

1 SENATE BILL 217

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAXATION; AMENDING THE DISTRIBUTIONS OF THE LIQUOR
12 EXCISE TAX; AMENDING DEFINITIONS IN THE LIQUOR EXCISE TAX ACT;;
13 IMPOSING A LIQUOR EXCISE SURTAX ON RETAILERS; DISTRIBUTING THE
14 REVENUE FROM THE SURTAX TO A NEW TRIBAL ALCOHOL HARMS
15 ALLEVIATION FUND; EXCLUDING THE TAXES IMPOSED BY THE LIQUOR
16 EXCISE TAX FROM THE DEFINITION OF "GROSS RECEIPTS" IN THE GROSS
17 RECEIPTS AND COMPENSATING TAX ACT.

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

20 SECTION 1. Section 7-1-6.40 NMSA 1978 (being Laws 1997,
21 Chapter 182, Section 1, as amended) is amended to read:

22 "7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI
23 GRANT FUND--CERTAIN MUNICIPALITIES--DRUG COURT FUND.--

24 A. A distribution pursuant to Section 7-1-6.1 NMSA
25 1978 in an amount equal to forty-five percent of the net

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1 receipts attributable to the liquor excise tax shall be made to
2 the local DWI grant fund.

3 B. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 of twenty thousand seven hundred fifty dollars (\$20,750)
5 monthly from the net receipts attributable to the liquor excise
6 tax shall be made to a municipality that is located in a class
7 A county and that has a population according to the most recent
8 federal decennial census of more than thirty thousand but less
9 than sixty thousand and shall be used by the municipality only
10 for the provision of alcohol treatment and rehabilitation
11 services for street inebriates.

12 C. Beginning July 1, 2019, a distribution pursuant
13 to Section 7-1-6.1 NMSA 1978 in an amount equal to five percent
14 of the net receipts attributable to the liquor excise tax shall
15 be made to the drug court fund.

16 D. A distribution pursuant to Section 7-1-6.1 NMSA
17 1978 shall be made to the tribal alcohol harms alleviation fund
18 in an amount equal to the net receipts attributable to the
19 liquor excise surtax."

20 SECTION 2. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
21 Chapter 272, Section 3, as amended) is amended to read:

22 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

23 A. As used in the Gross Receipts and Compensating
24 Tax Act:

25 (1) "gross receipts" means the total amount of
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1 money or the value of other consideration received from selling
2 property in New Mexico, from leasing or licensing property
3 employed in New Mexico, from granting a right to use a
4 franchise employed in New Mexico, from selling services
5 performed outside New Mexico, the product of which is initially
6 used in New Mexico, or from performing services in New Mexico.
7 In an exchange in which the money or other consideration
8 received does not represent the value of the property or
9 service exchanged, "gross receipts" means the reasonable value
10 of the property or service exchanged;

11 (2) "gross receipts" includes:

12 (a) any receipts from sales of tangible
13 personal property handled on consignment;

14 (b) the total commissions or fees
15 derived from the business of buying, selling or promoting the
16 purchase, sale or lease, as an agent or broker on a commission
17 or fee basis, of any property, service, stock, bond or
18 security;

19 (c) amounts paid by members of any
20 cooperative association or similar organization for sales or
21 leases of personal property or performance of services by such
22 organization;

23 (d) amounts received from transmitting
24 messages or conversations by persons providing telephone or
25 telegraph services;

(e) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with the New Mexico florist that are filled and delivered outside New Mexico by an out-of-state florist;

(f) the receipts of a home service provider from providing mobile telecommunications services to customers whose place of primary use is in New Mexico if: 1) the mobile telecommunications services originate and terminate in the same state, regardless of where the services originate, terminate or pass through; and 2) the charges for mobile telecommunications services are billed by or for a customer's home service provider and are deemed provided by the home service provider. For the purposes of this section, "home service provider", "mobile telecommunications services", "customer" and "place of primary use" have the meanings given in the federal Mobile Telecommunications Sourcing Act; and

(g) receipts collected by a marketplace provider engaging in business in the state from sales, leases and licenses of tangible personal property, sales of licenses and sales of services or licenses for use of real property that are sourced to this state and are facilitated by the marketplace provider on behalf of marketplace sellers, regardless of whether the marketplace sellers are engaging in

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business in the state; and

(3) "gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) New Mexico gross receipts tax,

governmental gross receipts tax, leased vehicle gross receipts tax, [and] cannabis excise tax and taxes imposed pursuant to the Liquor Excise Tax Act payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option gross receipts tax that is payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential;

(f) amounts received solely on behalf of another in a disclosed agency capacity; and

(g) amounts received by a New Mexico florist from the sale of flowers, plants or other products that

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1 are customarily sold by florists where the sale is made
2 pursuant to orders placed with an out-of-state florist for
3 filling and delivery in New Mexico by a New Mexico florist.

4 B. When the sale of property or service is made
5 under any type of charge, conditional or time-sales contract or
6 the leasing of property is made under a leasing contract, the
7 seller or lessor may elect to treat all receipts, excluding any
8 type of time-price differential, under such contracts as gross
9 receipts as and when the payments are actually received. If
10 the seller or lessor transfers the seller's or lessor's
11 interest in any such contract to a third person, the seller or
12 lessor shall pay the gross receipts tax upon the full sale or
13 leasing contract amount, excluding any type of time-price
14 differential."

15 SECTION 3. Section 7-17-2 NMSA 1978 (being Laws 1966,
16 Chapter 49, Section 2, as amended) is amended to read:

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

19 A. "alcoholic beverages" means distilled or
20 rectified spirits, potable alcohol, brandy, whiskey, rum, gin,
21 aromatic bitters or any similar beverage, including blended or
22 fermented beverages, dilutions or mixtures of one or more of
23 the foregoing containing more than one-half of one percent
24 alcohol by volume, but "alcoholic beverages" does not include
25 medicinal bitters;

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1 B. "barrel" means the equivalent of thirty-one
2 gallons;

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

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

12 [D.] E. "department" means the taxation and revenue
13 department, the secretary of taxation and revenue or any
14 employee of the department exercising authority lawfully
15 delegated to that employee by the secretary;

16 [E.] F. "fortified wine" means wine containing more
17 than fourteen percent alcohol by volume when bottled or
18 packaged by the manufacturer, but "fortified wine" does not
19 include:

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

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

(3) vermouth and sherry;

[F.] G. "microbrewer" means a person who produces less than two hundred thousand barrels of beer per year;

[G.] H. "person" includes, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof;

I. "retailer" means a person having a place of business in New Mexico, excluding winegrowers, persons issued a small brewer's license pursuant to Section 60-6A-26.1 NMSA 1978 and persons issued a craft distiller's license pursuant to Section 60-6A-6.1 NMSA 1978, that sells alcoholic beverages in New Mexico, offers alcoholic beverages for sale in New Mexico or possesses for the purpose of selling alcoholic beverages in New Mexico;

[H-] J. "small winegrower" means a winegrower who produces less than one million five hundred thousand liters of wine in a year;

[I.-] K. "spirituous liquors" means alcoholic beverages, except fermented beverages such as wine, beer, cider and ale;

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

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1 1978;

2 [K.] M. "wine" means an alcoholic beverage other
3 than cider that is obtained by the fermentation of the natural
4 sugar contained in fruit or other agricultural products, with
5 or without the addition of sugar or other products, and that
6 does not contain more than twenty-one percent alcohol by
7 volume; and

8 [L.] N. "winegrower" means a person licensed
9 pursuant to Section 60-6A-11 NMSA 1978."

10 SECTION 4. A new section of the Liquor Excise Tax Act,
11 Section 7-17-5.2 NMSA 1978, is enacted to read:

12 "7-17-5.2. [NEW MATERIAL] IMPOSITION AND RATE OF LIQUOR
13 EXCISE SURTAX.--Beginning July 1, 2027, there is imposed on a
14 retailer that sells alcoholic beverages not for resale an
15 excise surtax, to be referred to as the "liquor excise surtax",
16 at the rate of three percent of the price paid for alcoholic
17 beverages sold by the retailer."

18 SECTION 5. Section 7-17-6 NMSA 1978 (being Laws 1984,
19 Chapter 85, Section 4, as amended) is amended to read:

20 "7-17-6. DEDUCTION--INTERSTATE SALES--WINEGROWER-TO-
21 WINEGROWER TRANSFERS.--

22 A. A wholesaler may deduct the liters of spirituous
23 liquors, gallons of beer and liters of wine sold and shipped to
24 a person in another state from the units of alcoholic beverages
25 subject to the [tax] taxes imposed by the Liquor Excise Tax

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1 Act; provided that the department may require the wholesaler to
2 submit evidence satisfactory to the department that the units
3 have been sold and shipped to a person in another state.

4 B. A winegrower may deduct the liters of wine
5 transferred to the winegrower from another winegrower for
6 processing, bottling or storage and subsequent return to the
7 transferor from the units of wine subject to the [liquor
8 excise tax] taxes imposed by the Liquor Excise Tax Act on the
9 licensed premises of the winegrower."

10 SECTION 6. Section 7-17-9 NMSA 1978 (being Laws 1966,
11 Chapter 49, Section 7, as amended) is amended to read:

12 "7-17-9. EXEMPTION--CERTAIN SALES TO OR BY
13 INSTRUMENTALITIES OF ARMED FORCES.--Exempted from the [tax]
14 taxes imposed by [Section 7-17-5 NMSA 1978] the Liquor Excise
15 Tax Act are alcoholic beverages sold to or by any
16 instrumentality of the armed forces of the United States
17 engaged in resale activities."

18 SECTION 7. Section 7-17-10 NMSA 1978 (being Laws 1966,
19 Chapter 49, Section 8, as amended) is amended to read:

20 "7-17-10. DATE PAYMENT DUE.--The [tax] taxes imposed by
21 the Liquor Excise Tax Act [is] are to be paid on or before the
22 twenty-fifth day of the month following the month in which the
23 taxable event occurs."

24 SECTION 8. Section 7-17-11 NMSA 1978 (being Laws 1969,
25 Chapter 80, Section 1, as amended) is amended to read:

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1 "7-17-11. REFUND OR CREDIT OF [TAX] TAXES.--The
2 department shall allow a claim for refund or credit as provided
3 in Sections 7-1-26 and 7-1-29 NMSA 1978 for the [tax] taxes
4 imposed by [Section 7-17-5 NMSA 1978] the Liquor Excise Tax Act
5 and paid on alcoholic beverages destroyed in shipment, spoiled
6 or otherwise damaged as to be unfit for sale or consumption
7 upon submission of proof satisfactory to the department of such
8 destruction, spoilage or damage."

9 SECTION 9. Section 7-17-12 NMSA 1978 (being Laws 1984,
10 Chapter 85, Section 8, as amended) is amended to read:

11 "7-17-12. INTERPRETATION OF ACT--ADMINISTRATION AND
12 ENFORCEMENT OF [TAX] TAXES.--

13 A. The department shall interpret the provisions of
14 the Liquor Excise Tax Act.

15 B. The department shall administer and enforce the
16 collection of the [liquor excise tax] taxes imposed by the
17 Liquor Excise Tax Act, and the Tax Administration Act applies
18 to the administration and enforcement of the [tax] taxes."

19 SECTION 10. [NEW MATERIAL] TRIBAL ALCOHOL HARMS
20 ALLEVIATION FUND.--The "tribal alcohol harms alleviation fund"
21 is created as a nonreverting fund in the state treasury. The
22 fund consists of distributions, appropriations, gifts, grants,
23 donations and income from investment of the fund. The fund
24 shall be administered by the Indian affairs department, and
25 money in the fund is subject to appropriation by the

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legislature for alcohol and substance use harms prevention, treatment and recovery services to individuals.

SECTION 11. Section 60-6A-11.1 NMSA 1978 (being Laws 2011, Chapter 109, Section 1) is amended to read:

"60-6A-11.1. 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:

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

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

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

(4) any other information or documents required by the director. Upon approval of an applicant for a permit, the director shall forward to the taxation and revenue department the name of each permittee and the contact information for the permittee.

B. A direct wine shipment permit shall be valid for

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1 a permit year. A permittee shall renew a direct wine shipment
2 permit annually as required by the department to continue
3 making direct shipments of wine to New Mexico residents.

4 C. A permittee may ship:

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

9 (2) wine directly to a New Mexico resident
10 only in containers that are conspicuously labeled with the
11 words:

12 "CONTAINS ALCOHOL

13 SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED

14 FOR DELIVERY".

15 D. A permittee shall:

16 (1) register with the taxation and revenue
17 department for the payment of the liquor excise tax, liquor
18 excise surtax and gross receipts taxes due on the sales of wine
19 pursuant to the permittee's activities in New Mexico;

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

23 (3) monthly, by the twenty-fifth day of each
24 month following the month in which the permittee was issued a
25 direct wine shipment permit, pay to the taxation and revenue

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1 department the liquor excise tax, [due] liquor excise surtax
2 and [the] gross receipts tax due; and

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

7 E. As used in this section:

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

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

12 **SECTION 12. EFFECTIVE DATE.**--The effective date of the
13 provisions of this act is July 1, 2026.

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