

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 182

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO ALCOHOL; AMENDING A SECTION OF THE LIQUOR CONTROL
ACT TO REDUCE THE PENALTY FOR SERVING ALCOHOLIC BEVERAGES TO
MINORS; CHANGING THE KNOWLEDGE REQUIREMENT FOR PROVIDING
ALCOHOL TO MINORS.

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, as amended) is amended to read:

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

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

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1 this section, to:

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

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

7 (3) deliver alcoholic beverages to a minor; 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 Act,
11 as provided in Subsection A or C of this section, when:

12 (1) a parent, legal guardian or adult spouse
13 of a minor serves alcoholic beverages to that minor on real
14 property, other than licensed premises, under the control of
15 the parent, legal guardian or adult spouse; or

16 (2) alcoholic beverages are used in the
17 practice of religious beliefs.

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

22 D. When a person other than a minor procures
23 another person to sell, serve or deliver alcoholic beverages to
24 a minor by actual or constructive misrepresentation of facts or
25 concealment of facts calculated to cause the person selling,

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1 serving or delivering the alcoholic beverages to the minor to
 2 believe that the minor is legally entitled to be sold, served
 3 or delivered alcoholic beverages, and actually deceives that
 4 person by that misrepresentation or concealment, then the
 5 procurer and not the person deceived shall have violated the
 6 provisions of the Liquor Control Act.

7 E. As used in the Liquor Control Act, "minor" means
 8 a person under twenty-one years of age.

9 F. In addition to the penalties provided in Section
 10 60-6C-1 NMSA 1978, a violation of the provisions of Subsection
 11 A of this section is:

12 (1) a fourth degree felony for an offender,
 13 other than a server, who shall be sentenced pursuant to Section
 14 31-18-15 NMSA 1978;

15 (2) a petty misdemeanor for a first violation
 16 if the offender is a server, who shall be sentenced pursuant to
 17 the provisions of Section 31-19-1 NMSA 1978;

18 (3) a misdemeanor for a second violation if
 19 the offender is a server, who shall be sentenced pursuant to
 20 the provisions of Section 31-19-1 NMSA 1978; and

21 (4) a fourth degree felony for a third or
 22 subsequent violation if the offender is a server, [~~and the~~
 23 offender] who shall be sentenced pursuant to the provisions of
 24 Section 31-18-15 NMSA 1978.

25 G. A violation of the provisions of Subsection C of
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1 this section is a misdemeanor and the offender shall be
2 punished as follows:

3 (1) for a first violation, the offender shall
4 be:

5 (a) fined an amount not more than one
6 thousand dollars (\$1,000); and

7 (b) ordered by the sentencing court to
8 perform thirty hours of community service related to reducing
9 the incidence of driving while under the influence of
10 intoxicating liquor;

11 (2) for a second violation, the offender
12 shall:

13 (a) be fined an amount not more than one
14 thousand dollars (\$1,000);

15 (b) be ordered by the sentencing court
16 to perform forty hours of community service related to reducing
17 the incidence of driving while under the influence of
18 intoxicating liquor; and

19 (c) have ~~[his]~~ the offender's driver's
20 license suspended for a period of ninety days. If the minor is
21 too young to possess a driver's license at the time of the
22 violation, then ninety days shall be added to the date ~~[he]~~ the
23 offender would otherwise become eligible to obtain a driver's
24 license; and

25 (3) for a third or subsequent violation, the

1 offender shall:

2 (a) be fined an amount not more than one
3 thousand dollars (\$1,000);

4 (b) be ordered by the sentencing court
5 to perform sixty hours of community service related to reducing
6 the incidence of driving while under the influence of
7 intoxicating liquor; and

8 (c) have ~~[his]~~ the offender's driver's
9 license suspended for a period of two years or until the
10 offender reaches twenty-one years of age, whichever period of
11 time is greater.

12 H. A violation of the provisions of Subsection D of
13 this section is a fourth degree felony and the offender shall
14 be sentenced pursuant to the provisions of Section 31-18-15
15 NMSA 1978."

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