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AN ACT
RELATING TO LIQUOR CONTROL; AMENDING AND ENACTING SECTIONS OF
THE LIQUOR CONTROL ACT TO PERMIT CERTAIN PERSONS TO DELIVER
ALCOHOLIC BEVERAGES; ADDING A NEW TYPE OF RESTAURANT LICENSE
THAT ALLOWS SALE OF ALCOHOLIC BEVERAGES IN RESTAURANTS;
IMPOSING LICENSE ISSUANCE FEES; PROVIDING DEDUCTIONS FROM THE
INCOME TAX, CORPORATE INCOME TAX AND GROSS RECEIPTS TAX FOR
CERTAIN LICENSE HOLDERS; ALLOWING DISPENSER'S LICENSES TO BE
TRANSFERRED OUT OF A LOCAL OPTION DISTRICT INTACT.

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

SECTION 1. A new section of the Income Tax Act is
enacted to read:

"DEDUCTION--INCOME FROM LEASING A LIQUOR LICENSE.--

A. Prior to January 1, 2026, a taxpayer who is a
liquor license lessor and who held the license on June 30,
2021 may claim a deduction from net income in an amount equal
to the gross receipts from sales of alcoholic beverages made
by each liquor license lessee in an amount, if the liquor
license is a dispenser's license and sales of alcoholic
beverages for consumption off premises are less than fifty
percent of total alcoholic beverage sales, not to exceed
fifty thousand dollars (\$50,000) for each of four taxable
years.

B. Married individuals filing separate returns for

1 a taxable year for which they could have filed a joint return
2 may each claim only one-half of a deduction provided by this
3 section that would have been claimed on a joint return.

4 C. A taxpayer may claim the deduction provided by
5 this section in proportion to the taxpayer's ownership
6 interest if the taxpayer owns an interest in a business
7 entity that is taxed for federal income tax purposes as a
8 partnership or limited liability company and that business
9 entity has met all of the requirements to be eligible for the
10 deduction. The total deduction claimed in the aggregate by
11 all members of the partnership or association with respect to
12 the deduction shall not exceed the amount of the deduction
13 that could have been claimed by a sole owner of the business.

14 D. A taxpayer allowed a deduction pursuant to this
15 section shall report the amount of the deduction to the
16 department in a manner required by the department.

17 E. The department shall compile an annual report
18 on the deduction provided by this section that shall include
19 the number of taxpayers that claimed the deduction, the
20 aggregate amount of deductions claimed and any other
21 information necessary to evaluate the cost of the deduction.
22 The department shall provide the report to the revenue
23 stabilization and tax policy committee and the legislative
24 finance committee with an analysis of the cost of the
25 deduction.

1 F. As used in this section:

2 (1) "alcoholic beverage" means alcoholic
3 beverage as defined in the Liquor Control Act;

4 (2) "dispenser's license" means a license
5 issued pursuant to the provisions of the Liquor Control Act
6 allowing the licensee to sell, offer for sale or have in the
7 person's possession with the intent to sell alcoholic
8 beverages both by the drink for consumption on the licensed
9 premises and in unbroken packages, including growlers, for
10 consumption and not for resale off the licensed premises;

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

15 (4) "liquor license" means a dispenser's
16 license issued pursuant to Section 60-6A-3 NMSA 1978 or a
17 dispenser's license issued pursuant to Section 60-6A-12 NMSA
18 1978 issued prior to July 1, 2021;

19 (5) "liquor license lessee" means a person
20 that leases a liquor license from a liquor license lessor;
21 and

22 (6) "liquor license lessor" means a person
23 that leases a liquor license to a third party."

24 SECTION 2. A new section of the Corporate Income and
25 Franchise Tax Act is enacted to read:

1 "DEDUCTION--INCOME FROM LEASING A LIQUOR LICENSE.--

2 A. Prior to January 1, 2026, a taxpayer that is a
3 liquor license lessor and that held the license on June 30,
4 2021 may claim a deduction from taxable income in an amount
5 equal to the gross receipts from sales of alcoholic beverages
6 made by each liquor license lessee in an amount, if the
7 liquor license is a dispenser's license and sales of
8 alcoholic beverages for consumption off premises are less
9 than fifty percent of total alcoholic beverage sales, not to
10 exceed fifty thousand dollars (\$50,000) for each of four
11 taxable years.

12 B. A taxpayer allowed a deduction pursuant to this
13 section shall report the amount of the deduction to the
14 department in a manner required by the department.

15 C. The department shall compile an annual report
16 on the deduction provided by this section that shall include
17 the number of taxpayers that claimed the deduction, the
18 aggregate amount of deductions claimed and any other
19 information necessary to evaluate the cost of the deduction.
20 The department shall provide the report to the revenue
21 stabilization and tax policy committee and the legislative
22 finance committee with an analysis of the cost of the
23 deduction.

24 D. As used in this section:

25 (1) "alcoholic beverage" means alcoholic

1 beverage as defined in the Liquor Control Act;

2 (2) "dispenser's license" means a license
3 issued pursuant to the provisions of the Liquor Control Act
4 allowing the licensee to sell, offer for sale or have in the
5 person's possession with the intent to sell alcoholic
6 beverages both by the drink for consumption on the licensed
7 premises and in unbroken packages, including growlers, for
8 consumption and not for resale off the licensed premises;

9 (3) "growler" means a clean, refillable,
10 resealable container that has a liquid capacity that does not
11 exceed one gallon and that is intended and used for the sale
12 of beer, wine or cider;

13 (4) "liquor license" means a dispenser's
14 license issued pursuant to Section 60-6A-3 NMSA 1978 or a
15 dispenser's license issued pursuant to Section 60-6A-12 NMSA
16 1978 issued prior to July 1, 2021;

17 (5) "liquor license lessee" means a person
18 that leases a liquor license from a liquor license lessor;
19 and

20 (6) "liquor license lessor" means a person
21 that leases a liquor license to a third party."

22 **SECTION 3.** A new section of the Gross Receipts and
23 Compensating Tax Act is enacted to read:

24 "DEDUCTION--SALES MADE BY DISPENSER'S LICENSE HOLDER.--

25 A. Prior to January 1, 2026, a liquor license

1 holder who held the license on June 30, 2021 may deduct from
2 gross receipts the following receipts, for each dispenser's
3 license for which sales of alcoholic beverages for
4 consumption off premises are less than fifty percent of total
5 alcoholic beverage sales, up to fifty thousand dollars
6 (\$50,000) of receipts from the sale of alcoholic beverages
7 for taxable years 2022 through 2025.

8 B. A taxpayer allowed a deduction pursuant to this
9 section shall report the amount of the deduction separately
10 in a manner required by the department.

11 C. The department shall compile an annual report
12 on the deduction provided by this section that shall include
13 the number of taxpayers that claimed the deduction, the
14 aggregate amount of deductions claimed and any other
15 information necessary to evaluate the effectiveness of the
16 deduction. The department shall compile and present the
17 report to the revenue stabilization and tax policy committee
18 and the legislative finance committee with an analysis of the
19 cost of the deduction.

20 D. As used in this section:

21 (1) "alcoholic beverage" means alcoholic
22 beverage as defined in the Liquor Control Act;

23 (2) "dispenser's license" means a license
24 issued pursuant to the provisions of the Liquor Control Act
25 allowing the licensee to sell, offer for sale or have in the

1 person's possession with the intent to sell alcoholic
2 beverages both by the drink for consumption on the licensed
3 premises and in unbroken packages, including growlers, for
4 consumption and not for resale off the licensed premises;

5 (3) "growler" means a clean, refillable,
6 resealable container that has a liquid capacity that does not
7 exceed one gallon and that is intended and used for the sale
8 of beer, wine or cider; and

9 (4) "liquor license holder" means a person
10 that holds a retailer's license issued pursuant to Section
11 60-6A-2 NMSA 1978, a dispenser's license issued pursuant to
12 Section 60-6A-3 NMSA 1978 or a dispenser's license issued
13 pursuant to Section 60-6A-12 NMSA 1978 issued prior to July
14 1, 2021."

15 SECTION 4. A new section of the Liquor Control Act is
16 enacted to read:

17 "ALCOHOLIC BEVERAGE DELIVERY PERMIT--THIRD-PARTY
18 DELIVERY LICENSE.--

19 A. A person otherwise qualified pursuant to the
20 provisions of the Liquor Control Act may apply for and the
21 department may issue an alcoholic beverage delivery permit
22 authorizing the person to deliver alcoholic beverages if the
23 applicant holds a valid retailer's, dispenser's, craft
24 distiller's, winegrower's, small brewer's or restaurant
25 license; provided, however, that if the licensed premises has

1 indoor retail space greater than ten thousand square feet in
2 size and is located within a class A county, the department
3 may issue an alcoholic beverage delivery permit if:

4 (1) the license holder uses an
5 identification verification system that meets the
6 department's requirements to establish that the
7 identification of the purchaser was checked, scanned and
8 stored for each delivery transaction;

9 (2) no spirituous liquors are included in
10 deliveries of alcoholic beverages;

11 (3) the liquor liability endorsement
12 required pursuant to Paragraph (2) of Subsection H of this
13 section is in an amount of not less than five million dollars
14 (\$5,000,000); and

15 (4) deliveries of alcoholic beverages are
16 not made using a third-party alcohol delivery service
17 pursuant to Subsection G of this section.

18 B. An alcoholic beverage delivery permit issued to
19 a valid restaurant licensee shall only convey the authority
20 to deliver alcoholic beverages concurrently with the delivery
21 of a minimum of ten dollars (\$10.00) worth of food; provided
22 that under no circumstances shall the delivery of alcoholic
23 beverages be more than seven hundred fifty milliliters of
24 wine, six twelve-ounce containers of prepackaged wine, beer,
25 cider or spirituous liquors or one locally produced growler.

1 C. An alcoholic beverage delivery permit is not
2 transferable from person to person or from one location to
3 another.

4 D. An alcoholic beverage delivery permit issued
5 pursuant to this section is valid for one year from the date
6 of issuance. An alcoholic beverage delivery permittee may
7 renew an alcoholic beverage delivery permit annually as
8 required by the department.

9 E. The director shall promulgate rules to
10 implement the provisions of this section, which shall include
11 the following requirements and restrictions:

12 (1) an alcoholic beverage delivery permittee
13 shall deliver alcoholic beverages only in unbroken packages
14 or growlers;

15 (2) payment for alcoholic beverages shall be
16 received only at the licensed premises of the selling
17 licensee personally or by other means, including
18 telephonically, electronically, via website, application or
19 internet platform;

20 (3) a licensee shall not change the price
21 charged for an alcoholic beverage because that beverage is
22 purchased for delivery; provided that a separate fee may be
23 charged for delivery; and further provided that the fee shall
24 be disclosed to the customer at the time of the purchase;

25 (4) deliveries of alcoholic beverages shall

1 occur only during the hours the selling licensee is
2 authorized to sell alcoholic beverages;

3 (5) an alcoholic beverage delivery permittee
4 shall not deliver an alcoholic beverage to a business, a
5 commercial establishment, a college or university campus or a
6 school campus that is not a home school;

7 (6) an alcoholic beverage delivery permittee
8 delivering alcoholic beverages shall obtain valid proof of
9 the recipient's identity and age;

10 (7) deliveries of alcoholic beverages shall
11 not be made to an intoxicated person in violation of Section
12 60-7A-16 NMSA 1978 or to a minor in violation of Section
13 60-7B-1 NMSA 1978;

14 (8) while delivering alcoholic beverages, an
15 alcoholic beverage delivery permittee shall have in the
16 permittee's possession only alcoholic beverages that have
17 been purchased for delivery; and

18 (9) while delivering alcoholic beverages, an
19 alcoholic beverage delivery permittee shall have in the
20 permittee's possession the original or an electronic or
21 physical copy of the permittee's alcoholic beverage delivery
22 permit.

23 F. A licensee that holds an alcoholic beverage
24 delivery permit issued pursuant to this section may utilize
25 an employee who is at least twenty-one years of age and who

1 holds a valid server permit to deliver alcoholic beverages.

2 G. A licensee that holds an alcoholic beverage
3 delivery permit issued pursuant to this section may contract
4 with a third-party alcohol delivery service licensed by the
5 department; provided that the licensee, the third-party
6 alcohol delivery service and the server who delivers alcohol
7 may be separately liable for violations of the Liquor Control
8 Act, including for the delivery of alcohol to an intoxicated
9 person or to a minor.

10 H. The department, by rule, shall create a third-
11 party alcohol delivery permit and, at a minimum, condition
12 the issuance of a third-party alcohol delivery permit on:

13 (1) requiring that all delivery employees or
14 independent contractors of the third-party alcohol delivery
15 service hold a valid New Mexico alcohol server permit; and

16 (2) requiring proof of general liability
17 insurance coverage with a liquor liability endorsement in an
18 amount not less than one million dollars (\$1,000,000) per
19 occurrence, which endorsement shall provide coverage for
20 employees or independent contractors of the third-party
21 alcohol delivery service.

22 I. A person, company or licensee that wishes to
23 deliver retail sales of alcohol in New Mexico on behalf of
24 valid retailer's, dispenser's, craft distiller's,
25 winegrower's, small brewer's or restaurant licensees that

1 also hold a valid alcoholic beverage delivery permit shall
2 obtain a third-party alcohol delivery license from the
3 department.

4 J. An applicant for a third-party alcohol delivery
5 license is required to be authorized to do business in this
6 state, may not share in the profits of the sale of alcohol
7 with a licensee and may only charge a delivery fee that is
8 disclosed to the buyer at the time of sale.

9 K. A third-party alcohol delivery licensee shall
10 not have the ability to buy, hold or deliver alcohol under
11 its own license but to only allow for delivery of alcohol
12 from a licensed premises and from a qualified licensee with a
13 valid alcoholic beverage delivery permit to the buyer.

14 L. A third-party alcohol delivery licensee shall
15 be independently liable for the delivery of alcoholic
16 beverages to an intoxicated person or to a minor or for any
17 violation of the Liquor Control Act and be subject to
18 suspension, revocation or administrative fine pursuant to
19 Sections 60-6C-1 through 60-6C-6 NMSA 1978.

20 M. A third-party alcohol delivery license shall be
21 valid for one year, and may be renewed."

22 SECTION 5. Section 60-3A-3 NMSA 1978 (being Laws 1981,
23 Chapter 39, Section 3, as amended by Laws 2019, Chapter 29,
24 Section 2 and by Laws 2019, Chapter 229, Section 3) is
25 amended to read:

1 "60-3A-3. DEFINITIONS.--As used in the Liquor Control
2 Act:

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

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

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

17 D. "cider" means an alcoholic beverage made from
18 the normal alcoholic fermentation of the juice of sound, ripe
19 apples or pears that contains not less than one-half of one
20 percent alcohol by volume and not more than eight and one-
21 half percent alcohol by volume;

22 E. "club" means:

23 (1) any nonprofit group, including an
24 auxiliary or subsidiary group, organized and operated under
25 the laws of this state, with a membership of not less than

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

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

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

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

1 F. "commission" means the secretary of public
2 safety when the term is used in reference to the enforcement
3 and investigatory provisions of the Liquor Control Act and
4 means the superintendent of regulation and licensing when the
5 term is used in reference to the licensing provisions of the
6 Liquor Control Act;

7 G. "department" means the New Mexico state police
8 division of the department of public safety when the term is
9 used in reference to the enforcement and investigatory
10 provisions of the Liquor Control Act and means the director
11 of the alcoholic beverage control division of the regulation
12 and licensing department when the term is used in reference
13 to the licensing provisions of the Liquor Control Act;

14 H. "director" means the chief of the New Mexico
15 state police division of the department of public safety when
16 the term is used in reference to the enforcement and
17 investigatory provisions of the Liquor Control Act and means
18 the director of the alcoholic beverage control division of
19 the regulation and licensing department when the term is used
20 in reference to the licensing provisions of the Liquor
21 Control Act;

22 I. "dispenser" means a person licensed under the
23 provisions of the Liquor Control Act selling, offering for
24 sale or having in the person's possession with the intent to
25 sell alcoholic beverages both by the drink for consumption on

1 the licensed premises and in unbroken packages, including
2 locally produced growlers, for consumption and not for resale
3 off the licensed premises;

4 J. "distiller" means a person engaged in
5 manufacturing spirituous liquors;

6 K. "golf course" means a tract of land and
7 facilities used for playing golf and other recreational
8 activities that includes tees, fairways, greens, hazards,
9 putting greens, driving ranges, recreational facilities,
10 patios, restaurants, banquet halls, pro shops, cart paths and
11 public and private roads that are located within the tract of
12 land;

13 L. "governing body" means the board of county
14 commissioners of a county or the city council or city
15 commissioners of a municipality;

16 M. "growler" means a clean, refillable, resealable
17 container that has a liquid capacity that does not exceed one
18 gallon and that is intended and used for the sale of New
19 Mexico-produced beer, wine or cider for consumption off
20 premises;

21 N. "hotel" means an establishment or complex
22 having a resident of New Mexico as a proprietor or manager
23 and where, in consideration of payment, food and lodging are
24 regularly furnished to the general public. The establishment
25 or complex must maintain for the use of its guests a minimum

1 of twenty-five sleeping rooms;

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

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

1 public consumption of alcoholic beverages under the terms of
2 the Liquor Control Act or any former act;

3 Q. "manufacturer" means a distiller, rectifier,
4 brewer or winer;

5 R. "minor" means a natural person under twenty-one
6 years of age;

7 S. "package" means a container of alcoholic
8 beverages that is filled or packed by a manufacturer or wine
9 bottler for sale by the manufacturer or wine bottler to
10 wholesalers;

11 T. "person" means an individual, corporation,
12 firm, partnership, copartnership, association or other legal
13 entity;

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

19 V. "restaurant" means an establishment having a
20 New Mexico resident as a proprietor or manager that is held
21 out to the public as a place where food is prepared and
22 served primarily for on-premises consumption to the general
23 public in consideration of payment and that has a dining
24 room, a kitchen and the employees necessary for preparing,
25 cooking and serving food; provided that "restaurant" does not

1 include establishments as defined in rules promulgated by the
2 director serving only hamburgers, sandwiches, salads and
3 other fast foods;

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

10 X. "ski area" means a tract of land and facilities
11 for the primary purpose of alpine skiing, snowboarding or
12 other snow sports with trails, parks and at least one
13 chairlift with uphill capacity and may include facilities
14 necessary for other seasonal or year-round recreational
15 activities;

16 Y. "spirituous liquors" means alcoholic beverages
17 as defined in Subsection A of this section except fermented
18 beverages such as wine, beer and cider;

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

23 AA. "wine" means alcoholic beverages obtained by
24 the fermentation of the natural sugar contained in fruit or
25 other agricultural products, with or without the addition of

1 sugar or other products, that do not contain less than one-
2 half percent nor more than twenty-one percent alcohol by
3 volume;

4 BB. "wine bottler" means a wholesaler who is
5 licensed to sell wine at wholesale for resale only and who
6 buys wine in bulk and bottles it for wholesale resale;

7 CC. "winegrower" means a person who owns or
8 operates a business for the manufacture of wine or cider;

9 DD. "winer" means a winegrower; and

10 EE. "winery" means a licensed premises in which a
11 winegrower manufactures and stores wine or cider."

12 SECTION 6. A new section of the Liquor Control Act,
13 Section 60-3A-13 NMSA 1978, is enacted to read:

14 "60-3A-13. PROHIBITED SALE OF CERTAIN SPIRITUOUS
15 LIQUORS.--A liquor license holder shall not sell for
16 consumption off premises closed containers containing fewer
17 than three fluid ounces of spirituous liquors."

18 SECTION 7. Section 60-6A-2 NMSA 1978 (being Laws 1981,
19 Chapter 39, Section 19) is amended to read:

20 "60-6A-2. RETAILER'S LICENSE.--

21 A. In any local option district, a person
22 qualified under the provisions of the Liquor Control Act may
23 apply for and be issued a retailer's license for the retail
24 sale of alcoholic beverages.

25 B. A retailer's license, when issued, shall only

1 be used by the person to whom the license is issued and shall
2 only be used within the licensed premises, pursuant to
3 provisions of the Liquor Control Act.

4 C. In any local option district within a class B
5 county having a population of between fifty-six thousand and
6 fifty-seven thousand according to the 1980 federal decennial
7 census, a person with a retailer's or dispenser's license
8 that sells retail gasoline on the premises shall not sell
9 alcoholic beverages other than beer with less than ten
10 percent alcohol by volume."

11 SECTION 8. Section 60-6A-3 NMSA 1978 (being Laws 1981,
12 Chapter 39, Section 20) is amended to read:

13 "60-6A-3. DISPENSER'S LICENSE.--

14 A. In any local option district, a person
15 qualified under the provisions of the Liquor Control Act may
16 apply for and be issued a dispenser's license for the sale of
17 alcoholic beverages.

18 B. A dispenser's license, when issued, shall only
19 be used by the person to whom the license is issued and shall
20 only be used within the licensed premises, pursuant to
21 provisions of the Liquor Control Act.

22 C. In any local option district within a class B
23 county having a population of between fifty-six thousand and
24 fifty-seven thousand according to the 1980 federal decennial
25 census, a person with a dispenser's license that sells retail

1 gasoline on the premises shall not sell alcoholic beverages
2 other than beer with less than ten percent alcohol by
3 volume."

4 SECTION 9. Section 60-6A-4 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 21, as amended) is amended to read:

6 "60-6A-4. RESTAURANT LICENSE.--

7 A. A local option district may approve the
8 issuance of restaurant licenses for the sale of beer and wine
9 by holding an election on that question pursuant to the
10 procedures set out in Section 60-5A-1 NMSA 1978. The
11 election also may be initiated by a resolution adopted by the
12 governing body of the local option district without a
13 petition from qualified electors having been submitted.

14 B. A local option district that has approved the
15 issuance of restaurant licenses for the sale of beer and wine
16 is deemed to have approved the issuance of restaurant
17 licenses for the sale of beer, wine and spirituous liquors in
18 restaurants unless the local option district affirmatively
19 adopts an ordinance prohibiting such licenses, except that a
20 local option district within a class B county having a
21 population of between fifty-six thousand and fifty-seven
22 thousand according to the 1980 federal decennial census that
23 has approved the issuance of restaurant licenses for the sale
24 of beer and wine is deemed not to have approved the issuance
25 of restaurant licenses for the sale of beer, wine and

1 spirituous liquors in restaurants unless the local option
2 district affirmatively adopts an ordinance approving such
3 licenses.

4 C. A restaurant license issued or renewed on or
5 after July 1, 2021 that permits the sale and service of beer
6 and wine only shall be designated a restaurant A license.
7 The license shall be issued in accordance with the provisions
8 of this section and rules adopted by the department.

9 D. A restaurant license issued on or after July 1,
10 2021 that permits the sale and service of beer, wine and
11 spirituous liquors shall be designated a restaurant B
12 license. The license shall be issued in accordance with the
13 provisions of this section and rules adopted by the
14 department.

15 E. After the approval of restaurant licenses by
16 the qualified electors of the local option district for the
17 sale of beer and wine and upon completion of all requirements
18 in the Liquor Control Act for the issuance of licenses, a
19 restaurant located or to be located within the local option
20 district may receive a restaurant A license to sell, serve or
21 allow the consumption of beer and wine subject to the
22 following requirements and restrictions:

23 (1) the applicant shall submit evidence to
24 the department that the applicant has a current valid food
25 service establishment permit;

1 (2) the applicant shall satisfy the director
2 that the primary source of revenue from the operation of the
3 restaurant will be derived from food and not from the sale of
4 beer and wine;

5 (3) the director shall condition renewal
6 upon a requirement that no less than sixty percent of gross
7 receipts from the preceding twelve months' operation of the
8 licensed restaurant was derived from the sale of food;

9 (4) upon application for renewal, the
10 licensee shall submit an annual report to the director
11 indicating the annual gross receipts from the sale of food
12 and from beer and wine sales;

13 (5) all sales, services and consumption of
14 beer and wine authorized by a restaurant A license shall
15 cease at the time food sales and services cease or at 11:00
16 p.m., whichever time is earlier;

17 (6) if Sunday sales have been approved in
18 the local option district, a restaurant licensee may serve
19 beer and wine on Sundays until the time meal sales and
20 services cease or 11:00 p.m., whichever time is earlier; and

21 (7) a restaurant A license shall not be
22 transferable from person to person but shall be transferable
23 from one location to another location within the same local
24 option district.

25 F. Upon completion of all requirements in the

1 Liquor Control Act for the issuance of licenses on and after
2 July 1, 2021, and barring the adoption of an opt-out
3 ordinance by the governing body of a local option district, a
4 restaurant located or to be located within the local option
5 district may receive a restaurant B license to sell, serve or
6 allow the consumption of beer, wine and spirituous liquors
7 subject to the following requirements and restrictions:

8 (1) the applicant shall submit evidence to
9 the department that the applicant has a current valid food
10 service establishment permit;

11 (2) the applicant shall satisfy the director
12 that the primary source of revenue from the operation of the
13 restaurant will be derived from the sale of food and not from
14 the sale of beer, wine and spirituous liquors;

15 (3) the director shall condition renewal
16 upon a requirement that no less than sixty percent of gross
17 receipts from the preceding twelve months' operation of the
18 licensed restaurant was derived from the sale of food;

19 (4) upon application for renewal, the
20 licensee shall submit an annual report to the director
21 indicating the annual gross receipts from the sale of food
22 and from beer, wine and spirituous liquors sales;

23 (5) all sales, service and consumption of
24 beer, wine and spirituous liquors authorized by a restaurant
25 B license shall cease at the time food sales and services

1 cease or at 11:00 p.m., whichever time is earlier;

2 (6) a restaurant B licensee shall serve a
3 single patron no more than three drinks containing not more
4 than one and one-half ounces of spirituous liquor during any
5 one visit to the restaurant;

6 (7) if Sunday sales have been approved in
7 the local option district, a restaurant B licensee may serve
8 beer, wine and spirituous liquors on Sundays until the time
9 meal sales and services cease or 11:00 p.m., whichever time
10 is earlier; and

11 (8) a restaurant B license shall not be
12 transferable from person to person but shall be transferable
13 from one location to another location within the same local
14 option district.

15 G. The provisions of Section 60-6A-18 NMSA 1978
16 shall not apply to restaurant licenses.

17 H. Nothing in this section shall prevent a
18 restaurant licensee from receiving other licenses pursuant to
19 the Liquor Control Act.

20 I. A person that has held a restaurant A license
21 in good standing for a period of at least twelve consecutive
22 months shall, upon payment of a fee of five hundred dollars
23 (\$500), be entitled to a restaurant A New Mexico spirituous
24 liquors permit. In addition to being permitted to sell and
25 serve beer and wine as authorized by a restaurant A license,

1 the restaurant A New Mexico spirituous liquors permit shall
2 entitle the licensee to also sell and serve spirituous
3 liquors produced or bottled by or for a craft distiller
4 pursuant to Section 60-6A-6.1 NMSA 1978."

5 SECTION 10. Section 60-6A-6.1 NMSA 1978 (being Laws
6 2011, Chapter 110, Section 3, as amended) is amended to read:

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

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

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

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

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

25 (b) the manufacture of no less than

1 five hundred proof gallons of spirituous liquors per license
2 year at the licensee's premises; and

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

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

13 (4) the provisions of Section 60-6A-18 NMSA
14 1978 shall not apply to a craft distiller's license; and

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

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

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

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

25 (3) sell only spirituous liquors that are

1 packaged by or for the craft distiller to a person holding a
2 wholesaler's license, a craft distiller's license, a
3 manufacturer's license, a small brewer's license or a
4 winegrower's license;

5 (4) deal in warehouse receipts for
6 spirituous liquors;

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

11 (6) buy or otherwise obtain beer from a
12 small brewer or wine or cider from a winegrower for the
13 purposes described in this subsection;

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

16 (8) conduct spirituous liquor, wine, cider
17 or beer tastings and sell, by the glass or by the bottle, or
18 in unbroken packages for consumption off the premises but not
19 for resale, spirituous liquors of the craft distiller's own
20 production or spirituous liquors produced by another New
21 Mexico craft distiller or New Mexico manufacturer on the
22 craft distiller's premises, wine or cider produced by a
23 winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer
24 produced and bottled by or for a small brewer pursuant to
25 Section 60-6A-26.1 NMSA 1978; and

1 (9) at no more than three other locations
2 off the craft distiller's premises, after the craft distiller
3 has paid the applicable fee for a craft distiller's off-
4 premises permit, after the director has determined that the
5 off-premises locations meet the requirements of the Liquor
6 Control Act and department rules for new liquor license
7 locations and after the director has issued a craft
8 distiller's off-premises permit for each off-premises
9 location, conduct spirituous liquor, wine, cider or beer
10 tastings and sell by the glass, or in unbroken packages for
11 consumption and not for resale, spirituous liquors produced
12 and bottled by or for the craft distiller or spirituous
13 liquors produced and bottled by or for another New Mexico
14 craft distiller or manufacturer, wine or cider produced by a
15 winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer
16 produced and bottled by or for a small brewer pursuant to
17 Section 60-6A-26.1 NMSA 1978.

18 C. For a public or private celebration on or off
19 the craft distiller's premises in any local option district
20 permitting the sale of alcoholic beverages, a craft distiller
21 shall pay ten dollars (\$10.00) to the department for a "craft
22 distiller's public celebration permit" or a "craft
23 distiller's private celebration permit" to be issued under
24 rules adopted by the director. Upon request, the department
25 may issue to a craft distiller a public celebration permit

1 for a location at the public celebration that is to be shared
2 with other craft distillers, small brewers and winegrowers.

3 D. At private celebrations on or off the craft
4 distiller's premises after the craft distiller has paid the
5 applicable fees and been issued the appropriate permit, the
6 craft distiller may sell by the glass spirituous liquors
7 produced by or for the craft distiller, wine or cider
8 produced by a winegrower pursuant to Section 60-6A-11 NMSA
9 1978 or beer produced and bottled by or for a small brewer
10 pursuant to Section 60-6A-26.1 NMSA 1978.

11 E. As used in this section:

12 (1) "private celebration" means any
13 celebratory activity that is held in a private or public
14 venue not open to the general public and for which attendance
15 is subject to private invitation; and

16 (2) "public celebration" includes any state
17 or county fair, community fiesta, cultural or artistic event,
18 sporting competition of a seasonal nature or activities held
19 on an intermittent basis."

20 SECTION 11. Section 60-6A-10 NMSA 1978 (being Laws
21 1981, Chapter 39, Section 27, as amended) is amended to read:

22 "60-6A-10. GOVERNMENTAL LICENSE.--

23 A. A governmental entity may sell alcoholic
24 beverages directly or through its lessee at a governmental
25 facility if the governing body applies to the director for a

1 governmental license. The governmental entity and its lessee
2 shall be subject to all state laws and regulations governing
3 dispensers.

4 B. A governmental license may be leased to a
5 qualified lessee and may only be used by the lessee for its
6 operation during events authorized by the governmental entity
7 at the governmental facility designated on the governmental
8 license. The governmental entity and its lessee shall not
9 sell alcoholic beverages for consumption off the licensed
10 premises. On the licensed premises of a governmental
11 facility, the sale or service of alcoholic beverages in
12 unbroken packages is allowed. Alcoholic beverages shall not
13 be removed from the licensed premises of a governmental
14 facility. A server as defined in Section 60-6E-3 NMSA 1978
15 is not required to be present in a suite to serve alcoholic
16 beverages to the person leasing the suite or the person's
17 guests.

18 C. A governmental entity holding a governmental
19 license shall annually and not less than sixty days prior to
20 the date for renewal of its license submit to the director
21 documentary proof that its lessee is fully qualified to be a
22 lessee of a governmental license. If the director finds that
23 the lessee is qualified to lease a governmental license, the
24 director shall renew the license for an additional period of
25 one year. If the director determines that the proof is

1 inadequate, the director shall notify the governing body of
2 the decision and shall conduct a hearing as provided by law.
3 If the director finds that the lessee does not qualify and
4 the governmental entity does not change its lessee, the
5 director shall revoke the license.

6 D. The provisions of Section 60-6A-18 NMSA 1978
7 shall not apply to governmental licenses.

8 E. For the purposes of this section:

9 (1) "governmental entity" means a
10 municipality, a county, a state fair that is held for less
11 than ten days per year, the state fair commission, a state
12 museum, a state university or the spaceport authority;

13 (2) "governmental facility" means locations
14 on property owned or operated by a governmental entity,
15 including county fairs; state fairs held for less than ten
16 days per year; convention centers; airports; civic centers;
17 food service facilities in state museums; auditoriums; all
18 facilities on the New Mexico state fairgrounds; facilities
19 used for athletic competitions; golf courses, including golf
20 courses required to be used for municipal purposes
21 notwithstanding that there may be an existing club license at
22 the same location operated by the same club licensee; other
23 facilities used for cultural or artistic performances; and
24 all spaceport authority facilities;

25 (3) "lessee" means an individual,

1 corporation, partnership, firm or association that fulfills
2 the requirements set forth in Subsections A through D of
3 Section 60-6B-2 NMSA 1978; and

4 (4) "suite" means a room or area of seating
5 at an event, separated from the general seating, leased to a
6 person for that person's exclusive use during events and at
7 any other time throughout the year.

8 F. The provisions of Section 60-6B-10 NMSA 1978,
9 with respect to golf courses owned by a governmental entity
10 and civic centers owned and operated by a governmental
11 entity, shall not apply to governmental licenses."

12 SECTION 12. Section 60-6A-11 NMSA 1978 (being Laws
13 1981, Chapter 39, Section 28, as amended) is amended to read:

14 "60-6A-11. WINEGROWER'S LICENSE.--

15 A. A person in this state who produces wine or
16 cider is exempt from the procurement of any other license
17 pursuant to the terms of the Liquor Control Act, but not from
18 the procurement of a winegrower's license. Except during
19 periods of shortage or reduced availability, at least fifty
20 percent of a winegrower's overall annual production of wine
21 shall be produced from grapes or other agricultural products
22 grown in this state pursuant to rules adopted by the
23 director; provided, however, that, for purposes of
24 determining annual production and compliance with the fifty
25 percent New Mexico grown provision of this subsection, the

1 calculation of a winegrower's overall annual production of
2 wine shall not include the winegrower's production of wine
3 for out-of-state wine producer license holders.

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

6 (1) manufacture or produce wine or cider,
7 including blending, mixing, flavoring, coloring, bottling and
8 labeling, whether the wine or cider is manufactured or
9 produced for a winegrower or an out-of-state wine producer
10 holding a permit issued pursuant to the Federal Alcohol
11 Administration Act and a valid license in a state that
12 authorizes the wine or cider producer to manufacture,
13 produce, store or sell wine or cider;

14 (2) store, transport, import or export wines
15 or ciders;

16 (3) sell wines or ciders to a holder of a
17 New Mexico winegrower's, wine wholesaler's, wholesaler's,
18 wine exporter's, craft distiller's or small brewer's license
19 or to a winegrower's agent;

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

23 (5) deal in warehouse receipts for wine or
24 cider;

25 (6) sell wines or ciders in other states or

1 foreign jurisdictions to the holders of a license issued
2 under the authority of that state or foreign jurisdiction
3 authorizing the purchase of wine or cider;

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

8 (8) buy or otherwise obtain beer from a
9 small brewer or spirituous liquor from a craft distiller for
10 the purposes described in this subsection;

11 (9) conduct wine, cider, beer or spirituous
12 liquor tastings and sell, by the glass or by the bottle, or
13 sell in unbroken packages for consumption off the premises,
14 but not for resale, wine or cider of the winegrower's own
15 production, wine or cider produced by another New Mexico
16 winegrower on the winegrower's premises, beer produced and
17 bottled by or for a small brewer pursuant to Section
18 60-6A-26.1 NMSA 1978 or spirituous liquor produced and
19 bottled by or for a craft distiller pursuant to Section
20 60-6A-6.1 NMSA 1978;

21 (10) at no more than three off-premises
22 locations, conduct wine, cider, beer or spirituous liquor
23 tastings, sell by the glass and sell in unbroken packages for
24 consumption off premises, but not for resale, wine or cider
25 of the winegrower's own production, wine or cider produced by

1 another New Mexico winegrower or beer produced and bottled by
2 or for a small brewer pursuant to Section 60-6A-26.1 NMSA
3 1978 or spirituous liquor produced and bottled by or for a
4 craft distiller pursuant to Section 60-6A-6.1 NMSA 1978 after
5 the director has determined that the off-premises locations
6 meet the requirements of the Liquor Control Act and the
7 department rules for new liquor license locations;

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

10 (12) at public celebrations on or off the
11 winegrower's premises, after the winegrower has paid the
12 applicable fees and been issued the appropriate permit, to
13 conduct wine or cider tastings, sell by the glass or the
14 bottle, or sell in unbroken packages, for consumption off
15 premises, but not for resale, wine or cider produced by or
16 for the winegrower, beer produced and bottled by or for a
17 small brewer pursuant to Section 60-6A-26.1 NMSA 1978 or
18 spirituous liquor produced and bottled by or for a craft
19 distiller pursuant to Section 60-6A-6.1 NMSA 1978;

20 (13) at private celebrations on or off the
21 winegrower's premises after the winegrower has paid the
22 applicable fees and been issued the appropriate permit, sell:

23 (a) by the glass or bottle, wine or
24 cider produced by or for the winegrower;

25 (b) by the glass, beer produced by a

1 small brewer pursuant to Section 60-6A-26.1 NMSA 1978; or

2 (c) by the drink, spirituous liquors
3 produced and bottled by or for a craft distiller pursuant to
4 Section 60-6A-6.1 NMSA 1978;

5 (14) sell wine or cider in a growler for
6 consumption off premises; and

7 (15) in accordance with the provisions of
8 this section that relate to the sale of wine or cider, accept
9 and fulfill an order for wine or cider that is placed via an
10 internet website, whether the financial transaction related
11 to the order is administered by the licensee or the
12 licensee's agent.

13 C. At public and private celebrations on or off
14 the winegrower's premises in any local option district
15 permitting the sale of alcoholic beverages, the holder of a
16 winegrower's license shall pay ten dollars (\$10.00) to the
17 alcoholic beverage control division of the regulation and
18 licensing department for a "winegrower's public celebration
19 permit" or a "winegrower's private celebration permit" to be
20 issued under rules adopted by the director. Upon request,
21 the alcoholic beverage control division of the regulation and
22 licensing department may issue to a holder of a winegrower's
23 license a public celebration permit for a location at the
24 public celebration that is to be shared with other
25 winegrowers and small brewers.

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

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

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

11 (3) over one hundred thousand gallons per
12 year, two hundred fifty dollars (\$250) per year.

13 E. As used in this section:

14 (1) "private celebration" means any
15 celebratory activity that is held in a private or public
16 venue not open to the general public and for which attendance
17 is subject to private invitation; and

18 (2) "public celebration" includes any state
19 or county fair, community fiesta, cultural or artistic event,
20 sporting competition of a seasonal nature or activities held
21 on an intermittent basis."

22 **SECTION 13.** Section 60-6A-15 NMSA 1978 (being Laws
23 1981, Chapter 39, Section 32, as amended) is amended to read:

24 "60-6A-15. LICENSE AND PERMIT FEES.--Except for
25 calendar years 2022 through 2031 for license holders who

1 purchased their license during the calendar years 2017
2 through 2021, who shall be charged no fee for the issuance or
3 renewal of a license, every application for the issuance or
4 renewal of the following licenses and permits shall be
5 accompanied by a fee in the following specified amounts:

6 A. manufacturer's license as a distiller, except a
7 brandy manufacturer, three thousand dollars (\$3,000);

8 B. manufacturer's license as a brewer, three
9 thousand dollars (\$3,000);

10 C. manufacturer's license as a rectifier, one
11 thousand fifty dollars (\$1,050);

12 D. wholesaler's license to sell all alcoholic
13 beverages for resale only, two thousand five hundred dollars
14 (\$2,500);

15 E. wholesaler's license to sell spirituous liquors
16 and wine for resale only, one thousand seven hundred fifty
17 dollars (\$1,750);

18 F. wholesaler's license to sell spirituous liquors
19 for resale only, one thousand five hundred dollars (\$1,500);

20 G. wholesaler's license to sell beer and wine for
21 resale only, one thousand five hundred dollars (\$1,500);

22 H. wholesaler's license to sell beer for resale
23 only, one thousand dollars (\$1,000);

24 I. wholesaler's license to sell wine for resale
25 only, seven hundred fifty dollars (\$750);

1 J. retailer's license, one thousand three hundred
2 dollars (\$1,300);

3 K. dispenser's license, one thousand three hundred
4 dollars (\$1,300);

5 L. canopy license, one thousand three hundred
6 dollars (\$1,300);

7 M. restaurant A license, one thousand fifty
8 dollars (\$1,050);

9 N. restaurant B license, ten thousand dollars
10 (\$10,000);

11 O. club license, for clubs with more than two
12 hundred fifty members, one thousand two hundred fifty dollars
13 (\$1,250), and for clubs with two hundred fifty members or
14 fewer, two hundred fifty dollars (\$250);

15 P. wine bottler's license to sell to wholesalers
16 only, five hundred dollars (\$500);

17 Q. public service license, one thousand two
18 hundred fifty dollars (\$1,250);

19 R. nonresident licenses, for a total billing to
20 New Mexico wholesalers:

21 (1) in excess of:

22 \$3,000,000 annually	\$10,500;
23 1,000,000 annually	5,250;
24 500,000 annually	3,750;
25 200,000 annually	2,700;

1 100,000 annually 1,800;

2 and

3 50,000 annually 900;

4 and

5 (2) of \$50,000 or less \$300;

6 S. wine wholesaler's license, for persons with
7 sales of five thousand gallons of wine per year or less,
8 twenty-five dollars (\$25.00), and for persons with sales in
9 excess of five thousand gallons of wine per year, one hundred
10 dollars (\$100);

11 T. beer bottler's license, two hundred dollars
12 (\$200);

13 U. third-party alcohol delivery license, not to
14 exceed one thousand dollars (\$1,000);

15 V. alcoholic beverage delivery permit, not to
16 exceed three hundred dollars (\$300); and

17 W. retailer's, dispenser's or canopy licenses, if
18 the licensee held the license on June 30, 2021, there shall
19 be no renewal fee for applications filed by the licensee or
20 successor licensees on or before June 30, 2026."

21 **SECTION 14.** Section 60-6A-26.1 NMSA 1978 (being Laws
22 1985, Chapter 217, Section 5, as amended) is amended to read:

23 "60-6A-26.1. SMALL BREWER'S LICENSE.--

24 A. In a local option district, a person qualified
25 pursuant to the provisions of the Liquor Control Act, except

1 as otherwise provided in the Domestic Winery, Small Brewery
2 and Craft Distillery Act, may apply for and be issued a small
3 brewer's license.

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

6 (1) manufacture or produce beer;

7 (2) package, label and export beer, whether
8 manufactured, bottled or produced by the licensee or any
9 other person;

10 (3) sell only beer that is packaged by or
11 for the licensee to a person holding a wholesaler's license,
12 a small brewer's license, a craft distiller's license or a
13 winegrower's license;

14 (4) deal in warehouse receipts for beer;

15 (5) conduct beer, wine, cider and spirituous
16 liquor tastings and sell for consumption on or off premises,
17 but not for resale, beer produced and bottled by, or produced
18 and packaged for, the licensee, beer produced and bottled by
19 or for another New Mexico small brewer on the small brewer's
20 premises or wine or cider produced by a winegrower pursuant
21 to Section 60-6A-11 NMSA 1978 or spirituous liquor produced
22 and bottled by or for a craft distiller pursuant to Section
23 60-6A-6.1 NMSA 1978;

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

1 (7) at public celebrations off the small
2 brewer's premises, after the small brewer has paid the
3 applicable fee for a small brewer's public celebration
4 permit, conduct tastings and sell by the glass or in unbroken
5 packages, but not for resale, beer produced and bottled by or
6 for the small brewer or wine or cider produced by a
7 winegrower pursuant to Section 60-6A-11 NMSA 1978 or
8 spirituous liquor produced and bottled by or for a craft
9 distiller pursuant to Section 60-6A-6.1 NMSA 1978;

10 (8) at private celebrations on or off the
11 small brewer's premises after the small brewer has paid the
12 applicable fees for a private celebration permit, sell by the
13 glass, beer produced and bottled by or for the small brewer
14 or wine or cider produced by a winegrower pursuant to Section
15 60-6A-11 NMSA 1978 or spirituous liquor produced and bottled
16 by or for a craft distiller pursuant to Section 60-6A-6.1
17 NMSA 1978;

18 (9) buy or otherwise obtain wine or cider
19 from a winegrower or spirituous liquor from a craft
20 distiller;

21 (10) for the purposes described in this
22 subsection, at no more than three other locations off the
23 small brewer's premises, after the small brewer has paid the
24 applicable fee for a small brewer's off-premises permit,
25 after the director has determined that the off-premises

1 locations meet the requirements of the Liquor Control Act and
2 department rules for new liquor license locations and after
3 the director has issued a small brewer's off-premises permit
4 for each off-premises location, conduct beer tastings and
5 sell by the glass or in unbroken packages for consumption off
6 the small brewer's off-premises location, but not for resale,
7 beer produced and bottled by or for the small brewer, beer
8 produced and bottled by or for another New Mexico small
9 brewer, wine or cider produced by a winegrower pursuant to
10 Section 60-6A-11 NMSA 1978 or spirituous liquor produced and
11 bottled by or for a craft distiller pursuant to Section
12 60-6A-6.1 NMSA 1978;

13 (11) allow members of the public, on the
14 licensed premises and under the direct supervision of the
15 licensee, to manufacture beer for personal consumption and
16 not for resale using the licensee's equipment and
17 ingredients; and

18 (12) sell beer in a growler for consumption
19 off premises.

20 C. Renewal of a small brewer's license shall be
21 conditioned upon submission to the department by the licensee
22 of a report showing proof that:

23 (1) no less than fifty percent of the gross
24 receipts from the sale of beer for the preceding twelve
25 months of the licensee's operation are derived from the sale

1 of beer produced by the licensee; or

2 (2) the licensee manufactures no less than
3 fifty barrels of beer per license year at the licensee's
4 premises.

5 D. At public and private celebrations on or off
6 the small brewer's premises in a local option district
7 permitting the sale of alcoholic beverages, the holder of a
8 small brewer's license shall pay ten dollars (\$10.00) to the
9 alcoholic beverage control division of the regulation and
10 licensing department for a "small brewer's public celebration
11 permit" or a "small brewer's private celebration permit" to
12 be issued under rules adopted by the director. Upon request,
13 the alcoholic beverage control division of the regulation and
14 licensing department may issue to a holder of a small
15 brewer's license a public celebration permit for a location
16 at the public celebration that is to be shared with other
17 small brewers and winegrowers.

18 E. As used in this section:

19 (1) "private celebration" means any
20 celebratory activity that is held in a private or public
21 venue not open to the general public and for which attendance
22 is subject to private invitation; and

23 (2) "public celebration" includes any state
24 or county fair, community fiesta, cultural or artistic event,
25 sporting competition of a seasonal nature or activities held

1 on an intermittent basis."

2 SECTION 15. Section 60-6A-32 NMSA 1978 (being Laws
3 1998, Chapter 109, Section 7) is amended to read:

4 "60-6A-32. INTERSTATE WINE TASTINGS--COMPETITIONS--
5 PERMITS.--

6 A. Exempt from the procurement of any other
7 license or permit issued pursuant to the terms of the Liquor
8 Control Act, but not exempt from the procurement of a
9 competition permit, is a winemaker or winery licensed outside
10 of New Mexico that desires to participate in a regional wine,
11 cider, beer or spirituous liquor tasting or competition
12 within New Mexico. One permit shall be issued by the
13 director to an out-of-state winemaker or winery for the
14 duration of the wine tasting or competition.

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

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

20 (2) participate in the regional competition
21 and wine tastings associated with the competition for which
22 the competition permit is issued;

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

25 (4) at a wine tasting for which the person

1 is issued the permit, conduct tasting of wine and sell by the
2 glass or bottle or in unbroken packages for consumption off
3 the wine-tasting premises but not for resale, wine brought
4 into the state by the person for the wine tasting or
5 competition.

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

10 D. As used in this section:

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

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

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

21 (4) "winemaker" means a person who
22 manufactures or produces wine;

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

1 and

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

6 SECTION 16. Section 60-6B-12 NMSA 1978 (being Laws
7 1981, Chapter 39, Section 113, as amended) is amended to
8 read:

9 "60-6B-12. INTER-LOCAL OPTION DISTRICT AND INTER-COUNTY
10 TRANSFERS.--

11 A. Dispenser's and retailer's licenses originally
12 issued before July 1, 1981, except rural dispenser's and
13 rural retailer's licenses that were replaced by dispenser's
14 licenses pursuant to Section 60-6B-16 NMSA 1978, and except
15 canopy licenses replaced by dispenser's licenses pursuant to
16 Section 60-6B-16 NMSA 1978 before calendar year 2017 or after
17 calendar year 2020, may be transferred to any location within
18 the state, except class B counties having a population of
19 between fifty-six thousand and fifty-seven thousand according
20 to the 1980 federal decennial census, the municipalities
21 located within those class B counties and any municipality or
22 county that prohibits by election the transfer of a license
23 from another local option district, without regard to the
24 limitations on the maximum number of licenses provided in
25 Section 60-6A-18 NMSA 1978, not otherwise contrary to law,

1 subject to the approval of transferring locations of those
2 liquor licenses by the governing body for that location;
3 provided that the requirements of the Liquor Control Act and
4 department regulations for the transfer of licenses are
5 fulfilled; and provided further that:

6 (1) beginning in calendar year 1997, no more
7 than ten dispenser's or retailer's licenses shall be
8 transferred to any local option district in any calendar
9 year; and

10 (2) the dispenser's or retailer's licenses
11 transferred under this section shall count in the computation
12 of the limitation of the maximum number of licenses that may
13 be issued in the future in any local option district as
14 provided in Section 60-6A-18 NMSA 1978 for the purpose of
15 determining whether additional licenses may be issued in the
16 local option district under the provisions of Subsection H of
17 Section 60-6B-2 NMSA 1978.

18 B. Transfer of location of a liquor license
19 pursuant to Subsection A of this section shall become
20 effective upon approval of the local governing body, unless
21 within one hundred twenty days after the effective date of
22 the Liquor Control Act a petition requesting an election on
23 the question of approval of statewide transfers of liquor
24 licenses into that local option district is filed with the
25 clerk of the local option district and the petition is signed

1 by at least five percent of the number of registered voters
2 of the district. The clerk of the district shall verify the
3 petition signatures. If the petition is verified as
4 containing the required number of signatures of registered
5 voters, the governing body shall adopt a resolution calling
6 an election on the question of approving or disapproving
7 statewide transfers of liquor licenses into that district.
8 Notice of such election shall be published as provided in the
9 Local Election Act, and the election shall be held within
10 sixty days after the date the petition is verified or it may
11 be held in conjunction with a regular election of the
12 governing body if such election occurs within sixty days
13 after the date of verification. If a majority of the
14 registered voters of the district voting in such election
15 votes to approve statewide transfers of liquor licenses into
16 the local option district, each license proposing to be
17 transferred shall be subject to the approval of the governing
18 body. If the voters of the district voting in the election
19 vote against the approval, then all statewide transfers of
20 liquor licenses pursuant to Subsection A of this section
21 shall be prohibited in that district, unless a petition is
22 filed requesting the question be again submitted to the
23 voters as provided in this subsection. The question of
24 approving or disapproving statewide transfers of liquor
25 licenses into the local option district shall not be

1 submitted again within two years from the date of the last
2 election on the question.

3 C. Any dispenser's license transferred pursuant
4 to this section outside its local option district shall only
5 entitle the licensee to sell, serve or permit the consumption
6 of alcoholic beverages by the drink on the licensed premises.
7 This subsection shall not apply to any license transferred
8 out of a class B county having a population of between fifty-
9 six thousand and fifty-seven thousand according to the 1980
10 federal decennial census.

11 D. Rural dispenser's, rural retailer's and rural
12 club licenses issued under any former act may be transferred
13 to any location, subject to the restrictions as to location
14 contained in the Liquor Control Act, within the
15 unincorporated area of the county in which they are currently
16 located; provided that they shall not be transferred to any
17 location within ten miles of another licensed premises; and
18 provided further that all requirements of the Liquor Control
19 Act and department regulations for the transfer of licenses
20 are fulfilled."

21 SECTION 17. Section 60-6C-1 NMSA 1978 (being Laws 1981,
22 Chapter 39, Section 97, as amended) is amended to read:

23 "60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR
24 ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

25 A. The director may suspend or revoke the license

1 or permit or fine the licensee in an amount not more than ten
2 thousand dollars (\$10,000), or both, when the director finds
3 that a licensee has:

4 (1) violated any provision of the Liquor
5 Control Act or any rule or order promulgated pursuant to that
6 act;

7 (2) been convicted of a felony pursuant to
8 the provisions of the Criminal Code, the Liquor Control Act
9 or federal law; or

10 (3) permitted the licensee's licensed
11 premises to remain a public nuisance in the neighborhood
12 where it is located after written notice from the director
13 that investigation by the department has revealed that the
14 establishment is a public nuisance in the neighborhood.

15 B. The director shall suspend or revoke the
16 license or permit and may fine the licensee in an amount not
17 to exceed ten thousand dollars (\$10,000), or both, when the
18 director finds that any licensee or:

19 (1) the licensee's employee or agent
20 knowingly has sold, served, delivered or given an alcoholic
21 beverage to a minor in violation of Section 60-7B-1 NMSA 1978
22 or to an intoxicated person in violation of Section 60-7A-16
23 NMSA 1978, on two separate occasions within any twelve-month
24 period; or

25 (2) the licensee's agent has made any

1 material false statement or concealed any material facts in
2 the licensee's application for the license or permit granted
3 the licensee pursuant to the provisions of the Liquor Control
4 Act.

5 C. A licensee aggrieved by a revocation,
6 suspension or fine proposed to be imposed by the director
7 pursuant to this section shall be entitled to the hearing
8 procedures set forth in Chapter 60, Article 6C NMSA 1978
9 before the revocation, suspension or fine shall be effective.

10 D. A charge filed against a licensee by the
11 department and the resulting disposition of the charge shall
12 be reported to the department of public safety.

13 E. For purposes of this section, "licensee"
14 includes any person issued an alcoholic beverage delivery
15 permit."

16 SECTION 18. Section 60-6C-2 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 98, as amended) is amended to read:

18 "60-6C-2. HEARINGS--LOCATION--OPEN TO PUBLIC--HEARING
19 OFFICER.--All hearings held pursuant to the provisions of the
20 Liquor Control Act shall be conducted by the director or a
21 hearing officer appointed by the director and shall be held
22 in the county in which the licensed premises or the business
23 of the person issued an alcoholic beverage delivery permit
24 that is the subject matter of the hearing is located. All
25 such hearings shall be open to the public."

1 SECTION 19. Section 60-6C-4 NMSA 1978 (being Laws 1981,
2 Chapter 39, Section 100, as amended) is amended to read:

3 "60-6C-4. ADMINISTRATIVE PROCEEDINGS--COMPLAINTS--
4 INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS.--

5 A. Whenever a person lodges a signed, written
6 complaint with the department alleging that a licensee has
7 violated any of the provisions of the Liquor Control Act,
8 unless the complaint is deficient on its face, the director
9 shall request that the department of public safety
10 investigate the complaint.

11 B. The department of public safety shall
12 investigate the complaint and make a written report to the
13 director.

14 C. If the director believes from the report that
15 probable cause exists for filing charges against the licensee
16 for the revocation or suspension of the licensee's license or
17 permit or for fining the licensee, or for both, the director
18 or the director's designee shall file in the department a
19 charge against the licensee in the name of the state, stating
20 the nature of the grounds relied upon for the filing, the
21 approximate date of the alleged violation and the names and
22 addresses of the witnesses who are expected to give testimony
23 or evidence against the licensee.

24 D. After charges have been filed, the director
25 shall issue a signed order for the licensee to appear at a

1 hearing to explain, on the basis of any ground set out in the
2 charge, why the license or permit should not be revoked or
3 suspended or why the licensee should not be fined, or both.

4 E. The director shall keep the original of the
5 charge and the order to show cause on file in the director's
6 office.

7 F. The director shall appoint a hearing officer
8 no later than ten days prior to the date set for the hearing
9 at which the licensee shall appear to explain why the
10 licensee's license or permit should not be revoked or
11 suspended or why the licensee should not be fined, or both.

12 G. The director shall have a copy of the charge
13 and a copy of the order to show cause sent to the licensee or
14 the licensee's resident agent at the agent's last known
15 address by certified mail at least fourteen days before the
16 date set for the hearing on the order to show cause.

17 H. At a hearing on an order to show cause, the
18 director shall cause a record of hearing to be made, which
19 shall record:

- 20 (1) the style of the proceedings;
- 21 (2) the nature of the proceedings, including
22 a copy of the charge and a copy of the order to show cause;
- 23 (3) the place, date and time of the hearing
24 and all continuances or recesses of the hearing;
- 25 (4) the appearance or nonappearance of the

1 licensee;

2 (5) if the licensee appears with an
3 attorney, the name and address of the attorney;

4 (6) a record of all evidence and testimony
5 and a copy or record of all exhibits introduced in evidence;

6 (7) the findings of fact and law as to
7 whether the licensee has violated the Liquor Control Act as
8 set out in the charge; and

9 (8) the decision of the director.

10 I. If the licensee fails to appear without good
11 cause at the time and place designated in the order to show
12 cause for the hearing, the director shall order the
13 nonappearance of the licensee to be entered in the record of
14 hearing and shall order the license or permit revoked or
15 suspended or the licensee fined, or both, on all the grounds
16 alleged in the charge and shall cause the record of hearing
17 to show the particulars in detail. In such a case, there
18 shall be no reopening, appeal or review of the proceedings
19 unless pursued by a co-owner of a license who did not receive
20 notice of the hearing.

21 J. If the licensee admits guilt on all grounds
22 set out in the charge, the director shall order the
23 revocation or suspension of the license or permit or the
24 licensee fined, or both, and cause a record of hearing to be
25 made showing the facts and particulars of the director's

1 order of revocation or suspension of the license or permit or
2 fine of the licensee, or both. In such a case, there shall
3 be no review or appeal of the proceedings.

4 K. If the licensee appears at the hearing and
5 does not testify or denies guilt of any of the grounds set
6 out in the charge, the hearing shall proceed as follows:

7 (1) the director or the hearing officer
8 shall administer oaths to all witnesses, the department shall
9 cause all testimony and evidence in support of the grounds
10 alleged in the charge to be presented in the presence of the
11 licensee and the director shall allow the licensee or the
12 licensee's attorney to cross-examine all witnesses;

13 (2) the licensee shall be allowed to present
14 testimony and evidence the licensee may have in denial or in
15 mitigation of the grounds set out in the charge;

16 (3) the department shall have the right to
17 cross-examine the licensee or any witness testifying in the
18 licensee's favor;

19 (4) the department shall present any
20 evidence or testimony in rebuttal of that produced by the
21 licensee;

22 (5) the director or the hearing officer
23 shall make a finding on each ground alleged and a finding of
24 the guilt or innocence of the licensee on each ground;

25 (6) if the licensee is found guilty on any

1 ground alleged and proved, the director shall make an order
2 of revocation or suspension of the license or permit or fine
3 of the licensee, or both; and

4 (7) the rules of evidence shall not be
5 required to be observed, but the order of suspension or
6 revocation or fine, or both, shall be based upon substantial,
7 competent and relevant evidence and testimony appearing in
8 the record of hearing.

9 L. No admission of guilt, admission against
10 interest or transcript of testimony made or given in a
11 hearing pursuant to this section shall be received or used in
12 criminal proceedings wherein the licensee is a defendant;
13 provided, however, if the licensee commits perjury in a
14 hearing, the evidence shall be admissible in a perjury trial
15 if otherwise competent and relevant.

16 M. The director shall adopt reasonable rules
17 setting forth uniform standards of penalties concerning fines
18 and suspensions imposed by the director.

19 N. For purposes of this section, "licensee"
20 includes a person issued an alcoholic beverage delivery
21 permit."

22 **SECTION 20.** Section 60-6C-6 NMSA 1978 (being Laws 1981,
23 Chapter 39, Section 102, as amended by Laws 1999, Chapter
24 265, Section 75 and by Laws 1999, Chapter 277, Section 1) is
25 amended to read:

1 "60-6C-6. APPEAL.--

2 A. A licensee aggrieved or adversely affected by
3 an order of revocation, suspension or fine shall have the
4 right to appeal to the district court pursuant to the
5 provisions of Section 39-3-1.1 NMSA 1978.

6 B. No appeal shall have the effect of suspending
7 the operation of the order of suspension, revocation or fine,
8 but the liquor control hearing officer may, for good cause
9 shown and upon such terms and conditions as the officer may
10 find are just, in the officer's discretion suspend the
11 operation of the order of suspension, revocation or fine
12 pending the appeal. The court shall tax costs against the
13 losing party.

14 C. For purposes of this section, "licensee"
15 includes a person issued an alcoholic beverage delivery
16 permit and includes a person issued a server permit pursuant
17 to the Alcohol Server Education Article of the Liquor Control
18 Act."

19 **SECTION 21.** Section 60-6E-3 NMSA 1978 (being Laws 1999,
20 Chapter 277, Section 4) is amended to read:

21 "60-6E-3. DEFINITIONS.--As used in the Alcohol Server
22 Education Article of the Liquor Control Act:

23 A. "director" means the director of the division;

24 B. "division" means the alcoholic beverage
25 control division of the regulation and licensing department;

1 C. "licensee" means a person issued a license
2 pursuant to the provisions of the Liquor Control Act to sell,
3 serve or dispense alcoholic beverages for consumption and not
4 for resale;

5 D. "program" means an alcohol server education
6 course and examination approved by the director to be
7 administered by providers;

8 E. "provider" means an individual, partnership,
9 corporation, public or private school or any other legal
10 entity certified by the director to provide a program;

11 F. "server" means an individual who sells,
12 serves, or dispenses alcoholic beverages for consumption on
13 or off licensed premises, including persons who manage,
14 direct or control the sale or service of alcohol and when the
15 context requires, includes a person who delivers alcoholic
16 beverages. "Server" does not include officers of a corporate
17 licensee or lessee who do not manage, direct or control the
18 sale, delivery or service of alcohol; and

19 G. "server permit" means an authorization issued
20 by the director for a person to be employed or engaged to
21 sell, serve or dispense alcoholic beverages."

22 SECTION 22. Section 60-6E-8 NMSA 1978 (being Laws 1999,
23 Chapter 277, Section 9) is amended to read:

24 "60-6E-8. SERVER PERMIT--SUSPENSION--REVOCATION--
25 ADMINISTRATIVE FINES--PENALTIES.--The following penalties are

1 in addition to any other penalties available for sales to
2 minors or intoxicated persons in violation of the provisions
3 of the Liquor Control Act or rules of the division:

4 A. the director may suspend a server's server
5 permit for a period of thirty days or fine the server in an
6 amount not to exceed five hundred dollars (\$500), or both,
7 when the director finds that the server is guilty of a first
8 offense of selling, serving, delivering or dispensing an
9 alcoholic beverage to an intoxicated person in violation of
10 Section 60-7A-16 NMSA 1978 or to a minor in violation of
11 Section 60-7B-1 NMSA 1978;

12 B. the director shall suspend a server's server
13 permit for a period of one year when the director finds that
14 the server is guilty of a second offense of selling, serving,
15 delivering or dispensing alcoholic beverages to intoxicated
16 persons in violation of Section 60-7A-16 NMSA 1978 or to
17 minors in violation of Section 60-7B-1 NMSA 1978 arising
18 separately from the incident giving rise to the server's
19 first offense;

20 C. the director shall permanently revoke a
21 server's server permit when the director finds that the
22 server is guilty of a third offense of selling, serving,
23 delivering or dispensing alcoholic beverages to intoxicated
24 persons in violation of Section 60-7A-16 NMSA 1978 or to
25 minors in violation of Section 60-7B-1 NMSA 1978 arising

1 separately from the incidents giving rise to the server's
2 first and second offenses;

3 D. no person whose server permit is suspended or
4 revoked pursuant to the provisions of this section may be a
5 server of alcoholic beverages on a licensed premises or
6 deliver alcoholic beverages during the period of suspension
7 or revocation;

8 E. no person whose server permit is suspended may
9 serve or deliver alcoholic beverages on or after the date of
10 suspension unless the person obtains a new server permit in
11 accordance with the provisions of the Alcohol Server
12 Education Article of the Liquor Control Act; and

13 F. nothing in the Alcohol Server Education
14 Article of the Liquor Control Act shall be interpreted to
15 waive a permit holder's or license holder's liability that
16 may arise pursuant to the provisions of the Liquor Control
17 Act."

18 **SECTION 23.** Section 60-6E-9 NMSA 1978 (being Laws 1999,
19 Chapter 277, Section 10) is amended to read:

20 "60-6E-9. ALCOHOL SERVER EDUCATION--REQUIRED FOR
21 LICENSE RENEWAL.--A licensee seeking renewal of a license
22 shall submit to the division, as a condition of license
23 renewal, proof that the licensee, the lessee, if any, and
24 each server employed by the licensee or lessee during the
25 prior licensing year have or had valid server permits at all

1 times that alcoholic beverages were sold, served, delivered
2 or dispensed."

3 SECTION 24. Section 60-6E-10 NMSA 1978 (being Laws
4 1999, Chapter 277, Section 11) is amended to read:

5 "60-6E-10. ADMINISTRATIVE PROCEEDINGS--HEARINGS.--

6 A. Hearings for the suspension or revocation of
7 any server's server permit or delivery permit or for imposing
8 a fine on the server, or both, shall be conducted in
9 accordance with the provisions of Sections 60-6C-2 through
10 60-6C-6 NMSA 1978.

11 B. The director may suspend or revoke a server
12 permit or delivery permit or impose a fine on a server, or
13 impose a combination of those penalties, only if the server
14 violates the provisions of Section 60-7A-16 or 60-7B-1 NMSA
15 1978."

16 SECTION 25. Section 60-7A-1 NMSA 1978 (being Laws 1981,
17 Chapter 39, Section 47, as amended) is amended to read:

18 "60-7A-1. HOURS AND DAYS OF BUSINESS.--

19 A. Provided that nothing in this section shall
20 prohibit the consumption at any time of alcoholic beverages
21 in guest rooms of hotels, alcoholic beverages shall be sold,
22 served and consumed on licensed premises only from 7:00 a.m.
23 until 2:00 a.m. on the following day.

24 B. Except as provided in Subsection C of this
25 section, alcoholic beverages may be sold by a dispenser or a

1 retailer in unbroken packages, for consumption off the
2 licensed premises and not for resale from 7:00 a.m. until
3 midnight.

4 C. The governing body of a local option district
5 that is a class B county with a population greater than
6 seventy thousand and less than seventy-six thousand according
7 to the most recent federal decennial census or that is a
8 municipality located within a class B county with a
9 population greater than seventy thousand and less than
10 seventy-six thousand according to the most recent federal
11 decennial census may pass an ordinance to place restrictions,
12 in addition to those provided in this section, on the hours
13 during which a dispenser or retailer may sell alcoholic
14 beverages in unbroken packages for consumption off the
15 licensed premises and not for resale. The ordinance may
16 restrict sales between 7:00 a.m. and 10:00 a.m. and shall
17 provide the hours between 7:00 a.m. and 10:00 a.m., if any,
18 during which a dispenser or retailer may sell alcoholic
19 beverages in unbroken packages for consumption off the
20 licensed premises and not for resale."

21 SECTION 26. Section 60-7A-4 NMSA 1978 (being Laws 1981,
22 Chapter 39, Section 50, as amended) is amended to read:

23 "60-7A-4. SALE, SHIPMENT AND DELIVERY UNLAWFUL.--

24 A. It is unlawful for a person on the person's
25 own behalf or as the agent of another person, except a

1 licensed New Mexico wholesaler or manufacturer or the agent
2 of either, to directly or indirectly sell or offer for sale
3 for shipment into the state or ship into the state, except as
4 provided in Section 60-7A-3 NMSA 1978, alcoholic beverages
5 unless the person or the person's principals have secured a
6 nonresident license as provided in Section 60-6A-7 NMSA 1978.

7 B. It is a violation of the Liquor Control Act to
8 deliver any alcoholic beverages transported into the state
9 unless the delivery is made in accordance with Section
10 60-7A-3 NMSA 1978 or Section 4 of this 2021 act.

11 C. As used in this section, "into the state"
12 means into the exterior boundaries of the state."

13 SECTION 27. Section 60-7A-12 NMSA 1978 (being Laws
14 1981, Chapter 39, Section 78, as amended) is amended to read:

15 "60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES,
16 RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES
17 AND CLUBS.--It is a violation of the Liquor Control Act for
18 any dispenser, canopy licensee, restaurant licensee,
19 governmental licensee or its lessee or club to:

20 A. receive any alcoholic beverages for the
21 purpose or with the intent of reselling the alcoholic
22 beverages from any person unless the person is duly licensed
23 to sell alcoholic beverages to dispensers for resale;

24 B. sell; possess for the purpose of sale; or
25 bottle bulk wine for sale other than by the drink for

1 immediate consumption on its licensed premises;

2 C. directly, indirectly or through subterfuge,
3 own, operate or control any interest in a wholesale liquor
4 establishment or liquor manufacturing or wine bottling firm;
5 provided that this section shall not prevent:

6 (1) a dispenser from owning an interest in a
7 legal entity, directly or indirectly or through an affiliate,
8 that wholesales alcoholic beverages and that operates or
9 controls an interest in an establishment operating pursuant
10 to the provisions of Subsection B of Section 60-7A-10 NMSA
11 1978; or

12 (2) a small brewer or winegrower licensed
13 pursuant to the Domestic Winery, Small Brewery and Craft
14 Distillery Act from holding an interest in a legal entity,
15 directly or indirectly or through an affiliate, that holds a
16 restaurant or a dispenser's license and a small brewer and
17 winegrower limited wholesaler's license issued pursuant to
18 the Liquor Control Act;

19 D. sell or possess for the purpose of sale any
20 alcoholic beverages at any location or place except its
21 licensed premises or the location permitted pursuant to the
22 provisions of Section 60-6A-12 NMSA 1978;

23 E. employ or engage a person to sell, serve or
24 dispense alcoholic beverages if the person has not received
25 alcohol server training within thirty days of employment; or

1 F. employ or engage a person to sell, serve,
2 deliver or dispense alcoholic beverages during a period when
3 the server permit of that person is suspended or revoked."

4 SECTION 28. Section 60-7A-13 NMSA 1978 (being Laws
5 1981, Chapter 39, Section 79, as amended) is amended to read:

6 "60-7A-13. SALES BY CLUBS.--

7 A. Any club licensed pursuant to the provisions
8 of the Liquor Control Act shall only have the right to sell
9 alcoholic beverages by the drink and wine by the bottle for
10 consumption on the premises.

11 B. Except as otherwise provided in this section,
12 it is unlawful and grounds for suspension or revocation of
13 its license for a club to:

14 (1) solicit by advertising or any other
15 means public patronage of its alcoholic beverage facilities.
16 In the event the club solicits public patronage of its other
17 facilities, alcoholic beverages shall not be sold, served or
18 consumed on the premises while the other facilities are being
19 used by or operated for the benefit of the general public,
20 unless the alcoholic beverage facilities are separate from
21 the other facilities and the general public is not permitted
22 to enter any part of the facilities where alcoholic beverages
23 are being sold, served or consumed; or

24 (2) serve, sell or permit the consumption of
25 alcoholic beverages to persons other than members and their

1 bona fide guests.

2 C. A club licensed pursuant to the provisions of
3 the Liquor Control Act may allow its facilities, including
4 its licensed premises, to be used, for activities other than
5 its own, no more than four times in a calendar year for
6 fundraising events held by other nonprofit organizations.

7 D. For the purposes of this section:

8 (1) "bona fide guest" means a person whose
9 presence in the club is in response to a specific invitation
10 by a member and for whom the member assumes responsibility;
11 and

12 (2) "member" includes the adult spouse and
13 the children of a member who pays membership dues or of a
14 deceased member who paid membership dues or a member of an
15 official auxiliary or subsidiary group of the club who has
16 been issued a personal identification card in accordance with
17 the rules and regulations of the club."

18 **SECTION 29.** Section 60-7A-16 NMSA 1978 (being Laws
19 1981, Chapter 39, Section 93, as amended) is amended to read:

20 "60-7A-16. SALE TO INTOXICATED PERSONS.--It is a
21 violation of the Liquor Control Act for a person to sell,
22 deliver or serve alcoholic beverages to or to procure or aid
23 in the procurement of alcoholic beverages for an intoxicated
24 person if the person selling, delivering, serving, procuring
25 or aiding in procurement knows or has reason to know that the

1 person is selling, delivering, serving, procuring or aiding
2 in procurement of alcoholic beverages for a person who is
3 intoxicated."

4 SECTION 30. Section 60-7B-2 NMSA 1978 (being Laws 1981,
5 Chapter 39, Section 82, as amended) is amended to read:

6 "60-7B-2. DOCUMENTARY EVIDENCE OF AGE AND IDENTITY.--

7 A. Evidence of the age and identity of the person
8 may be shown by any document that contains a picture of the
9 person issued by a federal, state, county or municipal
10 government, or subdivision or agency thereof, including but
11 not limited to a motor vehicle operator's license or an
12 identification card issued to a member of the armed forces.

13 B. An identity document is valid for the purposes
14 of the Liquor Control Act even if it has expired.

15 C. Except for deliveries of alcoholic beverages
16 pursuant to Section 4 of this 2021 act, it is unnecessary to
17 ask for an identity document if the person clearly looks
18 older than thirty-five years of age."

19 SECTION 31. Section 60-7B-5 NMSA 1978 (being Laws 1981,
20 Chapter 39, Section 85, as amended) is amended to read:

21 "60-7B-5. REFUSAL TO SELL, SERVE OR DELIVER ALCOHOLIC
22 BEVERAGES TO PERSON UNABLE TO PRODUCE IDENTITY CARD.--

23 A. A person licensed pursuant to the provisions
24 of the Liquor Control Act or any employee, agent or lessee of
25 that person may refuse to deliver, sell or serve alcoholic

1 beverages to any person who is unable to produce an identity
2 card as evidence that the person is twenty-one years of age
3 or over.

4 B. An identity document is valid for the purposes
5 of the Liquor Control Act even if it has expired.

6 C. Except for deliveries of alcoholic beverages
7 pursuant to Section 4 of this 2021 act, it is unnecessary to
8 ask for an identity document if the person clearly looks
9 older than thirty-five years of age."

10 SECTION 32. Section 60-7B-6 NMSA 1978 (being Laws 1981,
11 Chapter 39, Section 86, as amended) is amended to read:

12 "60-7B-6. DEMANDING AND SEEING IDENTITY CARD BEFORE
13 FURNISHING ALCOHOLIC BEVERAGES.--In any criminal prosecution
14 or in any proceedings for the suspension or revocation of a
15 license or alcoholic beverage delivery permit or in any
16 proceeding for violation of a municipal or county ordinance
17 prohibiting the gift, sale or service of alcoholic beverages
18 to minors, proof that the accused licensee or alcoholic
19 beverage delivery permittee in good faith demanded and was
20 shown an identity card as evidence the person is twenty-one
21 years of age or older before furnishing any alcoholic
22 beverages to a minor shall be a defense to the prosecution or
23 proceedings."

24 SECTION 33. Section 60-7B-11 NMSA 1978 (being Laws
25 1981, Chapter 39, Section 91, as amended) is amended to read:

1 "60-7B-11. EMPLOYMENT OF MINORS.--

2 A. Except as provided in Subsection B or C of
3 this section, it is a violation of the Liquor Control Act for
4 any person licensed pursuant to the provisions of the Liquor
5 Control Act or for any employee, agent or lessee of that
6 person knowingly to employ or use the service of any minor in
7 the sale and service of alcoholic beverages.

8 B. A person holding a dispenser's, restaurant or
9 club license may employ persons eighteen years of age or
10 older to sell or serve alcoholic beverages in an
11 establishment that is held out to the public as a place where
12 meals are prepared and served and the primary source of
13 revenue is food, and where the sale or consumption of
14 alcoholic beverages is not the primary activity, except that
15 a person under twenty-one years of age shall not be employed
16 as a bartender or deliverer.

17 C. A person holding a wholesaler's license may
18 employ persons eighteen years of age or older who are
19 licensed pursuant to the New Mexico Commercial Driver's
20 License Act to engage in activities customary to warehouse
21 operations and to handle and deliver alcoholic beverages to
22 licensees holding a dispenser's, retailer's, restaurant,
23 club, small brewer, winegrower, craft distiller,
24 manufacturer's, rectifier or any other license that allows
25 for the purchase and delivery of alcoholic beverages by a

1 licensed wholesaler, as long as the minor delivers sealed,
2 unbroken packages, including containers such as bottles, cans
3 and kegs. A person under the age of twenty-one shall not be
4 allowed to sample alcoholic beverages to accounts."

5 SECTION 34. Section 60-6B-10 NMSA 1978 (being Laws
6 1981, Chapter 39, Section 45, as amended) is amended to read:

7 "60-6B-10. LOCATIONS NEAR CHURCH OR SCHOOL--
8 RESTRICTIONS ON LICENSING.--No license shall be issued by the
9 director for the sale of alcoholic beverages at a licensed
10 premises where alcoholic beverages were not sold prior to
11 July 1, 1981 that is within three hundred feet of a church or
12 school. A license may be granted for a proposed licensed
13 premises if the owner or lessee has, prior to establishment
14 of a church or school located within three hundred feet of
15 the proposed licensed premises, applied for, been granted and
16 maintained a valid building permit for the construction or
17 renovation of the proposed licensed premises and has filed on
18 a form prescribed by the director a notice of intention to
19 apply for transfer of a license to the proposed licensed
20 premises. A license may be granted for a proposed licensed
21 premises if a person has obtained a waiver from a local
22 option district governing body for the proposed licensed
23 premises. A license may be granted for a proposed licensed
24 premises if a person has obtained a restaurant A license or a
25 restaurant B license pursuant to Section 60-6A-4 NMSA 1978.

1 For the purposes of this section, all measurements taken in
2 order to determine the location of licensed premises in
3 relation to churches or schools shall be the straight line
4 distance from the property line of the licensed premises to
5 the property line of the church or school. This provision
6 shall not apply to a church that has been designated as a
7 historical site by the cultural properties review committee
8 and that does not have a regular congregation."

9 SECTION 35. STUDY EFFECTS OF DELIVERY OF ALCOHOL.--Five
10 years after the enactment of the law, the department of
11 health shall conduct a study of impacts of the delivery of
12 alcohol, evaluating consumption trends and public safety
13 impacts of the delivery of alcohol.

14 SECTION 36. REPEAL.--Sections 60-6A-25, 60-6B-1.1,
15 60-6B-11, 60-6B-15, 60-6E-6, 60-7A-2 and 60-7A-18 NMSA 1978
16 (being Laws 1983, Chapter 280, Section 6, Laws 1989, Chapter
17 292, Section 2, Laws 1981, Chapter 39, Section 46, Laws 1988,
18 Chapter 12, Section 3, Laws 1999, Chapter 277, Section 7 and
19 Laws 1981, Chapter 39, Sections 48 and 95, as amended) are
20 repealed.

21 SECTION 37. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2021.

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