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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; INCREASING THE LIQUOR EXCISE TAX RATE ON ALCOHOLIC BEVERAGES FOR CERTAIN MANUFACTURERS AND PRODUCERS; DEFINING "BARREL", "HARD SELTZER", "PREMIXED DRINKS" AND "WINE COOLER" IN THE LIQUOR EXCISE TAX ACT; CHANGING CURRENT DISTRIBUTIONS FROM A PERCENTAGE OF NET RECEIPTS OF THE LIQUOR EXCISE TAX TO DOLLAR AMOUNTS; DISTRIBUTING THE REMAINDER OF THE REVENUE FROM THE LIQUOR EXCISE TAX TO A NEW ALCOHOL HARMS ALLEVIATION FUND.

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--ALCOHOL HARMS ALLEVIATION FUND.--

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1 A. A distribution pursuant to Section 7-1-6.1 NMSA
2 1978 in an amount equal to [~~forty-five percent of~~] two million
3 eighty-four thousand dollars (\$2,084,000) monthly from the net
4 receipts attributable to the liquor excise tax shall be made to
5 the local DWI grant fund.

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

15 C. [~~Beginning July 1, 2019~~] A distribution pursuant
16 to Section 7-1-6.1 NMSA 1978 in an amount equal to [~~five~~
17 ~~percent of~~] two hundred fifty thousand dollars (\$250,000)
18 monthly from the net receipts attributable to the liquor excise
19 tax shall be made to the drug court fund.

20 D. After the distributions are made pursuant to
21 Subsections A through C of this section, a distribution
22 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the
23 alcohol harms alleviation fund in an amount equal to the
24 remainder of the net receipts attributable to the liquor excise
25 tax."

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1 SECTION 2. Section 7-17-2 NMSA 1978 (being Laws 1966,
2 Chapter 49, Section 2, as amended) is amended 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. "barrel" means the equivalent of thirty-one
13 gallons;

14 ~~[B-]~~ C. "beer" means an alcoholic beverage obtained
15 by the fermentation of any infusion or decoction of barley,
16 malt and hops or other cereals in water and includes porter,
17 beer, ale and stout;

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

23 ~~[D-]~~ E. "department" means the taxation and revenue
24 department, the secretary of taxation and revenue or any
25 employee of the department exercising authority lawfully

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1 delegated to that employee by the secretary;

2 ~~[E-]~~ F. "fortified wine" means wine containing more
3 than fourteen percent alcohol by volume when bottled or
4 packaged by the manufacturer, but "fortified wine" does not
5 include:

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

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

12 (3) vermouth and sherry;

13 G. "hard seltzer" means an alcoholic beverage that
14 contains carbonated water and has less than six percent alcohol
15 by volume that is not a premixed drink or a wine cooler;

16 ~~[F-]~~ H. "microbrewer" means a person who produces
17 less than two hundred thousand barrels of beer per year;

18 ~~[G-]~~ I. "person" includes, to the extent permitted
19 by law, a federal, state or other governmental unit or
20 subdivision or an agency, department, institution or
21 instrumentality thereof;

22 J. "premixed drink" means a spirituous liquor that
23 is mixed with nonalcoholic ingredients and has less than six
24 percent alcohol by volume and is not hard seltzer or a wine
25 cooler;

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1 [~~H.~~] K. "small winegrower" means a winegrower who
2 produces less than one million five hundred thousand liters of
3 wine in a year;

4 [~~F.~~] L. "spirituous liquors" means alcoholic
5 beverages, except fermented beverages such as wine, beer,
6 cider, [~~and~~] ale, hard seltzer, a premixed drink and a wine
7 cooler;

8 [~~J.~~] M. "wholesaler" means a person holding a
9 license issued under Section 60-6A-1 NMSA 1978 or a person
10 selling alcoholic beverages that were not purchased from a
11 person holding a license issued under Section 60-6A-1 NMSA
12 1978;

13 [~~K.~~] N. "wine" means an alcoholic beverage other
14 than cider and a wine cooler that is obtained by the
15 fermentation of the natural sugar contained in fruit or other
16 agricultural products, with or without the addition of sugar or
17 other products, and that does not contain more than twenty-one
18 percent alcohol by volume; [~~and~~]

19 O. "wine cooler" means wine mixed with nonalcoholic
20 ingredients that has less than six percent alcohol by volume
21 and is not hard seltzer or a premixed drink; and

22 [~~F.~~] P. "winegrower" means a person licensed
23 pursuant to Section 60-6A-11 NMSA 1978."

24 **SECTION 3.** Section 7-17-5 NMSA 1978 (being Laws 1993,
25 Chapter 65, Section 8, as amended) is amended to read:

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1 "7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

2 A. There is imposed on a wholesaler who sells
3 alcoholic beverages on which the tax imposed by this section
4 has not been paid an excise tax, to be referred to as the
5 "liquor excise tax", at the ~~[following]~~ rates provided in
6 Subsections B through E of this section on alcoholic beverages
7 sold.

8 ~~[(1) on spirituous liquors, except as provided~~
9 ~~in Paragraph (9) of this subsection, one dollar sixty cents~~
10 ~~(\$1.60) per liter;~~

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

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

17 ~~(4) on fortified wine, one dollar fifty cents~~
18 ~~(\$1.50) per liter;~~

19 ~~(5) on beer manufactured or produced by a~~
20 ~~microbrewer and sold in this state, provided that proof is~~
21 ~~furnished to the department that the beer was manufactured or~~
22 ~~produced by a microbrewer, eight cents (\$.08) per gallon on the~~
23 ~~first thirty thousand barrels sold, twenty-eight cents (\$.28)~~
24 ~~per gallon for all barrels sold over thirty thousand barrels~~
25 ~~but less than sixty thousand barrels and forty-one cents (\$.41)~~

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1 ~~per gallon for sixty thousand or more barrels sold;~~

2 ~~(6) on wine manufactured or produced by a~~
3 ~~small winegrower and sold in this state, provided that proof is~~
4 ~~furnished to the department that the wine was manufactured or~~
5 ~~produced by a small winegrower:~~

6 ~~(a) ten cents (\$.10) per liter on the~~
7 ~~first eighty thousand liters sold;~~

8 ~~(b) twenty cents (\$.20) per liter on~~
9 ~~each liter sold over eighty thousand liters but not over nine~~
10 ~~hundred fifty thousand liters; and~~

11 ~~(c) thirty cents (\$.30) per liter on~~
12 ~~each liter sold over nine hundred fifty thousand liters but not~~
13 ~~over one million five hundred thousand liters;~~

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

16 ~~(8) on cider manufactured or produced by a~~
17 ~~small winegrower and sold in this state, provided that proof is~~
18 ~~furnished to the department that the cider was manufactured or~~
19 ~~produced by a small winegrower, eight cents (\$.08) per gallon~~
20 ~~on the first thirty thousand barrels sold, twenty-eight cents~~
21 ~~(\$.28) per gallon for all barrels sold over thirty thousand~~
22 ~~barrels but less than sixty thousand barrels and forty-one~~
23 ~~cents (\$.41) per gallon for sixty thousand or more barrels~~
24 ~~sold; and~~

25 ~~(9) on spirituous liquors manufactured or~~

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1 ~~produced by a craft distiller licensed pursuant to Section~~
2 ~~60-6A-6.1 NMSA 1978, provided that proof is provided to the~~
3 ~~department that the spirituous liquors were manufactured or~~
4 ~~produced by a craft distiller, for products up to ten percent~~
5 ~~alcohol by volume, eight cents (\$.08) per liter for the first~~
6 ~~two hundred fifty thousand liters sold and twenty-eight cents~~
7 ~~(\$.28) per liter for the next two hundred fifty thousand liters~~
8 ~~sold and for products over ten percent alcohol by volume,~~
9 ~~thirty-two cents (\$.32) per liter on the first one hundred~~
10 ~~seventy-five thousand liters sold and sixty-five cents (\$.65)~~
11 ~~per liter on the next two hundred thousand liters sold.]~~

12 B. The liquor excise tax imposed on spirituous
13 liquors is as follows:

14 (1) if manufactured or produced by a craft
15 distiller licensed pursuant to Section 60-6A-6.1 NMSA 1978;
16 provided that proof is provided to the department that the
17 spirituous liquors were manufactured or produced by a craft
18 distiller:

19 (a) for products up to ten percent
20 alcohol by volume: 1) eight cents (\$.08) per liter for the
21 first two hundred fifty thousand liters sold; and 2) twenty-
22 eight cents (\$.28) per liter for the next two hundred fifty
23 thousand liters sold; and

24 (b) for products over ten percent
25 alcohol by volume: 1) thirty-two cents (\$.32) per liter on the

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1 first one hundred seventy-five thousand liters sold; and 2)
2 sixty-five cents (\$.65) per liter on the next two hundred
3 thousand liters sold; and

4 (2) for all other spirituous liquors, seven
5 dollars twenty-four cents (\$7.24) per liter sold.

6 C. The liquor excise tax imposed on beer, cider,
7 hard seltzer, premixed drinks and wine coolers is as follows:

8 (1) if manufactured or produced by a
9 microbrewer, small winegrower or craft distiller and sold in
10 this state; provided that proof is furnished to the department
11 that the beer was manufactured or produced by a microbrewer,
12 small winegrower or craft distiller:

13 (a) eight cents (\$.08) per gallon on the
14 first thirty thousand barrels sold;

15 (b) twenty-eight cents (\$.28) per gallon
16 for all barrels sold over thirty thousand barrels but less than
17 sixty thousand barrels; and

18 (c) forty-one cents (\$.41) per gallon
19 for sixty thousand or more barrels sold; and

20 (2) for all other beer, cider, hard seltzer,
21 premixed drinks and wine coolers, three dollars eight cents
22 (\$3.08) per gallon sold.

23 D. The liquor excise tax imposed on wine is as
24 follows:

25 (1) if manufactured or produced by a small

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1 winegrower and sold in this state; provided that proof is
2 furnished to the department that the wine was manufactured or
3 produced by a small winegrower:

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

6 (b) twenty cents (\$.20) per liter on
7 each liter sold over eighty thousand liters but not over nine
8 hundred fifty thousand liters; and

9 (c) thirty cents (\$.30) per liter on
10 each liter sold over nine hundred fifty thousand liters but not
11 over one million five hundred thousand liters; and

12 (2) for all other wine, two dollars fourteen
13 cents (\$2.14) per liter sold.

14 E. The liquor excise tax imposed on fortified wine
15 is three dollars ninety-two cents (\$3.92) per liter sold.

16 ~~[B-]~~ F. The volume of wine transferred from one
17 winegrower to another winegrower for processing, bottling or
18 storage and subsequent return to the transferor shall be
19 excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable
20 volume of wine of the transferee. Wine transferred from an
21 initial winegrower to a second winegrower remains a tax
22 liability of the transferor, provided that if the wine is
23 transferred to the transferee for the transferee's use or for
24 resale, the transferee then assumes the liability for the tax
25 due pursuant to this section.

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1 [~~G.~~] G. A transfer of wine from a winegrower to a
2 wholesaler for distribution of the wine transfers the liability
3 for payment of the liquor excise tax to the wholesaler upon the
4 sale of the wine by the wholesaler."

5 **SECTION 4. [NEW MATERIAL] ALCOHOL HARMS ALLEVIATION**
6 **FUND.--**

7 A. The "alcohol harms alleviation fund" is created
8 as a nonreverting fund in the state treasury. The fund
9 consists of appropriations, distributions, gifts, grants,
10 donations and bequests made to the fund and income from
11 investment of the fund. The department of finance and
12 administration shall administer the fund, and money in the fund
13 is subject to appropriation by the legislature for alcohol
14 harms prevention, treatment and recovery services to
15 individuals throughout New Mexico, including on lands of Indian
16 nations, tribes and pueblos, and to individuals harmed by a
17 person in need of those services.

18 B. Money in the fund shall be expended by warrant
19 of the secretary of finance and administration pursuant to
20 vouchers signed by the secretary or the secretary's authorized
21 representative.

22 **SECTION 5. EFFECTIVE DATE.--**The effective date of the
23 provisions of this act is July 1, 2025.