

1 AN ACT
2 RELATING TO ALCOHOL; REVISING THE DEFINITION OF "SUPPLIER"
3 FOR THE PURPOSE OF FRANCHISE AGREEMENTS PURSUANT TO THE
4 LIQUOR CONTROL ACT.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. Section 60-8A-7 NMSA 1978 (being Laws 1981,
8 Chapter 39, Section 54, as amended) is amended to read:

9 "60-8A-7. FRANCHISES--DEFINITIONS.--As used in
10 Sections 60-8A-7 through 60-8A-11 NMSA 1978:

11 A. "franchise" means a contract or agreement,
12 either expressed or implied, whether written or oral,
13 between a supplier and wholesaler, wherein:

14 (1) a commercial relationship of definite
15 duration or continuing indefinite duration is involved; and

16 (2) the wholesaler is granted the right to
17 buy and to offer, sell and distribute within this state or
18 any designated area thereof such of the supplier's brand of
19 packaged alcoholic beverages as may be agreed upon;

20 B. "good cause":

21 (1) includes failure by the wholesaler to
22 substantially comply with the essential and reasonable
23 provisions of a contract, agreement or understanding with a
24 supplier;

25 (2) includes use of bad faith on the part

1 of the wholesaler in carrying out the terms of the
2 franchise; and

3 (3) does not include failure or refusal on
4 the part of the wholesaler to engage in any trade practice,
5 conduct or activity that may result in a violation of any
6 federal law or regulation or any law or regulation of this
7 state;

8 C. "supplier" means a person, partnership,
9 corporation or other form of business enterprise engaged in
10 business as a manufacturer, importer, broker, agent or its
11 successors or assigns that distributes any or all of its
12 brands of alcoholic beverages through licensed wholesalers
13 in this state. "Supplier" does not include successors or
14 assigns for spirituous liquors or wines;

15 D. "termination" includes any substantial
16 alteration or modification of the provisions of the
17 franchise; and

18 E. "good faith" means honesty in fact in the
19 conduct or transaction concerned and the observance of
20 reasonable commercial standards of fair dealing in the trade
21 as evidenced by all surrounding circumstances. "

22 Section 2. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is July 1, 2003. _____