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SENATE BILL 191

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; DEFINING "LICENSED PREMISES"
NOT TO INCLUDE FUELING STATION LOCATIONS; MAINTAINING CERTAIN
RIGHTS IN LIQUOR LICENSES; PROVIDING A PERIOD OF TIME FOR
LIQUOR LICENSES TO BE ASSIGNED, TRANSFERRED, SOLD OR LEASED;
PROVIDING FOR THE SALE OF STOCKS OF ALCOHOLIC BEVERAGES.

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

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1 fermented beverages, dilutions or mixtures of one or more of
2 the foregoing containing more than one-half percent alcohol,
3 but excluding medicinal bitters;

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

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

10 D. "club" means:

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

20 (a) is operated solely for recreation,
21 social, patriotic, political, benevolent or athletic purposes;
22 and

23 (b) has been granted an exemption by the
24 United States from the payment of the federal income tax as a
25 club under the provisions of Section 501(a) of the Internal

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1 Revenue Code of 1986, as amended, or, if the applicant has not
2 operated as a club for a sufficient time to be eligible for the
3 income tax exemption, it must execute and file with the
4 director a sworn letter of intent declaring that it will, in
5 good faith, apply for ~~such~~ an income tax exemption as soon as
6 it is eligible; or

7 (2) an airline passenger membership club
8 operated by an air common carrier that maintains or operates a
9 clubroom at an international airport terminal. For the
10 purposes of this paragraph, "air common carrier" means a person
11 engaged in regularly scheduled air transportation between fixed
12 termini under a certificate ~~[of public convenience and~~
13 ~~necessity]~~ issued by the ~~[civil aeronautics board]~~ federal
14 aviation administration;

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

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

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1 department when the term is used in reference to the licensing
2 provisions of the Liquor Control Act;

3 G. "director" means the director of the special
4 investigations division of the department of public safety
5 when the term is used in reference to the enforcement and
6 investigatory provisions of the Liquor Control Act and means
7 the director of the alcohol and gaming division of the
8 regulation and licensing department when the term is used in
9 reference to the licensing provisions of the Liquor Control
10 Act;

11 H. "dispenser" means a person licensed under the
12 provisions of the Liquor Control Act selling, offering for sale
13 or having in [~~his~~] the person's possession with the intent to
14 sell alcoholic beverages both by the drink for consumption on
15 the licensed premises and in unbroken packages for consumption
16 and not for resale off the licensed premises;

17 I. "distiller" means a person engaged in
18 manufacturing spirituous liquors;

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

25 K. "governing body" means the board of county

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1 commissioners of a county or the city council or city
2 commissioners of a municipality;

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

9 M. "licensed premises" ~~means~~:

10 (1) includes the contiguous areas or areas
11 connected by indoor passageways of a structure and the outside
12 dining, recreation and lounge areas of the structure that are
13 under the direct control of the licensee and from which the
14 licensee is authorized to sell, serve or allow the consumption
15 of alcoholic beverages under the provisions of its license;
16 provided that in the case of a restaurant, including a
17 restaurant that has operated continuously in two separate
18 structures since July 1, 1987 and that is located in a local
19 option district that has voted to disapprove the transfer of
20 liquor licenses into that local option district, hotel, golf
21 course or racetrack, "licensed premises" includes all public
22 and private rooms, facilities and areas in which alcoholic
23 beverages are sold or served in the customary operating
24 procedures of the restaurant, hotel, golf course or racetrack;
25 but

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1 (2) does not include premises or a location
2 where motor fuel or liquefied petroleum gases or compressed
3 natural gases are sold for the generation of power in an
4 internal combustion engine. For the purposes of this
5 paragraph, "motor fuel" means any liquid product used for the
6 generation of power in an internal combustion engine and
7 "liquefied petroleum gases" and "compressed natural gases" have
8 the meaning provided in the LPG and CNG Act;

9 N. "local option district" means a county that has
10 voted to approve the sale, serving or public consumption of
11 alcoholic beverages, or [~~any~~] an incorporated municipality that
12 falls within a county that has voted to approve the sale,
13 serving or public consumption of alcoholic beverages, or [~~any~~]
14 an incorporated municipality of over five thousand population
15 that has independently voted to approve the sale, serving or
16 public consumption of alcoholic beverages under the terms of
17 the Liquor Control Act or any former act;

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

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

22 Q. "package" means an immediate container of
23 alcoholic beverages that is filled or packed by a manufacturer
24 or wine bottler for sale by the manufacturer or wine bottler to
25 wholesalers;

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

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

8 T. "restaurant" means an establishment having a New
9 Mexico resident as a proprietor or manager that is held out to
10 the public as a place where meals are prepared and served
11 primarily for on-premises consumption to the general public in
12 consideration of payment and that has a dining room, a kitchen
13 and the employees necessary for preparing, cooking and serving
14 meals; provided that "restaurant" does not include
15 establishments as defined in rules promulgated by the director
16 serving only hamburgers, sandwiches, salads and other fast
17 foods;

18 U. "retailer" means a person licensed under the
19 provisions of the Liquor Control Act selling, offering for sale
20 or having in [~~his~~] the person's possession with the intent to
21 sell alcoholic beverages in unbroken packages for consumption
22 and not for resale off the licensed premises;

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

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

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

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

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

16 AA. "winer" means a winegrower."

17 Section 2. A new section of the Liquor Control Act is
18 enacted to read:

19 "[NEW MATERIAL] RENEWAL OF INACTIVE LICENSES.--

20 A. The holder of a qualified license formerly
21 issued pursuant to the Liquor Control Act for a location that
22 no longer meets the definition of licensed premises on and
23 after July 1, 2007 may renew the license in an inactive status
24 and the license shall not be subject to cancellation for
25 failure to engage in business pursuant to Section 60-6B-7 NMSA

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1 1978 until July 1, 2009, at which time the director may
2 exercise the discretion provided to the director in Section
3 60-6B-7 NMSA 1978 to extend the inactive period for good cause
4 shown.

5 B. During the inactive period provided for in
6 Subsection A of this section:

7 (1) an inactive license shall be subject to
8 the rights of and limitations on licenses provided in Section
9 60-6A-19 NMSA 1978;

10 (2) the holder of an inactive license may
11 transfer, assign, sell or lease the inactive license for use at
12 a licensed premises pursuant to the provisions of the Liquor
13 Control Act and directives of the director; and

14 (3) the holder of an inactive license may sell
15 in whole or part a stock of alcoholic beverages the holder owns
16 as of July 1, 2007 pursuant to Section 60-6B-9 NMSA 1978."

17 Section 3. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2007.

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