

1 HOUSE BILL 489

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Javier Martínez

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9  
10 AN ACT

11 RELATING TO ALCOHOLIC BEVERAGES; ADDING PEARS TO THE DEFINITION  
12 OF "CIDER" IN THE LIQUOR EXCISE TAX ACT AND THE LIQUOR CONTROL  
13 ACT AND RAISING THE MAXIMUM ALCOHOL CONTENT OF CIDER; AMENDING  
14 THE DEFINITION OF "MICROBREWERY" IN THE LIQUOR EXCISE TAX ACT;  
15 AMENDING RATES OF THE LIQUOR EXCISE TAX; AMENDING THE  
16 DEFINITIONS OF "SPIRITUOUS LIQUORS" AND "WINEGROWER" IN THE  
17 LIQUOR CONTROL ACT; PROVIDING FOR PRIVATE CELEBRATION CRAFT  
18 DISTILLER'S, WINEGROWER'S AND SMALL BREWER'S PERMITS; CHANGING  
19 THE HOURS OF OPERATION OF A CRAFT DISTILLER, WINEGROWER AND  
20 SMALL BREWER; ESTABLISHING CRITERIA FOR RENEWAL OF A SMALL  
21 BREWER'S LICENSE.

22  
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

24 SECTION 1. Section 7-17-2 NMSA 1978 (being Laws 1966,  
25 Chapter 49, Section 2, as amended by Laws 2013, Chapter 94,

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1 Section 1 and by Laws 2013, Chapter 95, Section 1) is amended  
2 to read:

3 "7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax  
4 Act:

5 A. "alcoholic beverages" means distilled or  
6 rectified spirits, potable alcohol, brandy, whiskey, rum, gin,  
7 aromatic bitters or any similar beverage, including blended or  
8 fermented beverages, dilutions or mixtures of one or more of  
9 the foregoing containing more than one-half of one percent  
10 alcohol by volume, but "alcoholic beverages" does not include  
11 medicinal bitters;

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

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

21 D. "department" means the taxation and revenue  
22 department, the secretary of taxation and revenue or any  
23 employee of the department exercising authority lawfully  
24 delegated to that employee by the secretary;

25 E. "fortified wine" means wine containing more than

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1 fourteen percent alcohol by volume when bottled or packaged by  
2 the manufacturer, but "fortified wine" does not include:

3 (1) wine that is sealed or capped by cork  
4 closure and aged two years or more;

5 (2) wine that contains more than fourteen  
6 percent alcohol by volume solely as a result of the natural  
7 fermentation process and that has not been produced with the  
8 addition of wine spirits, brandy or alcohol; or

9 (3) vermouth and sherry;

10 F. "microbrewer" means

11 ~~[(1) for years prior to 2014, a person who~~  
12 ~~produces fewer than five thousand barrels of beer in a year;~~

13 ~~(2) for years 2014 through 2023, a person who~~  
14 ~~produces fewer than fifteen thousand barrels of beer in a year;~~  
15 and

16 ~~(3) for year 2024 and subsequent years, a~~  
17 ~~person who produces fewer than five thousand barrels of beer in~~  
18 ~~a year] a person who produces less than two hundred thousand~~  
19 ~~barrels of beer per year;~~

20 G. "person" includes, to the extent permitted by  
21 law, a federal, state or other governmental unit or subdivision  
22 or an agency, department, institution or instrumentality  
23 thereof;

24 H. "small winegrower" means a winegrower who  
25 produces less than one million five hundred thousand liters of

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1 wine in a year;

2 I. "spirituous [~~liquor~~] liquors" means alcoholic  
3 beverages, except fermented beverages such as wine, beer, cider  
4 and ale;

5 J. "wholesaler" means a person holding a license  
6 issued under Section 60-6A-1 NMSA 1978 or a person selling  
7 alcoholic beverages that were not purchased from a person  
8 holding a license issued under Section 60-6A-1 NMSA 1978;

9 K. "wine" means an alcoholic beverage other than  
10 cider that is obtained by the fermentation of the natural sugar  
11 contained in fruit or other agricultural products, with or  
12 without the addition of sugar or other products, and that does  
13 not contain more than twenty-one percent alcohol by volume; and

14 L. "winegrower" means a person licensed pursuant to  
15 Section 60-6A-11 NMSA 1978."

16 SECTION 2. Section 7-17-5 NMSA 1978 (being Laws 1993,  
17 Chapter 65, Section 8, as amended by Laws 2013, Chapter 94,  
18 Section 2 and by Laws 2013, Chapter 95, Section 2) is amended  
19 to read:

20 "7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

21 A. There is imposed on a wholesaler who sells  
22 alcoholic beverages on which the tax imposed by this section  
23 has not been paid an excise tax, to be referred to as the  
24 "liquor excise tax", at the following rates on alcoholic  
25 beverages sold:

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1 (1) on spirituous liquors, except as provided  
2 in Paragraph (9) of this subsection, one dollar sixty cents  
3 (\$1.60) per liter;

4 (2) on beer, except as provided in Paragraph  
5 (5) of this subsection, forty-one cents (\$.41) per gallon;

6 (3) on wine, except as provided in Paragraphs  
7 (4) and (6) of this subsection, forty-five cents (\$.45) per  
8 liter;

9 (4) on fortified wine, one dollar fifty cents  
10 (\$1.50) per liter;

11 (5) on beer manufactured or produced by a  
12 microbrewer and sold in this state, provided that proof is  
13 furnished to the department that the beer was manufactured or  
14 produced by a microbrewer, eight cents (\$.08) per gallon on the  
15 first ~~ten~~ sixty thousand barrels sold and twenty-eight cents  
16 (\$.28) per gallon for all barrels sold over ~~ten~~ sixty  
17 thousand barrels but ~~fewer~~ less than ~~fifteen~~ two hundred  
18 thousand barrels;

19 (6) on wine manufactured or produced by a  
20 small winegrower and sold in this state, provided that proof is  
21 furnished to the department that the wine was manufactured or  
22 produced by a small winegrower:

23 (a) ten cents (\$.10) per liter on the  
24 first eighty thousand liters sold;

25 (b) twenty cents (\$.20) per liter on

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1 each liter sold over eighty thousand liters but not over nine  
2 hundred fifty thousand liters; and

3 (c) thirty cents (\$.30) per liter on  
4 each liter sold over nine hundred fifty thousand liters but not  
5 over one million five hundred thousand liters; [~~and~~]

6 (7) on cider, except as provided in Paragraph  
7 (8) of this subsection, forty-one cents (\$.41) per gallon;

8 (8) on cider manufactured or produced by a  
9 small winegrower and sold in this state, provided that proof is  
10 furnished to the department that the cider was manufactured or  
11 produced by a small winegrower, eight cents (\$.08) per gallon  
12 on the first sixty thousand barrels sold and twenty-eight cents  
13 (\$.28) per gallon for all barrels sold over sixty thousand  
14 barrels but less than two hundred thousand barrels; and

15 (9) on spirituous liquors manufactured or  
16 produced by a craft distiller licensed pursuant to Section  
17 60-6A-6.1 NMSA 1978 and sold in this state, provided that proof  
18 is provided to the department that the spirituous liquors were  
19 manufactured or produced by a craft distiller, for products up  
20 to ten percent alcohol by volume, eight cents (\$.08) per liter  
21 and for products over ten percent alcohol by volume, thirty-two  
22 cents (\$.32) per liter on the first three hundred seventy-five  
23 thousand liters sold.

24 B. The volume of wine transferred from one  
25 winegrower to another winegrower for processing, bottling or

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1 storage and subsequent return to the transferor shall be  
2 excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable  
3 volume of wine of the transferee. Wine transferred from an  
4 initial winegrower to a second winegrower remains a tax  
5 liability of the transferor, provided that if the wine is  
6 transferred to the transferee for the transferee's use or for  
7 resale, the transferee then assumes the liability for the tax  
8 due pursuant to this section.

9 C. A transfer of wine from a winegrower to a  
10 wholesaler for distribution of the wine transfers the liability  
11 for payment of the liquor excise tax to the wholesaler upon the  
12 sale of the wine by the wholesaler."

13 SECTION 3. Section 60-3A-3 NMSA 1978 (being Laws 1981,  
14 Chapter 39, Section 3, as amended by Laws 2016, Chapter 73,  
15 Section 1 and by Laws 2016, Chapter 76, Section 1) is amended  
16 to read:

17 "60-3A-3. DEFINITIONS.--As used in the Liquor Control  
18 Act:

19 A. "alcoholic beverages" means distilled or  
20 rectified spirits, potable alcohol, powdered alcohol, frozen or  
21 freeze-dried alcohol, brandy, whiskey, rum, gin and aromatic  
22 bitters bearing the federal internal revenue strip stamps or  
23 any similar alcoholic beverage, including blended or fermented  
24 beverages, dilutions or mixtures of one or more of the  
25 foregoing containing more than one-half percent alcohol, but

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1 excluding medicinal bitters;

2 B. "beer" means an alcoholic beverage obtained by  
3 the fermentation of any infusion or decoction of barley, malt  
4 and hops or other cereals in water, and includes porter, beer,  
5 ale and stout;

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

8 D. "cider" means an alcoholic beverage made from  
9 the normal alcoholic fermentation of the juice of sound, ripe  
10 apples or pears that contains not less than one-half of one  
11 percent alcohol by volume and not more than [~~seven~~] eight and  
12 one-half percent alcohol by volume;

13 E. "club" means:

14 (1) any nonprofit group, including an  
15 auxiliary or subsidiary group, organized and operated under the  
16 laws of this state, with a membership of not less than fifty  
17 members who pay membership dues at the rate of not less than  
18 five dollars (\$5.00) per year and who, under the constitution  
19 and bylaws of the club, have all voting rights and full  
20 membership privileges, and which group is the owner, lessee or  
21 occupant of premises used exclusively for club purposes and  
22 which group the director finds:

23 (a) is operated solely for recreation,  
24 social, patriotic, political, benevolent or athletic purposes;  
25 and

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

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

17 F. "commission" means the secretary of public  
18 safety when the term is used in reference to the enforcement  
19 and investigatory provisions of the Liquor Control Act and  
20 means the superintendent of regulation and licensing when the  
21 term is used in reference to the licensing provisions of the  
22 Liquor Control Act;

23 G. "department" means the New Mexico state police  
24 division of the department of public safety when the term is  
25 used in reference to the enforcement and investigatory

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1 provisions of the Liquor Control Act and means the director of  
2 the alcohol and gaming division of the regulation and licensing  
3 department when the term is used in reference to the licensing  
4 provisions of the Liquor Control Act;

5 H. "director" means the chief of the New Mexico  
6 state police division of the department of public safety when  
7 the term is used in reference to the enforcement and  
8 investigatory provisions of the Liquor Control Act and means  
9 the director of the alcohol and gaming division of the  
10 regulation and licensing department when the term is used in  
11 reference to the licensing provisions of the Liquor Control  
12 Act;

13 I. "dispenser" means a person licensed under the  
14 provisions of the Liquor Control Act selling, offering for sale  
15 or having in the person's possession with the intent to sell  
16 alcoholic beverages both by the drink for consumption on the  
17 licensed premises and in unbroken packages, including growlers,  
18 for consumption and not for resale off the licensed premises;

19 J. "distiller" means a person engaged in  
20 manufacturing spirituous liquors;

21 K. "golf course" means a tract of land and  
22 facilities used for playing golf and other recreational  
23 activities that includes tees, fairways, greens, hazards,  
24 putting greens, driving ranges, recreational facilities,  
25 patios, pro shops, cart paths and public and private roads that

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1 are located within the tract of land;

2 L. "governing body" means the board of county  
3 commissioners of a county or the city council or city  
4 commissioners of a municipality;

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

9 N. "hotel" means an establishment or complex having  
10 a resident of New Mexico as a proprietor or manager and where,  
11 in consideration of payment, meals and lodging are regularly  
12 furnished to the general public. The establishment or complex  
13 must maintain for the use of its guests a minimum of twenty-  
14 five sleeping rooms;

15 O. "licensed premises" means the contiguous areas  
16 or areas connected by indoor passageways of a structure and the  
17 outside dining, recreation and lounge areas of the structure  
18 and the grounds and vineyards of a structure that is a winery  
19 that are under the direct control of the licensee and from  
20 which the licensee is authorized to sell, serve or allow the  
21 consumption of alcoholic beverages under the provisions of its  
22 license; provided that in the case of a restaurant, "licensed  
23 premises" includes a restaurant that has operated continuously  
24 in two separate structures since July 1, 1987 and that is  
25 located in a local option district that has voted to disapprove

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1 the transfer of liquor licenses into that local option  
2 district, hotel, golf course, ski area or racetrack and all  
3 public and private rooms, facilities and areas in which  
4 alcoholic beverages are sold or served in the customary  
5 operating procedures of the restaurant, hotel, golf course, ski  
6 area or racetrack. "Licensed premises" also includes rural  
7 dispenser licenses located in the unincorporated areas of a  
8 county with a population of less than thirty thousand, located  
9 in buildings in existence as of January 1, 2012, that are  
10 within one hundred fifty feet of one another and that are under  
11 the direct control of the license holder;

12 P. "local option district" means a county that has  
13 voted to approve the sale, serving or public consumption of  
14 alcoholic beverages, or an incorporated municipality that falls  
15 within a county that has voted to approve the sale, serving or  
16 public consumption of alcoholic beverages, or an incorporated  
17 municipality of over five thousand population that has  
18 independently voted to approve the sale, serving or public  
19 consumption of alcoholic beverages under the terms of the  
20 Liquor Control Act or any former act;

21 Q. "manufacturer" means a distiller, rectifier,  
22 brewer or winer;

23 R. "minor" means a person under twenty-one years of  
24 age;

25 S. "package" means an immediate container of

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1 alcoholic beverages that is filled or packed by a manufacturer  
2 or wine bottler for sale by the manufacturer or wine bottler to  
3 wholesalers;

4 T. "person" means an individual, corporation, firm,  
5 partnership, copartnership, association or other legal entity;

6 U. "rectifier" means a person who blends, mixes or  
7 distills alcohol with other liquids or substances for the  
8 purpose of making an alcoholic beverage for the purpose of sale  
9 other than to the consumer by the drink, and includes all  
10 bottlers of spirituous liquors;

11 V. "restaurant" means an establishment having a New  
12 Mexico resident as a proprietor or manager that is held out to  
13 the public as a place where meals are prepared and served  
14 primarily for on-premises consumption to the general public in  
15 consideration of payment and that has a dining room, a kitchen  
16 and the employees necessary for preparing, cooking and serving  
17 meals; provided that "restaurant" does not include  
18 establishments as defined in rules promulgated by the director  
19 serving only hamburgers, sandwiches, salads and other fast  
20 foods;

21 W. "retailer" means a person licensed under the  
22 provisions of the Liquor Control Act selling, offering for sale  
23 or having in the person's possession with the intent to sell  
24 alcoholic beverages in unbroken packages, including growlers,  
25 for consumption and not for resale off the licensed premises;

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1 X. "ski area" means a tract of land and facilities  
2 for the primary purpose of alpine skiing, snowboarding or other  
3 snow sports with trails, parks and at least one chairlift with  
4 uphill capacity and may include facilities necessary for other  
5 seasonal or year-round recreational activities;

6 Y. "spirituous liquors" means alcoholic beverages  
7 as defined in Subsection A of this section except fermented  
8 beverages such as wine, beer, cider and ale;

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

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

19 BB. "wine bottler" means a New Mexico wholesaler  
20 who is licensed to sell wine at wholesale for resale only and  
21 who buys wine in bulk and bottles it for wholesale resale;

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

24 DD. "winer" means a winegrower; and

25 EE. "winery" means a facility in which a winegrower

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1 manufactures and stores wine or cider."

2 SECTION 4. Section 60-6A-6.1 NMSA 1978 (being Laws 2011,  
3 Chapter 110, Section 3, as amended) is amended to read:

4 "60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

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

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

14 (2) renewal of the license shall be  
15 conditioned upon:

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

21 (b) the manufacture of no less than one  
22 thousand proof gallons of spirituous liquors per license year  
23 at the licensee's premises; and

24 (c) submission to the department by the  
25 licensee of a report showing the number of proof gallons of

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1 spirituous liquors manufactured by the licensee at the  
2 licensee's premises and the annual gross receipts from the sale  
3 of spirituous liquors produced by the licensee and from the  
4 licensee's sale of distilled spirituous liquors produced by  
5 other New Mexico licensed craft distillers;

6 (3) a craft distiller's license shall not be  
7 transferred from person to person or from one location to  
8 another;

9 (4) the provisions of Section 60-6A-18 NMSA  
10 1978 shall not apply to a craft distiller's license; and

11 (5) nothing in this section shall prevent a  
12 craft distiller from receiving other licenses pursuant to the  
13 Liquor Control Act.

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

16 (1) manufacture or produce spirituous liquors,  
17 including aging, filtering, blending, mixing, flavoring,  
18 coloring, bottling and labeling;

19 (2) store, transport, import or export  
20 spirituous liquors;

21 (3) sell only spirituous liquors that are  
22 packaged by or for the craft distiller to a person holding a  
23 wholesaler's license, a craft distiller's license or a  
24 manufacturer's license;

25 (4) deal in warehouse receipts for spirituous

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1 liquors;

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

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

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

14 (8) at no more than three other locations off  
15 the craft distiller's premises, after the craft distiller has  
16 paid the applicable fee for a craft distiller's off-premises  
17 permit, after the director has determined that the off-premises  
18 locations meet the requirements of the Liquor Control Act and  
19 department rules for new liquor license locations and after the  
20 director has issued a craft distiller's off-premises permit for  
21 each off-premises location, conduct spirituous liquor tastings  
22 and sell by the glass, or in unbroken packages for consumption  
23 and not for resale, spirituous liquors produced and bottled by  
24 or for the craft distiller or spirituous liquors produced and  
25 bottled by or for another New Mexico craft distiller or

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1 manufacturer.

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

16 D. At private celebrations on or off the craft  
17 distiller's premises after the craft distiller has paid the  
18 applicable fees and been issued the appropriate permit, the  
19 craft distiller may sell by the glass spirituous liquors  
20 produced by or for the craft distiller.

21 [~~D-~~] E. Sales and tastings of spirituous liquors  
22 authorized in this section shall be permitted during the hours  
23 set forth in Subsection A of Section 60-7A-1 NMSA 1978 and  
24 between the hours of [~~noon~~] 11:00 a.m. and midnight on Sunday  
25 and shall conform to the limitations regarding Christmas day

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1 sales and the expansion of Sunday sales hours to 2:00 a.m. on  
2 January 1, when December 31 falls on a Sunday as set forth in  
3 Section 60-7A-1 NMSA 1978.

4 F. As used in this section:

5 (1) "private celebration" means any  
6 celebratory activity that is held in a private or public venue  
7 not open to the general public and for which attendance is  
8 subject to private invitation; and

9 (2) "public celebration" includes any state or  
10 county fair, community fiesta, cultural or artistic event,  
11 sporting competition of a seasonal nature or activities held on  
12 an intermittent basis."

13 SECTION 5. Section 60-6A-11 NMSA 1978 (being Laws 1981,  
14 Chapter 39, Section 28, as amended by Laws 2015, Chapter 102,  
15 Section 4 and by Laws 2015, Chapter 105, Section 1 and also by  
16 Laws 2015, Chapter 124, Section 1) is amended to read:

17 "60-6A-11. WINEGROWER'S LICENSE.--

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

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1 provided, however, that, for purposes of determining annual  
2 production and compliance with the fifty percent New Mexico  
3 grown provision of this subsection, the calculation of a  
4 winegrower's overall annual production of wine shall not  
5 include the winegrower's production of wine for out-of-state  
6 wine producer license holders.

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

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

17 (2) store, transport, import or export wines  
18 or ciders;

19 (3) sell wines or ciders to a holder of a New  
20 Mexico winegrower's, wine wholesaler's, wholesaler's or wine  
21 exporter's license or to a winegrower's agent;

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

25 (5) deal in warehouse receipts for wine or

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1 cider;

2 (6) sell wines or ciders in other states or  
3 foreign jurisdictions to the holders of a license issued under  
4 the authority of that state or foreign jurisdiction authorizing  
5 the purchase of wine or cider;

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

10 (8) buy or otherwise obtain beer from a small  
11 brewer for the purposes described in this subsection;

12 (9) conduct wine or cider tastings and sell,  
13 by the glass or by the bottle, or sell in unbroken packages for  
14 consumption off the premises, but not for resale, wine or cider  
15 of the winegrower's own production, wine or cider produced by  
16 another New Mexico winegrower on the winegrower's premises or  
17 beer produced and bottled by or for a small brewer pursuant to  
18 Section [~~60-2A-26.1~~] 60-6A-26.1 NMSA 1978;

19 (10) at no more than three off-premises  
20 locations, conduct wine or cider tastings, sell by the glass  
21 and sell in unbroken packages for consumption off premises, but  
22 not for resale, wine or cider of the winegrower's own  
23 production, wine or cider produced by another New Mexico  
24 winegrower or beer produced and bottled by or for a small  
25 brewer pursuant to Section 60-6A-26.1 NMSA 1978 after the

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1 director has determined that the off-premises locations meet  
2 the requirements of the Liquor Control Act and the department  
3 rules for new liquor license locations;

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

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

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

16 (a) by the glass or bottle, wine or  
17 cider produced by or for the winegrower; or

18 (b) by the glass, beer produced by a  
19 small brewer pursuant to Section 60-6A-26.1 NMSA 1978;

20 [~~(13)~~] (14) sell wine or cider in a growler  
21 for consumption off premises; and

22 [~~(14)~~] (15) in accordance with the provisions  
23 of this section that relate to the sale of wine or cider,  
24 accept and fulfill an order for wine or cider that is placed  
25 via an internet [~~web site~~] website, whether the financial

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1 transaction related to the order is administered by the  
2 licensee or the licensee's agent.

3 C. Sales of wine or cider or beer as provided for  
4 in this section shall be permitted between the hours of 7:00  
5 a.m. and midnight Monday through Saturday, and the holder of a  
6 winegrower's license or public celebration permit may conduct  
7 wine or cider tastings and sell, by the glass or bottle, or  
8 sell in unbroken packages for consumption off premises, but not  
9 for resale, wine or cider of the winegrower's own production or  
10 beer produced and bottled by or for a small brewer pursuant to  
11 Section 60-6A-26.1 NMSA 1978 on the winegrower's premises  
12 between the hours of [~~12:00 noon~~] 11:00 a.m. and midnight on  
13 Sunday.

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

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1 ~~subsection, "public celebration" includes any state or county~~  
2 ~~fair, community fiesta, cultural or artistic event, sporting~~  
3 ~~competition of a seasonal nature or activities held on an~~  
4 ~~intermittent basis.]~~

5 E. Every application for the issuance or annual  
6 renewal of a winegrower's license shall be on a form prescribed  
7 by the director and accompanied by a license fee to be computed  
8 as follows on the basis of total annual wine or cider produced  
9 or blended:

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

12 (2) between five thousand and one hundred  
13 thousand gallons per year, one hundred dollars (\$100) per year;  
14 and

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

17 F. As used in this section:

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

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

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1           SECTION 6. Section 60-6A-26.1 NMSA 1978 (being Laws 1985,  
2 Chapter 217, Section 5, as amended by Laws 2015, Chapter 102,  
3 Section 5 and by Laws 2015, Chapter 124, Section 2) is amended  
4 to read:

5           "60-6A-26.1. SMALL BREWER'S LICENSE.--

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

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

13                   (1) manufacture or produce beer;

14                   (2) package, label and export beer, whether  
15 manufactured, bottled or produced by the licensee or any other  
16 person;

17                   (3) sell only beer that is packaged by or for  
18 the licensee to a person holding a wholesaler's license or a  
19 small brewer's license;

20                   (4) deal in warehouse receipts for beer;

21                   (5) conduct beer tastings and sell for  
22 consumption on or off premises, but not for resale, beer  
23 produced and bottled by, or produced and packaged for, the  
24 licensee, beer produced and bottled by or for another New  
25 Mexico small brewer on the small brewer's premises or wine or

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1 cider produced by a winegrower pursuant to Section 60-6A-11  
2 NMSA 1978;

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

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

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

18 [~~(8)~~] (9) buy or otherwise obtain wine or  
19 cider from a winegrower;

20 [~~(9)~~] (10) for the purposes described in this  
21 subsection, at no more than three other locations off the small  
22 brewer's premises, after the small brewer has paid the  
23 applicable fee for a small brewer's off-premises permit, after  
24 the director has determined that the off-premises locations  
25 meet the requirements of the Liquor Control Act and department

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

10 [~~(10)~~] (11) allow members of the public, on  
11 the licensed premises and under the direct supervision of the  
12 licensee, to manufacture beer for personal consumption and not  
13 for resale using the licensee's equipment and ingredients; and

14 [~~(11)~~] (12) sell beer in a growler for  
15 consumption off premises.

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

19 (1) no less than fifty percent of the gross  
20 receipts from the sale of beer for the preceding twelve months  
21 of the licensee's operation are derived from the sale of beer  
22 produced by the licensee; or

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

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

17           ~~D.]~~ E. Sales and tastings of beer [~~or~~], wine or  
18 cider authorized in this section shall be permitted during the  
19 hours set forth in Subsection A of Section 60-7A-1 NMSA 1978  
20 and between the hours of [~~noon~~] 11:00 a.m. and midnight on  
21 Sunday and shall conform to the limitations regarding Christmas  
22 and voting-day sales found in Section 60-7A-1 NMSA 1978 and the  
23 expansion of Sunday sales hours to 2:00 a.m. on January 1, when  
24 December 31 falls on a Sunday.

25           F. As used in this section:

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

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

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.