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SENATE BILL 217

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

INTRODUCED BY

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AN ACT

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

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

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

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

A. A distribution pursuant to Section 7-1-6.1 NMSA  
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;

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

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

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

1 business in the state; and

2 (3) "gross receipts" excludes:

3 (a) cash discounts allowed and taken;

4 (b) New Mexico gross receipts tax,  
5 governmental gross receipts tax, leased vehicle gross receipts  
6 tax, ~~and~~ cannabis excise tax and taxes imposed pursuant to  
7 the Liquor Excise Tax Act payable on transactions for the  
8 reporting period;

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

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

21 (e) any type of time-price differential;

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

24 (g) amounts received by a New Mexico  
25 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                    [~~C.~~] 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

1 (3) vermouth and sherry;

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

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

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

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

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

22 [~~J.~~] L. "wholesaler" means a person holding a  
23 license issued under Section 60-6A-1 NMSA 1978 or a person  
24 selling alcoholic beverages that were not purchased from a  
25 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:

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

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

3 SECTION 11. Section 60-6A-11.1 NMSA 1978 (being Laws  
4 2011, Chapter 109, Section 1) is amended to read:

5 "60-6A-11.1. DIRECT WINE SHIPMENT PERMIT--  
6 AUTHORIZATION--RESTRICTIONS.--

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

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

14 (2) an annual application fee of fifty dollars  
15 (\$50.00) if the applicant does not hold a winegrower's license;

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

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

25 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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