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AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING THE DEFINITION OF LICENSED PREMISES IN THE LIQUOR
CONTROL ACT; DECLARING AN EMERGENCY.

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

Section 1. Section 60-3A-3 NMSA 1978 (being Laws 1981, Chapter 39,
Section 3, as amended) is amended to read:

"60-3A-3. DEFINITIONS.--As used in the Liquor Control Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable
alcohol, brandy, whiskey, rum, gin and aromatic bitters bearing the federal internal
revenue strip stamps or any similar alcoholic beverage, including blended or
fermented beverages, dilutions or mixtures of one or more of the foregoing
containing more than one-half percent alcohol, but excluding medicinal bitters;

B. "beer" means an alcoholic beverage obtained by the fermentation
of any infusion or decoction of barley, malt and hops or other cereals in water, and
includes porter, beer, ale and stout;

C. "brewer" means a person who owns or operates a business for
the manufacture of beer;

D. "club" means:

(1) any nonprofit group, including an auxiliary or subsidiary
group, organized and operated under the laws of this state, with a membership of
not less than fifty members who pay membership dues at the rate of not less than
five dollars (\$5.00) per year and who, under the constitution and bylaws of the club,
have all voting rights and full membership privileges, and which group is the owner,
lessee or occupant of premises used exclusively for club purposes and which group
the director finds:

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1 (a) is operated solely for recreation, social, patriotic, S
2 political, benevolent or athletic purposes; and E
3 (b) has been granted an exemption by the United C
4 States from the payment of the federal income tax as a club under the provisions of /
5 Section 501(a) of the Internal Revenue Code of 1986, as amended, or, if the S
6 applicant has not operated as a club for a sufficient time to be eligible for the B
7 income tax exemption, it must execute and file with the director a sworn letter of 5
8 intent declaring that it will, in good faith, apply for such exemption as soon as it is 8
9 eligible; or 1
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10 (2) an airline passenger membership club operated by an air 2
11 common carrier that maintains or operates a clubroom at an international airport
12 terminal. For the purposes of this paragraph, "air common carrier" means a person
13 engaged in regularly scheduled air transportation between fixed termini under a
14 certificate of public convenience and necessity issued by the civil aeronautics
15 board;

16 E. "commission" means the secretary of public safety when the term
17 is used in reference to the enforcement and investigatory provisions of the Liquor
18 Control Act and means the superintendent of regulation and licensing when the
19 term is used in reference to the licensing provisions of the Liquor Control Act;

20 F. "department" means the special investigations division of the
21 department of public safety when the term is used in reference to the enforcement
22 and investigatory provisions of the Liquor Control Act and means the director of the
23 alcohol and gaming division of the regulation and licensing department when the
24 term is used in reference to the licensing provisions of the Liquor Control Act;

25 G. "director" means the director of the special investigations division
of the department of public safety when the term is used in reference to the
enforcement and investigatory provisions of the Liquor Control Act and means the

1 director of the alcohol and gaming division of the regulation and licensing
2 department when the term is used in reference to the licensing provisions of the
3 Liquor Control Act;

4 H. "dispenser" means a person licensed under the provisions of the
5 Liquor Control Act selling, offering for sale or having in his possession with the
6 intent to sell alcoholic beverages both by the drink for consumption on the licensed
7 premises and in unbroken packages for consumption and not for resale off the
8 licensed premises;

9 I. "distiller" means a person engaged in manufacturing spirituous
10 liquors;

11 J. "golf course" means a tract of land and facilities used for playing
12 golf and other recreational activities that includes tees, fairways, greens, hazards,
13 putting greens, driving ranges, recreational facilities, patios, pro shops, cart paths
14 and public and private roads that are located within the tract of land;

15 K. "governing body" means the board of county commissioners of a
16 county or the city council or city commissioners of a municipality;

17 L. "hotel" means an establishment or complex having a resident of
18 New Mexico as a proprietor or manager and where, in consideration of payment,
19 meals and lodging are regularly furnished to the general public. The establishment
20 or complex must maintain for the use of its guests a minimum of twenty-five
21 sleeping rooms;

22 M. "licensed premises" means the contiguous areas or areas
23 connected by indoor passageways of a structure and the outside dining, recreation
24 and lounge areas of the structure that are under the direct control of the licensee
25 and from which the licensee is authorized to sell, serve or allow the consumption of
alcoholic beverages under the provisions of its license; provided that in the case of
a restaurant, including a restaurant that has operated continuously in two separate

1 structures since July 1, 1987 and that is located in a local option district that has
2 voted to disapprove the transfer of liquor licenses into that local option district, hotel,
3 golf course or racetrack, "licensed premises" includes all public and private rooms,
4 facilities and areas in which alcoholic beverages are sold or served in the
5 customary operating procedures of the restaurant, hotel, golf course or racetrack;

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6 N. "local option district" means a county that has voted to approve
7 the sale, serving or public consumption of alcoholic beverages, or any incorporated
8 municipality that falls within a county that has voted to approve the sale, serving or
9 public consumption of alcoholic beverages, or any incorporated municipality of over
10 five thousand population that has independently voted to approve the sale, serving
11 or public consumption of alcoholic beverages under the terms of the Liquor Control
12 Act or any former act;

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13 O. "manufacturer" means a distiller, rectifier, brewer or winer;

14 P. "minor" means a person under twenty-one years of age;

15 Q. "package" means an immediate container of alcoholic beverages
16 that is filled or packed by a manufacturer or wine bottler for sale by the
17 manufacturer or wine bottler to wholesalers;

18 R. "person" means an individual, corporation, firm, partnership,
19 copartnership, association or other legal entity;

20 S. "rectifier" means a person who blends, mixes or distills alcohol
21 with other liquids or substances for the purpose of making an alcoholic beverage for
22 the purpose of sale other than to the consumer by the drink, and includes all
23 bottlers of spirituous liquors;

24 T. "restaurant" means an establishment having a New Mexico
25 resident as a proprietor or manager that is held out to the public as a place where
meals are prepared and served primarily for on-premises consumption to the
general public in consideration of payment and that has a dining room, a kitchen

1 and the employees necessary for preparing, cooking and serving meals; provided
2 that "restaurant" does not include establishments as defined in rules promulgated
3 by the director serving only hamburgers, sandwiches, salads and other fast foods;

4 U. "retailer" means a person licensed under the provisions of the
5 Liquor Control Act selling, offering for sale or having in his possession with the
6 intent to sell alcoholic beverages in unbroken packages for consumption and not for
7 resale off the licensed premises;

8 V. "spirituous liquors" means alcoholic beverages as defined in
9 Subsection A of this section except fermented beverages such as wine, beer and
10 ale;

11 W. "wholesaler" means a person whose place of business is located
12 in New Mexico and who sells, offers for sale or possesses for the purpose of sale
13 any alcoholic beverages for resale by the purchaser;

14 X. "wine" includes the words "fruit juices" and means alcoholic
15 beverages obtained by the fermentation of the natural sugar contained in fruit or
16 other agricultural products, with or without the addition of sugar or other products,
17 that do not contain less than one-half percent nor more than twenty-one percent
18 alcohol by volume;

19 Y. "wine bottler" means a New Mexico wholesaler who is licensed to
20 sell wine at wholesale for resale only and who buys wine in bulk and bottles it for
21 wholesale resale;

22 Z. "winegrower" means a person who owns or operates a business
23 for the manufacture of wine; and

24 AA. "winer" means a winegrower."

25 Section 2. EMERGENCY.--It is necessary for the public peace, health and
safety that this act take effect immediately.