in consideration of payment, meals and lodging are  
18 regularly furnished to the general public. The establishment  
19 or complex must maintain for the use of its guests a minimum of  
20 twenty-five sleeping rooms;

21 [~~M.~~] N. "licensed premises" means the contiguous  
22 areas or areas connected by indoor passageways of a structure  
23 and the outside dining, recreation and lounge areas of the  
24 structure and the grounds and vineyards of a structure that is  
25 a winery that are under the direct control of the licensee and

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1 from which the licensee is authorized to sell, serve or allow  
2 the consumption of alcoholic beverages under the provisions of  
3 its license; provided that in the case of a restaurant,  
4 "licensed premises" includes a restaurant that has operated  
5 continuously in two separate structures since July 1, 1987 and  
6 that is located in a local option district that has voted to  
7 disapprove the transfer of liquor licenses into that local  
8 option district, hotel, golf course or racetrack and all public  
9 and private rooms, facilities and areas in which alcoholic  
10 beverages are sold or served in the customary operating  
11 procedures of the restaurant, hotel, golf course or racetrack.  
12 "Licensed premises" also includes rural dispenser licenses  
13 located in the unincorporated areas of a county with a  
14 population of less than thirty thousand, located in buildings  
15 in existence as of January 1, 2012, that are within one hundred  
16 fifty feet of one another and that are under the direct control  
17 of the license holder;

18 ~~[N.]~~ O. "local option district" means a county that  
19 has voted to approve the sale, serving or public consumption of  
20 alcoholic beverages, or an incorporated municipality that falls  
21 within a county that has voted to approve the sale, serving or  
22 public consumption of alcoholic beverages, or an incorporated  
23 municipality of over five thousand population that has  
24 independently voted to approve the sale, serving or public  
25 consumption of alcoholic beverages under the terms of the

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1 Liquor Control Act or any former act;

2           ~~[P-]~~ P. "manufacturer" means a distiller,  
3 rectifier, brewer or winer;

4           ~~[P-]~~ Q. "minor" means a person under twenty-one  
5 years of age;

6           ~~[Q-]~~ R. "package" means an immediate container of  
7 alcoholic beverages that is filled or packed by a manufacturer  
8 or wine bottler for sale by the manufacturer or wine bottler to  
9 wholesalers;

10           ~~[R-]~~ S. "person" means an individual, corporation,  
11 firm, partnership, copartnership, association or other legal  
12 entity;

13           ~~[S-]~~ T. "rectifier" means a person who blends,  
14 mixes or distills alcohol with other liquids or substances for  
15 the purpose of making an alcoholic beverage for the purpose of  
16 sale other than to the consumer by the drink, and includes all  
17 bottlers of spirituous liquors;

18           ~~[T-]~~ U. "restaurant" means an establishment having  
19 a New Mexico resident as a proprietor or manager that is held  
20 out to the public as a place where meals are prepared and  
21 served primarily for on-premises consumption to the general  
22 public in consideration of payment and that has a dining room,  
23 a kitchen and the employees necessary for preparing, cooking  
24 and serving meals; provided that "restaurant" does not include  
25 establishments as defined in rules promulgated by the director

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1 serving only hamburgers, sandwiches, salads and other fast  
2 foods;

3 ~~[U.]~~ V. "retailer" means a person licensed under  
4 the provisions of the Liquor Control Act selling, offering for  
5 sale or having in the person's possession with the intent to  
6 sell alcoholic beverages in unbroken packages for consumption  
7 and not for resale off the licensed premises;

8 ~~[V.]~~ W. "spirituous liquors" means alcoholic  
9 beverages as defined in Subsection A of this section except  
10 fermented beverages such as wine, beer and ale;

11 ~~[W.]~~ X. "wholesaler" means a person whose place of  
12 business is located in New Mexico and who sells, offers for  
13 sale or possesses for the purpose of sale any alcoholic  
14 beverages for resale by the purchaser;

15 ~~[X.]~~ Y. "wine" includes the words "fruit juices"  
16 and means alcoholic beverages obtained by the fermentation of  
17 the natural sugar contained in fruit or other agricultural  
18 products, with or without the addition of sugar or other  
19 products, that do not contain less than one-half percent nor  
20 more than twenty-one percent alcohol by volume;

21 ~~[Y.]~~ Z. "wine bottler" means a New Mexico  
22 wholesaler who is licensed to sell wine at wholesale for resale  
23 only and who buys wine in bulk and bottles it for wholesale  
24 resale;

25 ~~[Z.]~~ AA. "winegrower" means a person who owns or

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1 operates a business for the manufacture of wine;

2 ~~[AA.]~~ BB. "winer" means a winegrower; and

3 ~~[BB.]~~ CC. "winery" means a facility in which a  
4 winegrower manufactures and stores wine."

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

7 "60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

8 A. In any local option district, a person qualified  
9 ~~[under]~~ pursuant to the provisions of the Liquor Control Act,  
10 except as otherwise provided in the Domestic Winery, Small  
11 Brewery and Craft Distillery Act, may apply for and be issued a  
12 craft distiller's license subject to the following conditions:

13 (1) the applicant submits evidence to the  
14 department that the applicant has a valid and appropriate  
15 permit issued by the federal government to be a craft  
16 distiller;

17 (2) renewal of the license shall be  
18 conditioned upon:

19 (a) no less than sixty percent of the  
20 gross receipts from the sale of spirituous liquors for the  
21 preceding twelve months of the licensee's operation being  
22 derived from the sale of spirituous liquors produced by the  
23 licensee;

24 (b) the manufacture of no less than one  
25 thousand proof gallons of spirituous liquors per license year

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1 at the licensee's premises; and

2 (c) submission to the department by the  
3 licensee of a report showing the number of proof gallons of  
4 spirituous liquors manufactured by the licensee at the  
5 licensee's premises and the annual gross receipts from the sale  
6 of spirituous liquors produced by the licensee and from the  
7 licensee's sale of distilled spirituous liquors produced by  
8 other New Mexico licensed craft distillers;

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

12 (4) the provisions of Section 60-6A-18 NMSA  
13 1978 shall not apply to a craft distiller's license; and

14 (5) nothing in this section shall prevent a  
15 craft distiller from receiving other licenses pursuant to the  
16 Liquor Control Act.

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

19 (1) manufacture or produce spirituous liquors,  
20 including aging, filtering, blending, mixing, flavoring,  
21 coloring, bottling and labeling;

22 (2) store, transport, import or export  
23 spirituous liquors;

24 (3) sell only spirituous liquors that are  
25 packaged by or for the craft distiller to a person holding a

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1 wholesaler's license, a craft distiller's license or a  
2 manufacturer's license;

3 (4) deal in warehouse receipts for spirituous  
4 liquors;

5 (5) buy spirituous liquors from other persons,  
6 including licensees and permittees under the Liquor Control  
7 Act, for use in blending, flavoring, mixing or bottling of  
8 spirituous liquors;

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

11 (7) conduct spirituous liquor tastings and  
12 sell, by the glass or by the bottle, or in unbroken packages  
13 for consumption off the premises but not for resale, spirituous  
14 liquors of the craft distiller's own production or spirituous  
15 liquors produced by another New Mexico craft distiller or New  
16 Mexico manufacturer on the craft distiller's premises; and

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

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1 unbroken packages for consumption and not for resale,  
2 spirituous liquors produced and bottled by or for the craft  
3 distiller or spirituous liquors produced and bottled by or for  
4 another New Mexico craft distiller or manufacturer.

5 C. For a public celebration off the craft  
6 distiller's premises in any local option district permitting  
7 the sale of alcoholic beverages, a craft distiller shall pay  
8 ten dollars (\$10.00) to the department for a "craft distiller's  
9 public celebration permit" to be issued under rules adopted by  
10 the director. Upon request, the department may issue to a  
11 craft distiller a public celebration permit for a location at  
12 the public celebration that is to be shared with other craft  
13 distillers, small brewers and winegrowers. As used in this  
14 subsection, "public celebration" includes any state or county  
15 fair, community fiesta, cultural or artistic event, sporting  
16 competition of a seasonal nature or other activity held on an  
17 intermittent basis.

18 D. Sales and tastings of spirituous liquors  
19 authorized in this section shall be permitted during the hours  
20 set forth in Subsection A of Section 60-7A-1 NMSA 1978 and  
21 between the hours of noon and midnight on Sunday and shall  
22 conform to the limitations regarding Christmas day sales and  
23 the expansion of Sunday sales hours to 2:00 a.m. on January 1,  
24 when December 31 falls on a Sunday as set forth in Section  
25 60-7A-1 NMSA 1978."

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1           SECTION 4. Section 60-6A-11 NMSA 1978 (being Laws 1981,  
2 Chapter 39, Section 28, as amended) is amended to read:

3           "60-6A-11. WINEGROWER'S LICENSE.--

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

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

21                   (1) manufacture or produce wine, including  
22 blending, mixing, flavoring, coloring, bottling and labeling,  
23 whether the wine is manufactured or produced for a winegrower  
24 or an out-of-state wine producer holding a permit issued by the  
25 federal alcohol tax unit of the internal revenue service and a

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1 valid license in a state that authorizes the wine producer to  
2 manufacture, produce, store or sell wine;

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

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

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

10 (5) deal in warehouse receipts for wine;

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

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

19 (8) conduct wine tastings and sell, by the  
20 glass or by the bottle or sell in unbroken packages for  
21 consumption off the premises but not for resale, wine of the  
22 winegrower's own production or wine produced by another New  
23 Mexico winegrower on the winegrower's premises;

24 (9) at no more than three off-premises  
25 locations, conduct wine tastings, sell by the glass and sell in

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1 unbroken packages for consumption off premises, but not for  
2 resale, wine of the winegrower's own production or wine  
3 produced by another New Mexico winegrower after the director  
4 has determined that the off-premises locations meet the  
5 requirements of the Liquor Control Act and the department rules  
6 for new liquor license locations;

7 (10) be deemed a manufacturer for purposes of  
8 the Gross Receipts and Compensating Tax Act; ~~and~~

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

15 (12) sell wine or cider in a growler for  
16 consumption off premises.

17 C. Sales of wine as provided for in this section  
18 shall be permitted between the hours of 7:00 a.m. and midnight  
19 Monday through Saturday, and the holder of a winegrower's  
20 license or public celebration permit may conduct wine tastings  
21 and sell, by the glass or bottle or in unbroken packages for  
22 consumption off premises but not for resale, wine of the  
23 winegrower's own production on the winegrower's premises  
24 between the hours of 12:00 noon and midnight on Sunday.

25 D. At public celebrations off the winegrower's

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1 premises in any local option district permitting the sale of  
2 alcoholic beverages, the holder of a winegrower's license shall  
3 pay ten dollars (\$10.00) to the alcohol and gaming division of  
4 the regulation and licensing department for a "winegrower's  
5 public celebration permit" to be issued under rules adopted by  
6 the director. Upon request, the alcohol and gaming division of  
7 the regulation and licensing department may issue to a holder  
8 of a winegrower's license a public celebration permit for a  
9 location at the public celebration that is to be shared with  
10 other winegrowers and small brewers. As used in this  
11 subsection, "public celebration" includes any state or county  
12 fair, community fiesta, cultural or artistic event, sporting  
13 competition of a seasonal nature or activities held on an  
14 intermittent basis.

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

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

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

25 (3) over one hundred thousand gallons per

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

2 SECTION 5. Section 60-6A-26.1 NMSA 1978 (being Laws 1985,  
3 Chapter 217, Section 5, as amended by Laws 2001, Chapter 248,  
4 Section 2 and by Laws 2001, Chapter 260, Section 2) is amended  
5 to read:

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

7 A. In ~~[any]~~ a local option district, a person  
8 qualified ~~[under]~~ pursuant to the provisions of the Liquor  
9 Control Act, except as otherwise provided in the Domestic  
10 Winery, ~~[and]~~ Small Brewery and Craft Distillery Act, may  
11 apply for and be issued a small brewer's license.

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

14 (1) ~~[become a manufacturer or producer of]~~  
15 manufacture or produce beer;

16 (2) package, label and export beer, whether  
17 manufactured, bottled or produced by ~~[him]~~ the licensee or any  
18 other person;

19 (3) sell only beer that is packaged by or for  
20 ~~[him]~~ the licensee to a person holding a wholesaler's license  
21 or a small brewer's license;

22 (4) deal in warehouse receipts for beer;

23 (5) conduct beer tastings and sell for  
24 consumption on or off premises, but not for resale, beer  
25 produced and bottled by, or produced and packaged for, the

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1 licensee or produced and bottled by or for another New Mexico  
2 small brewer on the small brewer's premises;

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

5 (7) at public celebrations off the small  
6 brewer's premises, after the small brewer has paid the  
7 applicable fee for a small brewer's public celebration permit,  
8 conduct tastings and sell by the glass or in unbroken packages,  
9 but not for resale, beer produced and bottled by or for the  
10 small brewer;

11 (8) at no more than [~~two~~] three other  
12 locations off the small brewer's premises, after the small  
13 brewer has paid the applicable fee for a small brewer's off-  
14 premises permit, after the director has determined that the  
15 off-premises locations meet the requirements of the Liquor  
16 Control Act and department rules for new liquor license  
17 locations and after the director has issued a small brewer's  
18 off-premises permit for each off-premises location, conduct  
19 beer tastings and sell by the glass or in unbroken packages for  
20 consumption off the small brewer's off-premises location, but  
21 not for resale, beer produced and bottled by or for the small  
22 brewer or beer produced and bottled by or for another New  
23 Mexico small brewer; [~~and~~]

24 (9) allow members of the public, on the  
25 licensed premises and under the direct supervision of the

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1 licensee, to manufacture beer for personal consumption and not  
2 for resale using the licensee's equipment and ingredients; and  
3 (10) sell beer in a growler for consumption  
4 off premises.

5 C. At public celebrations off the small brewer's  
6 premises in [~~any~~] a local option district permitting the sale  
7 of alcoholic beverages, the holder of a small brewer's license  
8 shall pay ten dollars (\$10.00) to the alcohol and gaming  
9 division of the regulation and licensing department for a  
10 "small brewer's public celebration permit" to be issued under  
11 rules adopted by the director. Upon request, the alcohol and  
12 gaming division of the regulation and licensing department may  
13 issue to a holder of a small brewer's license a public  
14 celebration permit for a location at the public celebration  
15 that is to be shared with other small brewers and winegrowers.  
16 As used in this subsection, "public celebration" includes [~~any~~]  
17 a state or county fair, community fiesta, cultural or artistic  
18 event, sporting competition of a seasonal nature or activities  
19 held on an intermittent basis.

20 D. Sales and tastings of beer authorized in this  
21 section shall be permitted during the hours set forth in  
22 Subsection A of Section 60-7A-1 NMSA 1978 and between the hours  
23 of noon and midnight on Sunday and shall conform to the  
24 limitations regarding Christmas and voting-day sales found in  
25 Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales

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1 hours to 2:00 a.m. on January 1, when December 31 falls on a  
2 Sunday."

3 SECTION 6. Section 60-6B-4 NMSA 1978 (being Laws 1981,  
4 Chapter 39, Section 40) is amended to read:

5 "60-6B-4. ISSUANCE OR TRANSFER OF LICENSE--APPROVAL OF  
6 APPROPRIATE GOVERNING BODY.--

7 A. Prior to the approval of the issuance of a new  
8 license, and prior to the approval of [~~any~~] a transfer  
9 permitted by Section [~~39 or 113 of the Liquor Control Act~~]  
10 60-6B-3 or 60-6B-12 NMSA 1978, the director shall notify the  
11 governing body of [~~his~~] the director's preliminary approval of  
12 the issuance or transfer of the license. Notice to the  
13 governing body shall be by certified mail.

14 B. A governing body [~~which~~] that has received a  
15 notice of preliminary approval of the issuance or transfer of a  
16 license from the department may approve or disapprove the  
17 issuance or transfer of the license in accordance with the  
18 provisions of this section.

19 C. Within forty-five days after receipt of a notice  
20 of preliminary approval from the department, the governing body  
21 shall hold a public hearing on the question of whether the  
22 department should approve the proposed issuance or transfer.

23 D. [~~Notice of the public hearing required by~~  
24 ~~Subsection C of this section shall be given by~~] The governing  
25 body [~~by~~] shall give notice of the public hearing, as required

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1 by Subsection C of this section, and the notice shall:

2 (1) [~~publishing a notice of the date, time and~~  
3 ~~place of the hearing at least once a week for two consecutive~~  
4 ~~weeks~~] be published at least twice, with the initial notice  
5 published at least thirty days before the hearing, in a  
6 newspaper of general circulation within the territorial limits  
7 of the governing body; [~~The notice shall~~]

8 (2) in addition to required print publication,  
9 be published on a local option district's web site, if the  
10 district has a web site;

11 (3) set forth:

12 (a) the date, time and place of the  
13 hearing;

14 [~~(a)~~] (b) the name and address of the  
15 licensee;

16 [~~(b)~~] (c) the action proposed to be  
17 taken by the department;

18 [~~(c)~~] (d) the location of the licensee's  
19 premises; and

20 [~~(d)~~] (e) such other information as may  
21 be required by the department; and

22 [~~(2) sending a notice~~] (4) be sent by  
23 certified mail to the applicant [~~of the date, time and place of~~  
24 ~~the public hearing~~].

25 E. The governing body may designate a hearing

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1 officer to conduct the hearing. A record shall be made of the  
2 hearing.

3 F. The governing body may disapprove the issuance  
4 or transfer of the license if:

5 (1) the proposed location is within an area  
6 where the sale of alcoholic beverages is prohibited by the laws  
7 of New Mexico;

8 (2) the issuance or transfer would be in  
9 violation of a zoning or other ordinance of the governing body;  
10 or

11 (3) the issuance or transfer would be  
12 detrimental to the public health, safety or morals of the  
13 residents of the local option district.

14 G. Within thirty days after the public hearing, the  
15 governing body shall notify the department as to whether the  
16 governing body has approved or disapproved the proposed  
17 issuance or transfer of the license. If the governing body  
18 fails to either approve or disapprove the issuance or transfer  
19 of the license within thirty days after the public hearing, the  
20 director may give final approval to the issuance or transfer of  
21 the license.

22 H. If the governing body disapproves the issuance  
23 or transfer of the license, it shall notify the department  
24 within the time required by Subsection G of this section  
25 setting forth the reasons for the disapproval. A copy of the

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1 minutes of the public hearing shall be submitted to the  
2 department by the governing body with the notice of  
3 disapproval. If the governing body disapproves of the issuance  
4 or transfer of the license, the director shall disapprove the  
5 issuance or transfer of the license.

6 I. If the governing body approves the issuance or  
7 transfer of the license, it shall notify the department within  
8 the time required by Subsection G of this section of its  
9 approval. If the governing body approves of the issuance or  
10 transfer of the license, the director shall approve the  
11 issuance or transfer of the license."

12 SECTION 7. A new section of Chapter 60, Article 6B NMSA  
13 1978 is enacted to read:

14 "[NEW MATERIAL] LICENSED PRODUCTION FACILITIES--  
15 ALTERNATING PROPRIETORSHIP.--With the approval of the alcohol  
16 and tobacco tax and trade bureau of the United States  
17 department of the treasury, and subject to the provisions of  
18 the Liquor Control Act, an alternating proprietorship may be  
19 established so that the manufacturing facilities and equipment  
20 of a person who holds:

21 A. a craft distiller's license may be used by  
22 another person who holds a craft distiller's license to  
23 manufacture or produce spiritous liquors;

24 B. a winegrower's license may be used by another  
25 person who holds a winegrower's license to manufacture or

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1 produce wine; and

2 C. a small brewer's license may be used by another  
3 person who holds a small brewer's license to manufacture or  
4 produce beer."

5 SECTION 8. A new section of Chapter 60, Article 6B NMSA  
6 1978 is enacted to read:

7 "[NEW MATERIAL] LICENSED RETAILER COOPERATIVES.--

8 A. A person who holds a retailer's license or a  
9 person who holds a dispenser's license and who is allowed to  
10 sell alcoholic beverages in unbroken packages that are for  
11 consumption off premises and are not for resale may form a  
12 cooperative with one or more other persons who hold a  
13 retailer's or dispenser's license for the purposes of the  
14 advertisement or purchase of alcoholic beverages for retail  
15 sale.

16 B. The director shall promulgate rules to implement  
17 the provisions of this section, including the form for  
18 cooperative agreements."

19 SECTION 9. Section 60-8A-1 NMSA 1978 (being Laws 1981,  
20 Chapter 39, Section 60) is amended to read:

21 "60-8A-1. UNFAIR COMPETITION--EXCLUSIVE OUTLET--TIED  
22 HOUSE--CONSIGNMENT SALES.--It is unlawful for [~~any~~] an  
23 importer, manufacturer, nonresident licensee or any kind or  
24 class of wholesaler, directly or indirectly, or through an  
25 affiliate:

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1           A. to require by agreement or otherwise that [~~any~~]  
2 a wholesaler, retailer, dispenser, canopy licensee, restaurant  
3 licensee, club licensee or governmental licensee or its lessee  
4 engaged in the sale of alcoholic beverages in the state  
5 purchase alcoholic beverages from [~~such~~] that person to the  
6 exclusion in whole or in part of alcoholic beverages sold or  
7 offered for sale by other persons;

8           B. to induce through any of the following means,  
9 [~~any~~] a wholesaler, retailer, dispenser, canopy licensee,  
10 restaurant licensee, club licensee or governmental licensee or  
11 its lessee engaged in the sale of any kind or class of  
12 alcoholic beverages to purchase alcoholic beverages from [~~such~~]  
13 that person to the exclusion in whole or in part of alcoholic  
14 beverages sold or offered for sale by other persons:

15                   (1) by acquiring or holding, after the  
16 expiration of [~~any~~] an existing license, [~~any~~] an interest in  
17 [~~any~~] a license with respect to the premises of the wholesaler,  
18 retailer, dispenser, canopy licensee, restaurant licensee, club  
19 licensee or governmental licensee or its lessee;

20                   (2) by acquiring [~~any~~] an interest in [~~any~~]  
21 real or personal property owned, occupied or used by [~~any~~] a  
22 wholesaler, retailer, dispenser, restaurant licensee or club  
23 licensee in the conduct of the buying wholesaler's, retailer's,  
24 dispenser's, canopy licensee's, restaurant licensee's, club  
25 licensee's or governmental licensee's or its lessee's business,

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1 subject to [~~such~~] exceptions [~~as~~] that the director [~~shall~~] may  
2 prescribe, having due regard [~~to~~] for the free flow of  
3 commerce, the purposes of this subsection and established trade  
4 customs not contrary to the public interest;

5 (3) by furnishing, giving, renting, lending or  
6 selling to [~~any~~] a wholesaler, retailer, dispenser, canopy  
7 licensee, restaurant licensee, club licensee or governmental  
8 licensee or its lessee [~~any~~] equipment, fixtures, signs,  
9 supplies, money, services or other thing of value, subject to  
10 [~~such~~] exceptions [~~as~~] that the director [~~shall~~] may by  
11 regulation prescribe, having due regard for public health and  
12 welfare, the quantity and value of the articles involved and  
13 established trade customs not contrary to the public interest  
14 and the purposes of this subsection;

15 (4) by paying or crediting the wholesaler,  
16 retailer, dispenser, canopy licensee, restaurant licensee, club  
17 licensee or governmental licensee or its lessee for [~~any~~]  
18 advertising, display or distribution services;

19 (5) by requiring [~~any~~] a wholesaler, retailer,  
20 dispenser, canopy licensee, restaurant licensee, club licensee  
21 or governmental licensee or its lessee to take and dispose of a  
22 certain quota or combination of alcoholic beverages; or

23 (6) by commercial bribery by offering or  
24 giving [~~any~~] a bonus, premium or compensation to [~~any~~] an  
25 officer, employee, agent or representative of [~~any~~] a

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1 wholesaler, retailer, dispenser, canopy licensee, restaurant  
2 licensee, club licensee or governmental licensee or its lessee;  
3 or

4 C. to sell, offer for sale or contract to sell to  
5 [~~any~~] a retailer, dispenser, canopy licensee, restaurant  
6 licensee, club licensee or governmental licensee or its lessee  
7 [~~any~~] alcoholic beverages of any kind or class on consignment  
8 or under a conditional sale or on [~~any~~] a basis other than a  
9 bona fide sale; provided that this subsection shall not apply  
10 to transactions involving solely the bona fide return of  
11 merchandise for ordinary and usual commercial reasons arising  
12 after the merchandise has been sold, including a return of  
13 merchandise that is damaged, at or near spoilage or otherwise  
14 unfit for consumption."

15 SECTION 10. REPEAL.--Laws 2001, Chapter 248, Section 2  
16 is repealed.

17 SECTION 11. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2015.