

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 105

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO FIREARMS; ALLOWING CONCEALED HANDGUNS IN A RESTAURANT THAT SELLS BEER AND WINE AND DERIVES NO LESS THAN SIXTY PERCENT OF ITS ANNUAL GROSS RECEIPTS FROM THE SALE OF FOOD FOR CONSUMPTION ON THE PREMISES; AMENDING A SECTION OF THE CRIMINAL CODE.

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

Section 1. Section 30-7-3 NMSA 1978 (being Laws 1975, Chapter 149, Section 1, as amended) is amended to read:

"30-7-3. UNLAWFUL CARRYING OF A FIREARM IN LICENSED LIQUOR ESTABLISHMENTS.--

A. Unlawful carrying of a firearm in an establishment licensed to dispense alcoholic beverages consists of carrying a loaded or unloaded firearm on any premises licensed by the regulation and licensing department for the

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underscoring material = new  
[bracketed material] = delete

1 dispensing of alcoholic beverages except:

2 (1) by a law enforcement officer in the lawful  
3 discharge of the officer's duties;

4 (2) by a law enforcement officer who is  
5 certified pursuant to the Law Enforcement Training Act acting  
6 in accordance with the policies of the officer's law  
7 enforcement agency;

8 (3) by the owner, lessee, tenant or operator  
9 of the licensed premises or the owner's, lessee's, tenant's or  
10 operator's agents, including privately employed security  
11 personnel during the performance of their duties;

12 (4) by a person carrying a concealed handgun  
13 who is in possession of a valid concealed handgun license for  
14 that gun pursuant to the Concealed Handgun Carry Act [~~provided~~  
15 ~~that the~~] on the premises of:

16 (a) a licensed establishment that does  
17 not sell alcoholic beverages for consumption on the premises;  
18 or

19 (b) a restaurant licensed to sell only  
20 beer and wine that derives no less than sixty percent of its  
21 annual gross receipts from the sale of food for consumption on  
22 the premises, unless the restaurant has a sign posted, in a  
23 conspicuous location at each public entrance, prohibiting the  
24 carrying of firearms, or the person is verbally instructed by  
25 the owner or manager that the carrying of a firearm is not

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1 permitted in the restaurant;

2 (5) by a person in that area of the licensed  
3 premises usually and primarily rented on a daily or short-term  
4 basis for sleeping or residential occupancy, including hotel or  
5 motel rooms;

6 (6) by a person on that area of a licensed  
7 premises primarily used for vehicular traffic or parking; or

8 (7) for the purpose of temporary display,  
9 provided that the firearm is:

10 (a) made completely inoperative before  
11 it is carried onto the licensed premises and remains  
12 inoperative while it is on the licensed premises; and

13 (b) under the control of the licensee or  
14 an agent of the licensee while the firearm is on the licensed  
15 premises.

16 B. Whoever commits unlawful carrying of a firearm  
17 in an establishment licensed to dispense alcoholic beverages is  
18 guilty of a fourth degree felony."

19 Section 2. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2009.