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HOUSE BILL 487

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

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; CREATING A DIRECT WINE SHIPMENT PERMIT; ESTABLISHING A PERMIT FEE; PROVIDING LIMITS ON THE DIRECT SHIPMENT OF WINE; SUBJECTING PERMITTEES TO TAXATION; REQUIRING LABELING OF A SHIPPED CONTAINER OF WINE.

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

SECTION 1. A new section of the Liquor Control Act, Section 60-6A-11.1 NMSA 1978, is enacted to read:

"60-6A-11.1. [NEW MATERIAL] DIRECT WINE SHIPMENT PERMIT-- AUTHORIZATION--RESTRICTIONS.--

A. A licensee with a winegrower's license or a person licensed in a state other than New Mexico that holds a winery license may apply to the director for and the director may issue to the applicant a direct wine shipment permit. An application for a direct wine shipment permit shall include:

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1 (1) contact information for the applicant in a
2 form required by the department;

3 (2) an annual application fee of fifty dollars
4 (\$50.00) if the applicant does not hold a winegrower's license;

5 (3) the number of the applicant's winegrower's
6 license if the applicant is located in New Mexico or a copy of
7 the applicant's winery license if the applicant is located in a
8 state other than New Mexico; and

9 (4) any other information or documents
10 required by the director.

11 B. A direct wine shipment permit shall be valid for
12 a permit year. A permittee shall renew a direct wine shipment
13 permit annually as required by the department to continue
14 making direct shipments of wine to New Mexico residents.

15 C. A permittee may ship:

16 (1) not more than two nine-liter cases of wine
17 monthly to a New Mexico resident who is twenty-one years of age
18 or older for the recipient's personal consumption or use, but
19 not for resale; and

20 (2) wine directly to a New Mexico resident
21 only in containers that are conspicuously labeled with the
22 words:

23 "CONTAINS ALCOHOL
24 SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED
25 FOR DELIVERY".

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1 D. A permittee shall:

2 (1) register with the taxation and revenue
3 department for the payment of liquor excise tax and gross
4 receipts taxes due on the sales of wine pursuant to the
5 permittee's activities in New Mexico;

6 (2) submit to the jurisdiction of New Mexico
7 courts to resolve legal actions that arise from the shipping by
8 the permittee of wine into New Mexico to New Mexico residents;

9 (3) annually, by the twenty-fifth day of July
10 of each year following a permit year in which the permittee was
11 issued a direct wine shipment permit, pay to the taxation and
12 revenue department the liquor excise tax due;

13 (4) monthly, by the twenty-fifth day of the
14 month after the permittee sold and shipped wine directly to a
15 New Mexico resident pursuant to the permittee's permit, pay to
16 the taxation and revenue department the gross receipts tax due;

17 (5) report to the director and to the taxation
18 and revenue department by the twenty-fifth day of July of each
19 year following a permit year in which the permittee was issued
20 a direct wine shipment permit, the amount of wine sold and
21 shipped by the permittee in the prior permit year; and

22 (6) submit to an audit by an agent of the
23 taxation and revenue department of the permittee's records of
24 the wine shipped pursuant to this section to New Mexico
25 residents upon notice and during usual business hours.

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1 E. As used in this section:

2 (1) "permit year" means the period between
3 July 1 and June 30 of a year; and

4 (2) "permittee" means a person that is the
5 holder of a direct wine shipment permit."

6 SECTION 2. Section 60-7A-3 NMSA 1978 (being Laws 1981,
7 Chapter 39, Section 49, as amended) is amended to read:

8 "60-7A-3. TRANSPORTATION INTO STATE WITHOUT PERMIT--
9 EXPORTATION OF ALCOHOLIC BEVERAGES WITHOUT PERMIT--IMPORTATION
10 FOR PRIVATE USE--RECIPROCAL SHIPPING--WHEN UNLAWFUL.--

11 A. Except as provided in Subsection E of this
12 section, it is a violation of the Liquor Control Act for [~~any~~]
13 a registered common carrier to knowingly deliver [~~any~~] a
14 shipment of alcoholic beverages from another state to [~~any~~] a
15 person in this state without receiving at the time of delivery
16 a permit issued by the department covering the quantity and
17 class of alcoholic beverages to be delivered and requiring the
18 shipment be transported from the shipper designated in the
19 permit to the designated consignee and from the designated
20 point of origin to the destination designated in the permit.

21 B. Except as provided in Subsections D and E of
22 this section, it is a violation of the Liquor Control Act for
23 [~~any~~] a person other than a registered common carrier to
24 knowingly transport from another state and deliver in this
25 state [~~any~~] alcoholic beverages, unless the person has in [~~his~~]

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1 the person's possession on entering New Mexico a permit from
2 the department for the quantity and class of alcoholic
3 beverages to be delivered, designating the name of the shipper
4 and consignee and the point of origin and destination of the
5 alcoholic beverages.

6 C. Except as provided in Subsections D and E of
7 this section, it is a violation of the Liquor Control Act for
8 [~~any~~] a person to transport out of state [~~any~~] alcoholic
9 beverages on which the excise tax has not been paid, unless the
10 shipment is accompanied by a permit issued by the department
11 for the exact quantity and class transported, showing the
12 consignee's federal and state license numbers and the point of
13 origin and destination of the alcoholic beverages.

14 D. [~~Any~~] An individual not a minor may transport
15 into or out of the state [~~any~~] a reasonable amount of alcoholic
16 beverages for the exclusive purpose of [~~his~~] the individual's
17 private use or consumption, and nothing in the Liquor Control
18 Act limits or applies to such private actions.

19 E. [~~Any~~] An individual or licensee, except for a
20 person holding a winery license, in a state [~~which~~] that
21 affords New Mexico licensees or individuals an equal reciprocal
22 shipping privilege may ship for personal use and not for resale
23 not more than two cases of wine, each case containing no more
24 than nine liters, per month to [~~any~~] an individual not a minor
25 in this state. Delivery of a shipment pursuant to this

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1 subsection shall not be deemed to constitute a sale in this
2 state and nothing in the Liquor Control Act limits or applies
3 to such shipments. The shipping container of ~~[any]~~ wine sent
4 into or out of this state under this subsection shall be
5 labeled clearly to indicate that the package cannot be
6 delivered to a minor or to an intoxicated person.

7 F. The holder of a direct wine shipment permit
8 issued pursuant to Section 60-6A-11.1 NMSA 1978 may ship no
9 more than two nine-liter cases of wine per month to a person
10 living in New Mexico who is twenty-one years of age or older
11 for the person's personal consumption and not for resale.

12 ~~[F.]~~ G. As used in this section, "in this state"
13 means within the exterior boundaries of the state."

14 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
15 provisions of this act is July 1, 2011.

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