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AN ACT

RELATING TO LIQUOR CONTROL; AMENDING AND ENACTING SECTIONS OF
THE LIQUOR CONTROL ACT TO PROVIDE FOR BEER AND WINE DELIVERY
LICENSES.

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

SECTION 1. A new section of the Liquor Control Act is
enacted to read:

"BEER AND WINE DELIVERY LICENSE.--

A. On and after July 1, 2015, a local option
district may approve the issuance of beer and wine delivery
licenses for the sale of beer and wine, along with the
concurrent sales and delivery of prepared foods, by holding
an election on the question pursuant to Section 60-5A-1
NMSA 1978. Alternatively, the election also may be initiated
by a resolution adopted by the governing body of the local
option district without a petition from registered qualified
electors having been submitted.

B. After the approval of beer and wine delivery
licenses by the registered qualified electors of the local
option district and upon completion of all requirements in
the Liquor Control Act for the issuance of licenses, a
restaurant or food delivery company located or to be located
within the local option district may receive a beer and wine
delivery license that, concurrent with the delivery of

1 prepared foods, confers the ability to sell and transport to
2 the end user, an adult buyer, up to one hundred forty-four
3 ounces of beer equal to two six-packs and up to one and
4 one-half liters or two bottles of wine, subject to the
5 requirements and restrictions of this section.

6 C. The applicant shall submit evidence to the
7 department that the applicant has either:

8 (1) a current valid food service
9 establishment permit and a restaurant beer and wine license;

10 (2) a current business license and contracts
11 to deliver prepared food for a minimum of six permitted food
12 service establishments;

13 (3) a current valid food service
14 establishment with a full dispenser's license; or

15 (4) a current valid food service
16 establishment with a full retailer license.

17 D. The applicant shall satisfy the director that
18 the primary source of revenue from the operation of the
19 restaurant or food delivery service company will be derived
20 from meals and not from the sale of beer and wine. The
21 director shall condition renewal upon a requirement that no
22 less than seventy percent of gross receipts from the
23 preceding twelve months' delivery operation of the licensed
24 restaurant or food delivery service was derived from the sale
25 of meals. Upon application for renewal, the licensee shall

1 submit an annual report to the director indicating:

2 (1) the annual gross receipts from the sale
3 of ready-to-eat meals and from the sale of beer and wine; and

4 (2) that prepared and ready-to-eat foods
5 ordered for delivery concurrent to the beer or wine were of a
6 minimum restaurant menu value of twenty dollars (\$20.00).

7 E. All sales of beer and wine authorized by a beer
8 and wine delivery license shall cease at the time meals sales
9 and delivery services cease or at 10:00 p.m., whichever time
10 is earlier. If Sunday sales have been approved in the local
11 option district, a delivery licensee may sell and deliver
12 beer and wine on Sundays until the time meals sales and
13 services cease or 9:00 p.m., whichever time is earlier.

14 F. A beer and wine delivery license shall not be
15 transferable from person to person or from one location to
16 another.

17 G. Beer and wine delivery licenses shall provide
18 for deliveries within individual local option districts.
19 Individual licenses shall be issued for each local option
20 district and subject to individual local option district
21 approval. Beer and wine delivery licensees shall have a
22 physical location in each local option district in which they
23 are licensed. Inter-local option district deliveries of beer
24 and wine are prohibited.

25 H. Deliveries of alcoholic goods are restricted to

1 residential addresses or licensed lodging facilities, and all
2 transfers to the responsible party shall be on private
3 property, at a doorway or gate or within a gated, defined or
4 enclosed area defining the property. Deliveries and
5 transfers of control to the buyer are prohibited to
6 commercially zoned property other than lodging, public
7 property and public rights of way. Deliveries are prohibited
8 to locations three hundred feet from schools, youth centers,
9 academic campuses and dormitories. Each local option
10 district may designate other zoning and geographic
11 restrictions for use in adapting the statewide rights to fit
12 each local option district's goals and character.

13 I. As a process of adoption, a local option
14 district shall create and maintain a list database of "do not
15 deliver" addresses that will allow property owners and
16 residents to opt out of the beer and wine delivery service.
17 Property owners and residents may designate their property as
18 a "do not deliver" property that will be restricted from
19 alcoholic beverage deliveries. Local option districts may
20 also place properties deemed nuisances on the "do not
21 deliver" list. Penalties for delivering to a "do not
22 deliver" property include fines or temporary loss of delivery
23 license privilege. Penalties, enforcement and processes for
24 the "do not deliver" lists shall be set and administered by
25 the local option district and reported to the department

1 annually as a part of the license renewal process.

2 J. All delivery persons transporting and
3 transferring control to the end user, adult buyer, shall be
4 alcohol server-certified by the department.

5 K. Delivery license holders shall use best
6 practices to provide easier enforcement and transparency to
7 their orders and deliveries. The department shall adopt
8 rules to guide best practices as used in this subsection.
9 The best practices shall be reviewed every five years to
10 update with technology, health and safety information.

11 L. All sales of alcoholic goods for delivery and
12 delivery of beer and wine shall be concurrent with the sale
13 and delivery of prepared meals that are ready to eat.

14 M. All sales are to be via credit card, debit card
15 or electronic payment. Cash sales are prohibited. Sales
16 records are to be kept as a business practice and available
17 to the director for review for five years.

18 N. Licensed delivery companies shall obtain beer
19 and wine inventory only from:

20 (1) licensed package retail locations in the
21 state of New Mexico; or

22 (2) licensed New Mexico manufacturers of
23 beer and wine.

24 O. An annual fee for a beer and wine delivery
25 license is one thousand three hundred dollars (\$1,300).

1 P. Nothing in this section shall prevent a
2 delivery licensee from receiving other licenses pursuant to
3 the Liquor Control Act.

4 Q. Licensed delivery companies shall maintain
5 liquor liability coverage of at least one million dollars
6 (\$1,000,000)."

7 SECTION 2. Section 60-6A-18 NMSA 1978 (being Laws 1981,
8 Chapter 39, Section 35, as amended) is amended to read:

9 "60-6A-18. LIMITATION ON NUMBER OF LICENSES--
10 EXCEPTIONS.--

11 A. The maximum number of licenses to be issued
12 under the provisions of Sections 60-6A-2 and 60-6A-3
13 NMSA 1978 shall be as follows:

14 (1) in incorporated municipalities, not more
15 than one dispenser's or one retailer's license, including
16 canopy licenses that are replaced by dispenser's licenses as
17 provided in Section 60-6B-16 NMSA 1978, for each two thousand
18 inhabitants or major fraction thereof; and

19 (2) in unincorporated areas of each county,
20 not more than one dispenser's or one retailer's license,
21 including canopy licenses that are replaced by dispenser's
22 licenses as provided in Section 60-6B-16 NMSA 1978, for each
23 two thousand inhabitants or major fraction thereof, excluding
24 the population of incorporated municipalities within the
25 county.

