

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 487

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; INCREASING CRIMINAL PENALTIES
FOR PROVIDING ALCOHOL TO A MINOR; AMENDING A SECTION OF THE
LIQUOR CONTROL ACT.

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

Section 1. Section 60-7B-1 NMSA 1978 (being Laws 1993,
Chapter 68, Section 22, as amended by Laws 1998, Chapter 80,
Section 1 and also by Laws 1998, Chapter 101, Section 1) is
amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO
MINORS-- POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS. --

A. It is a violation of the Liquor Control Act for
a person, including a person licensed pursuant to the
provisions of the Liquor Control Act, or an employee, agent or
lessee of that person, if he knows or has reason to know that

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underscored material = new
[bracketed material] = delete

1 he is violating the provisions of this section, to:

2 (1) sell, serve or give alcoholic beverages to
3 a minor or permit a minor to consume alcoholic beverages on the
4 licensed premises;

5 (2) buy alcoholic beverages for or procure the
6 sale or service of alcoholic beverages to a minor;

7 (3) deliver alcoholic beverages to a minor; or

8 (4) aid or assist a minor to buy, procure or
9 be served with alcoholic beverages.

10 B. It is not a violation of the Liquor Control Act,
11 as provided in Subsection A or C of this section, when:

12 (1) a parent, ~~[or]~~ legal guardian or adult
13 spouse of a minor serves alcoholic beverages to that minor on
14 real property, other than licensed premises, under the control
15 of the parent, ~~[or]~~ legal guardian or adult spouse; or

16 (2) alcoholic beverages are used in the
17 practice of religious beliefs.

18 C. It is a violation of the Liquor Control Act for
19 a minor to buy, attempt to buy, receive, possess or permit
20 himself to be served with alcoholic beverages.

21 D. ~~[In the event]~~ When a person other than a minor
22 procures another person to sell, serve or deliver alcoholic
23 beverages to a minor by actual or constructive
24 misrepresentation of facts or concealment of facts calculated
25 to cause ~~[or by a concealment of facts the concealment of which~~

1 ~~is calculated to cause]~~ the person selling, serving or
 2 delivering the alcoholic beverages to the minor to believe that
 3 the minor is legally entitled to be sold, served or delivered
 4 alcoholic beverages, and actually ~~[deceiving him]~~ deceives that
 5 person by that misrepresentation or concealment, then ~~[that~~
 6 ~~person]~~ the procurer and not the person ~~[so]~~ deceived ~~[by such~~
 7 ~~misrepresentation or concealment]~~ shall have violated the
 8 provisions of the Liquor Control Act.

9 E. As used in the Liquor Control Act, "minor" means
 10 a person under twenty-one years of age.

11 F. In addition to the penalties provided in Section
 12 60-6C-1 NMSA 1978, a violation of the provisions of Subsection
 13 A of this section is a ~~[misdemeanor and the offender shall be~~
 14 ~~punished as follows:~~

15 ~~(1) for a first violation, the offender shall~~
 16 ~~be:~~

17 ~~(a) fined an amount not more than one~~
 18 ~~thousand dollars (\$1,000); and~~

19 ~~(b) ordered by the sentencing court to~~
 20 ~~perform thirty hours of community service related to reducing~~
 21 ~~the incidence of driving while under the influence of~~
 22 ~~intoxicating liquor;~~

23 ~~(2) for a second violation, the offender~~
 24 ~~shall:~~

25 ~~(a) be fined an amount not more than one~~

1 ~~thousand dollars (\$1,000);~~

2 ~~(b) be ordered by the sentencing court~~
3 ~~to perform forty hours of community service related to reducing~~
4 ~~the incidence of driving while under the influence of~~
5 ~~intoxicating liquor; and~~

6 ~~(c) have his license, issued pursuant to~~
7 ~~the Alcohol Server Education Act, suspended for a period of~~
8 ~~sixty days; and~~

9 ~~(3) for a third or subsequent violation, the~~
10 ~~offender shall:~~

11 ~~(a) be fined an amount not more than one~~
12 ~~thousand dollars (\$1,000);~~

13 ~~(b) be ordered by the sentencing court~~
14 ~~to perform sixty hours of community service related to reducing~~
15 ~~the incidence of driving while under the influence of~~
16 ~~intoxicating liquor; and~~

17 ~~(c) have his license, issued pursuant to~~
18 ~~the Alcohol Server Education Act, suspended for a period of one~~
19 ~~year] fourth degree felony and the offender shall be sentenced~~
20 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978.~~

21 G. A violation of the provisions of Subsection C of
22 this section is a misdemeanor and the offender shall be
23 punished as follows:

24 (1) for a first violation, the offender shall
25 be:

1 (a) fined an amount not more than one
2 thousand dollars (\$1,000); and

3 (b) ordered by the sentencing court to
4 perform thirty hours of community service related to reducing
5 the incidence of driving while under the influence of
6 intoxicating liquor;

7 (2) for a second violation, the offender
8 shall:

9 (a) be fined an amount not more than one
10 thousand dollars (\$1,000);

11 (b) be ordered by the sentencing court
12 to perform forty hours of community service related to reducing
13 the incidence of driving while under the influence of
14 intoxicating liquor; and

15 (c) have his driver's license suspended
16 for a period of ninety days. If the minor is too young to
17 possess a driver's license at the time of the violation, then
18 ninety days shall be added to the date he would otherwise
19 become eligible to obtain a driver's license; and

20 (3) for a third or subsequent violation, the
21 offender shall:

22 (a) be fined an amount not more than one
23 thousand dollars (\$1,000);

24 (b) be ordered by the sentencing court
25 to perform sixty hours of community service related to reducing

1 the incidence of driving while under the influence of
2 intoxicating liquor; and

3 (c) have his driver's license suspended
4 for a period of two years or until the offender reaches twenty-
5 one years of age, whichever period of time is greater.

6 H. A violation of the provisions of Subsection D of
7 this section is a ~~[misdemeanor and the offender shall be~~
8 ~~punished as follows:~~

9 (1) ~~for a first violation, the offender shall~~
10 ~~be:~~

11 (a) ~~fined an amount not more than one~~
12 ~~thousand dollars (\$1,000); and~~

13 (b) ~~ordered by the sentencing court to~~
14 ~~perform thirty hours of community service related to reducing~~
15 ~~the incidence of driving while under the influence of~~
16 ~~intoxicating liquor;~~

17 (2) ~~for a second violation, the offender shall~~
18 ~~be:~~

19 (a) ~~fined an amount not more than one~~
20 ~~thousand dollars (\$1,000); and~~

21 (b) ~~ordered by the sentencing court to~~
22 ~~perform forty hours of community service related to reducing~~
23 ~~the incidence of driving while under the influence of~~
24 ~~intoxicating liquor; and~~

25 (3) ~~for a third or subsequent violation, the~~

1 ~~offender shall be:~~

2 ~~(a) fined an amount not more than one~~
3 ~~thousand dollars (\$1,000);-~~

4 ~~(b) ordered by the sentencing court to~~
5 ~~perform sixty hours of community service related to reducing~~
6 ~~the incidence of driving while under the influence of~~
7 ~~intoxicating liquor; and~~

8 ~~(c) sentenced to a jail term of not less~~
9 ~~than two days and not more than five days] fourth degree felony~~
10 ~~and the offender shall be sentenced pursuant to the provisions~~
11 ~~of Section 31-18-15 NMSA 1978. "~~

12 Section 2. EFFECTIVE DATE. --The effective date of the
13 provisions of this act is July 1, 2004.