

1 SENATE BILL 546

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Phil A. Griego

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10 AN ACT

11 RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR A
12 MICRODISTILLER'S LICENSE; AMENDING THE DOMESTIC WINERY AND
13 SMALL BREWERY ACT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME
14 SECTION OF LAW IN LAWS 1998.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 60-6A-21 NMSA 1978 (being Laws 1983,
18 Chapter 280, Section 2, as amended) is amended to read:

19 "60-6A-21. SHORT TITLE.--Sections 60-6A-21 through
20 60-6A-28 NMSA 1978 may be cited as the "Domestic Winery, [~~and~~]
21 Small Brewery and Microdistillery Act"."

22 SECTION 2. Section 60-6A-22 NMSA 1978 (being Laws 1983,
23 Chapter 280, Section 3, as amended) is amended to read:

24 "60-6A-22. DEFINITIONS.--As used in the Domestic Winery,
25 [~~and~~] Small Brewery and Microdistillery Act:

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1 A. "brandy" means an alcoholic liquor distilled
2 from wine or from fermented fruit juice;

3 B. "beer" means any fermented beverage containing
4 more than one-half percent alcohol obtained by the fermentation
5 of any infusion or decoction of barley, malt and hops or other
6 cereal in water, and includes porter, beer, ale and stout;

7 C. "small brewer" means any person who owns or
8 operates a business for the manufacture of beer but does not
9 manufacture more than two hundred thousand barrels of beer per
10 year;

11 D. "proof gallon" means a gallon of liquid at sixty
12 degrees Fahrenheit that contains fifty percent ethyl alcohol by
13 volume or its equivalent;

14 ~~[D-]~~ E. "public celebration" means any state fair,
15 county fair, community fiesta or cultural or artistic
16 performance;

17 F. "microdistiller" means a person licensed as a
18 microdistiller who owns or operates a business for the
19 manufacture of spirituous liquors but does not manufacture more
20 than one hundred fifty thousand proof gallons per year;

21 ~~[E-]~~ G. "wine" means the product obtained from
22 normal alcoholic fermentation of the juice of sound ripe grapes
23 or other agricultural products containing natural or added
24 sugar, or any such alcoholic beverage to which is added grape
25 brandy, fruit brandy or spirits of wine ~~[which]~~ that is

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1 distilled from the particular agricultural products of which
2 the wine is made, and other rectified wine products by whatever
3 name ~~[which]~~ that do not contain more than fifteen percent
4 added flavoring, coloring and blending material and ~~[which]~~
5 that contain not more than twenty-four percent ~~[of]~~ alcohol by
6 volume, and includes vermouth;

7 ~~[F.]~~ H. "wine blender" means a person authorized to
8 operate a bonded wine cellar pursuant to a permit issued for
9 that purpose under the internal revenue laws of the United
10 States but who does not have facilities or equipment for the
11 conversion of grapes, berries or other fruit into wine and does
12 not engage in the production of wine in commercial quantities;
13 provided that any person who produces or blends not to exceed
14 three hundred gallons of wine per year shall not, because of
15 such production or blending, be considered a wine blender; and

16 ~~[G.]~~ I. "winer" means a person licensed as a
17 winegrower."

18 **SECTION 3.** A new section of the Domestic Winery, Small
19 Brewery and Microdistillery Act is enacted to read:

20 "[NEW MATERIAL] MICRODISTILLER'S LICENSE.--

21 A. In any local option district, a person qualified
22 under the provisions of the Liquor Control Act, except as
23 otherwise provided in the Domestic Winery, Small Brewery and
24 Microdistillery Act, may apply for and be issued a
25 microdistiller's license subject to the following conditions:

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1 (1) the applicant submits evidence to the
2 department that the applicant has a valid and appropriate
3 permit issued by the federal government to be a microdistiller;

4 (2) renewal of the license shall be
5 conditioned upon no less than sixty percent of the gross
6 receipts from the preceding twelve months of the licensee's
7 operation being derived from the sale of distilled spirits
8 produced by the licensee. Upon application for renewal, a
9 licensee shall submit a report to the director indicating the
10 annual gross receipts from the sale of distilled spirits
11 produced by the licensee and from the licensee's sale of
12 distilled spirits produced by another New Mexico licensed
13 microdistiller;

14 (3) a microdistiller's license shall not be
15 transferred from person to person or from one location to
16 another;

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

19 (5) nothing in this section shall prevent a
20 microdistiller from receiving other licenses pursuant to the
21 Liquor Control Act.

22 B. A person to whom a microdistiller's license is
23 issued pursuant to this section may do any of the following:

24 (1) manufacture or produce spirituous liquors,
25 including aging, filtering, blending, mixing, flavoring,

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1 coloring, bottling and labeling;

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

4 (3) sell only spirituous liquors that are
5 packaged by or for the microdistiller to a person holding a
6 wholesaler's license, a microdistiller's license or a
7 manufacturer's license;

8 (4) deal in warehouse receipts for spirituous
9 liquors;

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

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

16 (7) conduct spirituous liquor tastings and
17 sell, by the glass or by the bottle, or in unbroken packages
18 for consumption off the premises but not for resale, spirituous
19 liquors of the microdistiller's own production or spirituous
20 liquors produced by another New Mexico microdistiller or New
21 Mexico manufacturer on the microdistiller's premises; and

22 (8) at no more than two other locations off
23 the microdistiller's premises, after the microdistiller has
24 paid the applicable fee for a microdistiller's off-premises
25 permit, after the director has determined that the off-premises

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1 locations meet the requirements of the Liquor Control Act and
2 department rules for new liquor license locations and after the
3 director has issued a microdistiller's off-premises permit for
4 each off-premises location, conduct spirituous liquor tastings
5 and sell by the glass, or in unbroken packages for consumption
6 and not for resale, spirituous liquors produced and bottled by
7 or for the microdistiller or spirituous liquors produced and
8 bottled by or for another New Mexico microdistiller or
9 manufacturer.

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

25 D. Sales and tastings of spirituous liquors

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1 authorized in this section shall be permitted during the hours
2 set forth in Subsection A of Section 60-7A-1 NMSA 1978 and
3 between the hours of noon and midnight on Sunday and shall
4 conform to the limitations regarding Christmas day sales and
5 the expansion of Sunday sales hours to 2:00 a.m. on January 1,
6 when December 31 falls on a Sunday as set forth in Section
7 60-7A-1 NMSA 1978."

8 SECTION 4. Section 60-6A-27 NMSA 1978 (being Laws 1983,
9 Chapter 280, Section 8, as amended by Laws 1998, Chapter 109,
10 Section 5 and also by Laws 1998, Chapter 111, Section 2) is
11 amended to read:

12 "60-6A-27. LICENSE FEES.--Every application for the
13 issuance or annual renewal of the following licenses and
14 permits shall be accompanied by a license fee or permit fee in
15 the following specified amounts:

- 16 A. brandy manufacturer's license, seven hundred
17 fifty dollars (\$750);
- 18 B. small brewer's license, seven hundred fifty
19 dollars (\$750);
- 20 C. wine blender's license, seven hundred fifty
21 dollars (\$750);
- 22 D. wine exporter's license, five hundred dollars
23 (\$500);
- 24 E. small brewer's public celebrations permit, ten
25 dollars (\$10.00) for each public celebration; ~~and~~

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1 ~~F.]~~ F. small brewer's off-premises permit, two
2 hundred dollars (\$200) for each off-premises location;

3 G. microdistiller's license, seven hundred fifty
4 dollars (\$750); and

5 H. microdistiller's off-premises permit, two
6 hundred dollars (\$200) for each off-premises location."

7 **SECTION 5. TEMPORARY PROVISION--APPLICATIONS FOR**
8 **LICENSE.--**

9 A. If a person has submitted an application for a
10 manufacturer's license as a distiller to the director of the
11 alcohol and gaming division of the regulation and licensing
12 department and, on July 1, 2011, the application has not yet
13 been approved, the person may submit a request in writing to
14 the director no later than July 31, 2011 to convert the
15 application from a manufacturer's license as a distiller to an
16 application for a microdistiller's license in accordance with
17 procedures adopted by the director.

18 B. If, within one hundred twenty days prior to or
19 subsequent to July 1, 2011, a person obtains approval for a
20 manufacturer's license as a distiller, the person may submit a
21 request in writing to the director of the alcohol and gaming
22 division of the regulation and licensing department to convert
23 the manufacturer's license as a distiller to a microdistiller's
24 license pursuant to procedures adopted by the director and upon
25 payment of licensing fees as provided in Section 60-6A-27 NMSA

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1 1978. There shall be no refunds of application or licensing
2 fees unless otherwise provided by law.

3 SECTION 6. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2011.