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SENATE BILL 512

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

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING ENFORCEMENT DUTIES  
TO LOCAL LAW ENFORCEMENT AGENCIES; ADDING DEFINITIONS TO THE  
LIQUOR CONTROL ACT; ADDRESSING THE REQUIREMENTS FOR CERTAIN  
LICENSES; CREATING A NEW TYPE OF LICENSE; CLARIFYING THE  
PROCESS FOR DECISIONS ON LICENSE APPLICATIONS AND TRANSFERS;  
CLARIFYING INTER-LOCAL OPTION DISTRICT TRANSFERS; ENHANCING  
SUSPENSION, REVOCATION AND FINES FOR VIOLATIONS OF THE LIQUOR  
CONTROL ACT; ADDRESSING THE LOCATION OF HEARINGS; REQUIRING  
CANCELLATION AND DESTRUCTION OF REVOKED LICENSES; ADDING  
PERSONS TO THE DEFINITION OF "SERVER"; CLARIFYING VIOLATIONS OF  
THE LIQUOR CONTROL ACT; CLARIFYING WHEN MINORS CAN BE IN  
LICENSED PREMISES; AMENDING, REPEALING AND ENACTING SECTIONS OF  
THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME  
SECTION OF LAW IN LAWS 1999.

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

2 Section 1. Section 3-13-2 NMSA 1978 (being Laws 1965,  
3 Chapter 300, Section 14-12-2, as amended) is amended to read:

4 "3-13-2. POLICE OFFICERS.--

5 A. The police officer of a municipality shall:

6 (1) execute and return all writs and process  
7 as directed by the municipal judge of the municipality  
8 employing the police officer;

9 (2) execute and return all criminal process as  
10 directed by the municipal judge of any incorporated  
11 municipality in the state if the criminal process arises out of  
12 a charge of violation of a municipal ordinance prohibiting  
13 driving while under the influence of intoxicating liquor or  
14 drugs;

15 (3) serve criminal writs and process specified  
16 in Paragraphs (1) and (2) of this subsection in any part of the  
17 county wherein the municipality is situated; and

18 (4) within the municipality:

19 (a) suppress all riots, disturbances and  
20 breaches of the peace;

21 (b) apprehend all disorderly persons;

22 (c) pursue and arrest any person fleeing  
23 from justice; and

24 (d) apprehend any person in the act of  
25 violating the laws of the state or the ordinances of the

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1 municipality and bring [~~him~~] the person before competent  
2 authority for examination and trial.

3 B. The police officer of a municipality may issue  
4 citations for violations of the Liquor Control Act.

5 [~~B.~~] C. In the discharge of [~~his~~] proper duties, a  
6 police officer shall have the same powers and be subject to the  
7 same responsibilities as sheriffs in similar cases."

8 Section 2. Section 4-41-2 NMSA 1978 (being Laws 1865,  
9 Chapter 99, Section 3, as amended) is amended to read:

10 "4-41-2. DUTIES OF SHERIFF.-- [~~Sec. 199.~~]

11 A. The sheriff shall be conservator of the peace  
12 within [~~his~~] the sheriff's county, shall suppress assaults and  
13 batteries and apprehend and commit to jail all felons and  
14 traitors and shall cause all offenders to keep the peace and to  
15 appear at the next term of the court and answer such charges as  
16 may be preferred against them.

17 B. The sheriff may issue citations for violations  
18 of the Liquor Control Act."

19 Section 3. Section 29-1-1 NMSA 1978 (being Laws 1921,  
20 Chapter 170, Section 1, as amended) is amended to read:

21 "29-1-1. INVESTIGATION OF CRIMINAL VIOLATIONS--  
22 COMMENCEMENT OF PROSECUTION--COOPERATION--REMOVAL.--It is  
23 [~~hereby declared to be~~] the duty of every sheriff, deputy  
24 sheriff [~~constable~~] and [~~every other~~] peace officer to  
25 investigate all violations of the criminal laws of the state,

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1 [which] including violations of the Liquor Control Act, that  
2 are called to the attention of any such officer or of which  
3 [he] the officer is aware [and]. It is also [declared] the  
4 duty of every such officer to diligently file a complaint or  
5 information, if the circumstances are such as to indicate to a  
6 reasonably prudent person that [such] the action should be  
7 taken [and]. It is also [declared his] the officer's duty to  
8 cooperate with and assist the attorney general, district  
9 attorney or other prosecutor, if any, in all reasonable ways.  
10 [Such] The cooperation [~~shall include~~] includes the prompt  
11 reporting of all arrests for liquor law violations at licensed  
12 liquor establishments to the [~~department of alcoholic beverage~~  
13 ~~control~~] alcohol and gaming division of the regulation and  
14 licensing department. Failure to perform [his] the officer's  
15 duty in any material way shall subject [such] the officer to  
16 removal from office and to payment of all costs of  
17 prosecution."

18 Section 4. Section 60-3A-3 NMSA 1978 (being Laws 1981,  
19 Chapter 39, Section 3, as amended) is amended to read:

20 "60-3A-3. DEFINITIONS.--As used in the Liquor Control  
21 Act:

22 A. "alcoholic beverages" means distilled or  
23 rectified spirits, potable alcohol, brandy, whiskey, rum, gin  
24 and aromatic bitters bearing the federal internal revenue strip  
25 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 necessity  
13 issued by the [~~civil aeronautics board~~] federal aviation  
14 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 the contiguous areas  
10 or areas connected by indoor passageways of a structure and the  
11 outside dining, recreation and lounge areas of the structure  
12 that are under the direct control of the licensee and from  
13 which the licensee is authorized to sell, serve or allow the  
14 consumption of alcoholic beverages under the provisions of its  
15 license; provided that in the case of a restaurant, including a  
16 restaurant that has operated continuously in two separate  
17 structures since July 1, 1987 and that is located in a local  
18 option district that has voted to disapprove the transfer of  
19 liquor licenses into that local option district, hotel, golf  
20 course or racetrack, "licensed premises" includes all public  
21 and private rooms, facilities and areas in which alcoholic  
22 beverages are sold or served in the customary operating  
23 procedures of the restaurant, hotel, golf course or racetrack;

24 N. "limited dispenser" means a person licensed  
25 under the provisions of the Liquor Control Act selling,

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1 offering for sale or having in the limited dispenser's  
2 possession with the intent to sell alcoholic beverages by the  
3 drink for consumption on the licensed premises, which licensed  
4 premises is operated as a restaurant in a rural area of a local  
5 option district that has approved inter-local option license  
6 transfers and has not exceeded the maximum number of licenses  
7 pursuant to Section 60-6A-18 NMSA 1978;

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

17 [O-] P. "manufacturer" means a distiller,  
18 rectifier, brewer or winer;

19 [P-] Q. "minor" means a person under twenty-one  
20 years of age;

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

25 [R-] S. "person" means an individual, corporation,

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1 firm, partnership, copartnership, association or other legal  
2 entity;

3 T. "public nuisance" means knowingly creating,  
4 allowing or maintaining an activity that is injurious to public  
5 health, safety, morals or welfare, that is indecent, that is  
6 offensive to the senses or that is an obstruction to the use of  
7 property that interferes with the comfortable enjoyment of life  
8 or property by an entire community or neighborhood or by a  
9 significant number of persons; and "public nuisance" includes  
10 disturbing the peace; public drunkenness; drinking in public;  
11 unlicensed gambling; prostitution; public urination; lewd  
12 conduct; possession, distribution or trafficking in illegal  
13 drugs; excessive loud noise; failure to comply with the  
14 provisions of the Liquor Control Act; or any other illegal  
15 activity;

16 [~~S.~~] U. "rectifier" means a person who blends,  
17 mixes or distills alcohol with other liquids or substances for  
18 the purpose of making an alcoholic beverage for the purpose of  
19 sale other than to the consumer by the drink and includes all  
20 bottlers of spirituous liquors;

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

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

6 [U-] W. "retailer" means a person licensed under  
7 the provisions of the Liquor Control Act selling, offering for  
8 sale or having in [~~his~~] the person's possession with the intent  
9 to sell alcoholic beverages in unbroken packages for  
10 consumption and not for resale off the licensed premises;

11 X. "rural community" means an area ten or more  
12 miles outside of a metropolitan statistical area, as determined  
13 in New Mexico by the United States census bureau, with a  
14 population of forty thousand or less;

15 [V-] Y. "spirituous liquors" means alcoholic  
16 beverages as defined in Subsection A of this section except  
17 fermented beverages such as wine, beer and ale;

18 [W-] Z. "wholesaler" means a person whose place of  
19 business is located in New Mexico and who sells, offers for  
20 sale or possesses for the purpose of sale any alcoholic  
21 beverages for resale by the purchaser;

22 [X-] AA. "wine" includes the words "fruit juices"  
23 and means alcoholic beverages obtained by the fermentation of  
24 the natural sugar contained in fruit or other agricultural  
25 products, with or without the addition of sugar or other

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1 products, that do not contain less than one-half percent nor  
2 more than twenty-one percent alcohol by volume;

3 [~~Y.~~] BB. "wine bottler" means a New Mexico  
4 wholesaler who is licensed to sell wine at wholesale for resale  
5 only and who buys wine in bulk and bottles it for wholesale  
6 resale;

7 [~~Z.~~] CC. "winegrower" means a person who owns or  
8 operates a business for the manufacture of wine; and

9 [~~AA.~~] DD. "winer" means a winegrower."

10 Section 5. Section 60-3A-6 NMSA 1978 (being Laws 1987,  
11 Chapter 254, Section 24, as amended) is amended to read:

12 "60-3A-6. AUTHORITY OF [~~DEPARTMENT OF PUBLIC SAFETY~~] LAW  
13 ENFORCEMENT AGENCIES.--

14 A. The department of public safety has primary  
15 authority over all investigations and enforcement activities  
16 required under the Liquor Control Act except for those  
17 provisions relating to the issuance, denial, suspension or  
18 revocation of licenses, unless its assistance is requested by  
19 the director of the alcohol and gaming division of the  
20 regulation and licensing department.

21 B. Municipal and county law enforcement agencies  
22 may enforce the Liquor Control Act by issuing citations when  
23 violations of that act become known to them."

24 Section 6. Section 60-3A-12 NMSA 1978 (being Laws 2007,  
25 Chapter 78, Section 1) is amended to read:

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1 "60-3A-12. PARTIALLY CONSUMED BOTTLE OF WINE--LICENSED  
2 PREMISES.--

3 A. Notwithstanding any other provision of law, a  
4 dispenser, canopy licensee, [~~or~~] restaurant licensee or limited  
5 dispenser may permit a customer of the licensee to remove from  
6 the licensed premises one opened bottle of partially consumed  
7 wine; provided that:

8 (1) the customer has purchased a full-course  
9 meal and a bottle of wine and consumed a portion of the bottle  
10 of wine with the meal on the licensed premises; and

11 (2) the dispenser, canopy licensee, [~~or~~]  
12 restaurant licensee or limited dispenser or an agent or  
13 employee of the dispenser, canopy licensee, [~~or~~] restaurant  
14 licensee or limited dispenser attaches the customer receipt  
15 issued for the bottle of wine and reseals the bottle of  
16 partially consumed wine by reinserting a cork and sealing the  
17 bottle in a tamper-proof bag.

18 B. When operating a motor vehicle, the customer  
19 shall possess and transport the partially consumed bottle of  
20 wine in accordance with Section 66-8-138 NMSA 1978."

21 Section 7. Section 60-4B-4.1 NMSA 1978 (being Laws 1993,  
22 Chapter 329, Section 1) is amended to read:

23 "60-4B-4.1. LOCAL LAW ENFORCEMENT--DEPARTMENT OF PUBLIC  
24 SAFETY--REPORTING REQUIREMENTS--AUTHORITY TO REQUEST  
25 INVESTIGATIONS.--

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1           A. Within thirty days following the date of  
2 issuance of a citation pursuant to the provisions of the Liquor  
3 Control Act, the department of public safety or the law  
4 enforcement agency of a municipality or county shall report  
5 alleged violations of that act to the alcohol and gaming  
6 division of the regulation and licensing department. Failure  
7 of the department of public safety or a local law enforcement  
8 agency to report violations of the Liquor Control Act within  
9 thirty days is not grounds for dismissal of the citation.

10           B. The director of the alcohol and gaming division  
11 of the regulation and licensing department may request the  
12 investigators of the special investigations division of the  
13 department of public safety to investigate licensees or  
14 activities that the director has reasonable cause to believe  
15 are in violation of the Liquor Control Act."

16           Section 8. Section 60-6A-9 NMSA 1978 (being Laws 1981,  
17 Chapter 39, Section 26) is amended to read:

18           "60-6A-9. PUBLIC SERVICE LICENSE.--

19           A. Every person selling alcoholic beverages to  
20 travelers on trains or airplanes within the state shall secure  
21 a public service license from the department on or before July  
22 1 of each year.

23           B. A photostatic copy of the license shall be  
24 posted in each train car from which alcoholic beverages are  
25 sold in this state or on the premises at each airport in this

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1 state where alcoholic beverages are stored and issued to  
2 airplanes."

3 Section 9. Section 60-6A-10 NMSA 1978 (being Laws 1981,  
4 Chapter 39, Section 27, as amended) is amended to read:

5 "60-6A-10. GOVERNMENTAL LICENSE.--

6 A. Except as provided in Subsection G of this  
7 section, a governmental entity may sell alcoholic beverages  
8 directly or through its lessee at a governmental facility if  
9 the governing body applies to the director for a governmental  
10 license. The governmental entity and its lessee shall be  
11 subject to all state laws and regulations governing dispensers.

12 B. A governmental license may be leased to a  
13 qualified lessee and may only be used by the lessee for its  
14 operation during events authorized by the governmental entity  
15 at the governmental facility designated on the governmental  
16 license. The governmental entity and its lessee shall not sell  
17 alcoholic beverages for consumption off the licensed premises.  
18 On the licensed premises of a municipal baseball park, the sale  
19 or service of alcoholic beverages in unbroken packages is  
20 allowed. Alcoholic beverages shall not be removed from the  
21 licensed premises of a municipal baseball park. A server as  
22 defined in Section 60-6E-3 NMSA 1978 is not required to be  
23 present in a skybox to serve alcoholic beverages to the person  
24 leasing the skybox or [~~his~~] the person's guests.

25 C. A governmental entity holding a governmental

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1 license shall annually and not less than sixty days prior to  
2 the date for renewal of its license submit to the director  
3 documentary proof that its lessee is fully qualified to be a  
4 lessee of a governmental license. If the director finds that  
5 the lessee is qualified to lease a governmental license, the  
6 director shall renew the license for an additional period of  
7 one year. If the director determines that the proof is  
8 inadequate, [~~he~~] the director shall notify the governing body  
9 of [~~his~~] the decision and shall conduct a hearing as provided  
10 by law. If the director finds that the lessee does not qualify  
11 and the governmental entity does not change its lessee, the  
12 director shall revoke the license.

13 D. The provisions of Section 60-6A-18 NMSA 1978  
14 shall not apply to governmental licenses.

15 E. For the purposes of this section:

16 (1) "governmental entity" means a  
17 municipality, a county, a state fair that is held for [~~less~~]  
18 fewer than ten days per year, the state fair commission, a  
19 state museum, [~~or~~] a state university or a tribal government;

20 (2) "governmental facility" means locations on  
21 property owned or operated by a governmental entity, including  
22 county fairs; state fairs held for [~~less~~] fewer than ten days  
23 per year; convention centers; airports; civic centers; food  
24 service facilities in state museums; auditoriums; all  
25 facilities on the New Mexico state fairgrounds; facilities used

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1 for athletic competitions; golf courses, including golf courses  
2 required to be used for municipal purposes notwithstanding that  
3 there may be an existing club license at the same location  
4 operated by the same club licensee; and other facilities used  
5 for cultural or artistic performances, but "governmental  
6 facility" does not include tennis facilities;

7 (3) "lessee" means an individual, corporation,  
8 partnership, firm or association that fulfills the requirements  
9 set forth in Subsections A through D of Section 60-6B-2 NMSA  
10 1978;

11 (4) "municipal baseball park" means a  
12 governmental facility owned by a government entity in a class A  
13 county having a population of three hundred fifty thousand or  
14 more pursuant to the most recent federal decennial census that  
15 is the home stadium of an affiliate of a professional baseball  
16 team and that may be used throughout the year for baseball  
17 games and other events; and

18 (5) "skybox" means a room or area of seating  
19 of a municipal baseball park, separated from the general  
20 seating and usually located in the upper decks of the park,  
21 leased to a person for that person's exclusive use during  
22 baseball games and at any other time throughout the year.

23 F. The provisions of Section 60-6B-10 NMSA 1978 as  
24 regards to golf courses owned by a governmental entity and  
25 civic centers owned and operated by a governmental entity shall

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1 not apply to governmental licenses.

2 G. A governmental entity that sells alcoholic  
3 beverages directly or indirectly through a lessee at a  
4 governmental facility that is [~~a food service facility in a~~  
5 ~~state museum or~~] a golf course required to be used for  
6 municipal purposes may only sell beer and wine."

7 Section 10. A new section of Chapter 60, Article 6A NMSA  
8 1978 is enacted to read:

9 "[NEW MATERIAL] LIMITED DISPENSER LICENSE.--

10 A. In a rural community of a local option district  
11 that has approved inter-local option license transfers, a  
12 person may apply for and be issued, after submitting an  
13 application prescribed by the director and meeting all the  
14 requirements of the Liquor Control Act, a limited dispenser  
15 license to permit the sale, service and consumption of  
16 alcoholic beverages in a restaurant subject to the following  
17 application and license requirements, conditions and  
18 restrictions:

19 (1) the maximum number of licenses that may be  
20 issued in the unincorporated area of the county in which the  
21 rural community sits pursuant to Section 60-6A-18 NMSA 1978 has  
22 not been exceeded, but the limited dispenser license shall not  
23 count in the computation of allowable licenses as provided in  
24 that section;

25 (2) the person shall submit evidence to the

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1 director that the person has a current valid food service  
2 establishment permit;

3 (3) the person shall satisfy the director that  
4 the primary source of revenue from the operation of the  
5 restaurant will be derived from meals and not from the sale of  
6 alcoholic beverages;

7 (4) the person may renew the license annually  
8 and the director shall condition renewal upon a requirement  
9 that no less than fifty-five percent of gross receipts from the  
10 preceding twelve months' operation of the restaurant was  
11 derived from the sale of meals;

12 (5) upon application for renewal, the person  
13 shall submit an annual report to the director indicating the  
14 annual gross receipts from the sale of meals and from the sale  
15 of alcoholic beverages;

16 (6) except as provided in Section 60-3A-12  
17 NMSA 1978, the license does not permit the sale of alcoholic  
18 beverages, whether in unbroken packages or not, for consumption  
19 off the licensed premises;

20 (7) the license shall not permit the sale,  
21 service and consumption of alcoholic beverages after the time  
22 meal sales and service ceases or after 11:00 p.m., whichever  
23 time is earlier;

24 (8) if Sunday sales have been approved in the  
25 local option district, the license shall permit, subject to

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1 Section 60-7A-1 NMSA 1978, the sale, service and consumption of  
2 alcoholic beverages on Sundays until the time meal sales and  
3 service ceases or 11:00 p.m., whichever time is earlier; and

4 (9) the license shall not be transferable from  
5 person to person or from one location to another, and whenever  
6 a licensee ceases to operate a restaurant at the licensed  
7 premises, the director shall cancel the license.

8 B. The provisions of Section 60-6A-18 NMSA 1978  
9 shall not apply to a limited dispenser license.

10 C. Nothing in this section shall prevent a limited  
11 dispenser licensee from receiving other licenses pursuant to  
12 the Liquor Control Act."

13 Section 11. Section 60-6A-15 NMSA 1978 (being Laws 1981,  
14 Chapter 39, Section 32, as amended) is amended to read:

15 "60-6A-15. LICENSE FEES.--Every application for the  
16 issuance or renewal of the following licenses shall be  
17 accompanied by a license fee in the following specified  
18 amounts:

19 A. manufacturer's license as a distiller, except a  
20 brandy manufacturer, three thousand dollars (\$3,000);

21 B. manufacturer's license as a brewer, three  
22 thousand dollars (\$3,000);

23 C. manufacturer's license as a rectifier, one  
24 thousand fifty dollars (\$1,050);

25 D. wholesaler's license to sell all alcoholic

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1 beverages for resale only, two thousand five hundred dollars  
2 (\$2,500);

3 E. wholesaler's license to sell spirituous liquors  
4 and wine for resale only, one thousand seven hundred fifty  
5 dollars (\$1,750);

6 F. wholesaler's license to sell spirituous liquors  
7 for resale only, one thousand five hundred dollars (\$1,500);

8 G. wholesaler's license to sell beer and wine for  
9 resale only, one thousand five hundred dollars (\$1,500);

10 H. wholesaler's license to sell beer for resale  
11 only, one thousand dollars (\$1,000);

12 I. wholesaler's license to sell wine for resale  
13 only, seven hundred fifty dollars (\$750);

14 J. retailer's license, one thousand three hundred  
15 dollars (\$1,300);

16 K. dispenser's license, one thousand three hundred  
17 dollars (\$1,300);

18 L. canopy license, one thousand three hundred  
19 dollars (\$1,300);

20 M. restaurant license, one thousand fifty dollars  
21 (\$1,050);

22 N. club license, for clubs with more than two  
23 hundred fifty members, one thousand two hundred fifty dollars  
24 (\$1,250), and for clubs with two hundred fifty members or  
25 fewer, two hundred fifty dollars (\$250);

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1 O. wine bottler's license to sell to wholesalers  
2 only, five hundred dollars (\$500);

3 P. public service license, one thousand two hundred  
4 fifty dollars (\$1,250);

5 Q. nonresident licenses, for a total billing to New  
6 Mexico wholesalers:

7 (1) in excess of:

8 \$3,000,000 annually . . . . . \$10,500;

9 1,000,000 annually . . . . . 5,250;

10 500,000 annually . . . . . 3,750;

11 200,000 annually . . . . . 2,700;

12 100,000 annually . . . . . 1,800;

13 and

14 50,000 annually . . . . . 900;

15 and

16 (2) of \$50,000 or less annually

17 . . . . . \$300;

18 R. wine wholesaler's license, for persons with  
19 sales of five thousand gallons of wine per year or less,  
20 twenty-five dollars (\$25.00), and for persons with sales in  
21 excess of five thousand gallons of wine per year, one hundred  
22 dollars (\$100); [~~and~~]

23 S. beer bottler's license, two hundred dollars  
24 (\$200); and

25 T. limited dispenser license, one thousand five

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1 hundred dollars (\$1,500)."

2 Section 12. Section 60-6B-2 NMSA 1978 (being Laws 1981,  
3 Chapter 39, Section 38, as amended) is amended to read:

4 "60-6B-2. APPLICATIONS.--

5 A. Before a new license authorized by the Liquor  
6 Control Act may be issued by the director, or before the  
7 transfer of a license may be approved, the applicant for the  
8 license or transfer shall:

9 (1) submit to the director a written  
10 application for the license under oath, in the form prescribed  
11 by and stating the information required by the director,  
12 together with a nonrefundable application fee of two hundred  
13 dollars (\$200);

14 (2) submit to the director for approval a  
15 description, including floor plans, in a form prescribed by the  
16 director, that shows the proposed licensed premises for which  
17 the license application is submitted. The area represented by  
18 the approved description shall become the licensed premises;

19 (3) submit the name and street address of a  
20 New Mexico resident who is not a felon, together with two  
21 complete sets of that person's fingerprints taken under the  
22 supervision of and certified to by a New Mexico law enforcement  
23 officer or another person qualified to take fingerprints by  
24 virtue of training or experience, who has power of attorney and  
25 authority to bind the applicant to matters related to liquor

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1 sales and operations and upon whom the director may serve any  
2 notice related to ownership or operation of the license,  
3 including any notice of charge pursuant to Chapter 60, Article  
4 6C NMSA 1978;

5 (4) if the applicant is a corporation, be  
6 required to submit as part of its application the following:

7 (a) a certified copy of its articles of  
8 incorporation or, if a foreign corporation, a certified copy of  
9 its certificate of authority;

10 (b) the names and addresses of all  
11 officers and directors and those stockholders owning ten  
12 percent or more of the voting stock of the corporation and the  
13 amounts of stock held by each stockholder; provided, however,  
14 that a corporation may not be licensed if an officer, manager,  
15 director or holder of more than a ten percent interest in the  
16 applicant entity would not be eligible to hold a license  
17 pursuant to the Liquor Control Act; and

18 (c) such additional information  
19 regarding the corporation as the director may require to assure  
20 full disclosure of the corporation's structure and financial  
21 responsibility;

22 (5) if the applicant is a limited partnership,  
23 submit as part of its application the following:

24 (a) a certified copy of its certificate  
25 of limited partnership;

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1 (b) the names and addresses of all  
2 general partners and of all limited partners contributing ten  
3 percent or more of the total value of contributions made to the  
4 limited partnership or entitled to ten percent or more of the  
5 profits earned or other income paid by the limited partnership.  
6 A limited partnership shall not receive a license if a partner  
7 or holder of a ten percent or greater interest in the applicant  
8 entity designated in this subsection would not be eligible to  
9 hold a license issued pursuant to the Liquor Control Act; and

10 (c) such additional information  
11 regarding the limited partnership as the director may require  
12 to assure full disclosure of the limited partnership's  
13 structure and financial responsibility;

14 (6) if the applicant is a limited liability  
15 company, submit as part of its application the following:

16 (a) a copy of the articles of  
17 organization, with a copy of the certificate of filing with the  
18 public regulation commission;

19 (b) the name and addresses of all the  
20 managing members and all of the nonmanaging members that own a  
21 greater than ten percent interest in the limited liability  
22 company. Any direct or indirect parent entity of the limited  
23 liability company with an interest of ten percent or more in  
24 the applicant entity shall submit application forms and qualify  
25 to hold a license; and

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1 (c) such additional information  
2 regarding the limited liability company as the director may  
3 require to assure full disclosure of the limited liability  
4 company's structure and financial responsibility;

5 (7) if the applicant is a trust, submit as  
6 part of its application:

7 (a) the names and addresses of the  
8 trustees;

9 (b) the names and addresses of any  
10 beneficiaries having control over the property of the trust or  
11 receiving regular and substantial distributions of principal  
12 and income from the trust. Any beneficiary receiving regular  
13 and substantial distributions from the trust shall qualify to  
14 hold a license. The director may request a copy of the trust  
15 agreement for review, which trust agreement need not become  
16 part of the application. Affidavits as to the operation and  
17 distribution of the principal and income may be requested in  
18 lieu of, or in addition to, the copy of the trust agreement  
19 that is supplied for review by the department; and

20 (c) such additional information  
21 regarding the trust as the director may require to assure full  
22 disclosure of the trust's structure and financial  
23 responsibility; and

24 (8) obtain approval for the issuance from the  
25 governing body of the local option district in which the

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1 proposed licensed premises are to be located [~~in accordance~~  
2 ~~with the provisions of the Liquor Control Act~~] pursuant to  
3 Section 60-6B-4 NMSA 1978.

4 B. Except for individual officers, directors,  
5 shareholders, members or partners of entities that are publicly  
6 traded on a national stock exchange and for individuals who  
7 have been fingerprinted for another New Mexico license and had  
8 no prior criminal or arrest record, every applicant for a new  
9 license or for a transfer of ownership of a license shall file  
10 with the application two complete sets of fingerprints taken  
11 under the supervision of and certified to by an officer of the  
12 New Mexico state police, a county sheriff, a municipal chief of  
13 police, a police officer in a foreign country or an individual  
14 qualified to take fingerprints by virtue of training or  
15 experience, for each of the following individuals:

16 (1) if the applicant is a person, for the  
17 applicant;

18 (2) if the applicant or the holder of a ten  
19 percent or greater interest in the applicant entity is a  
20 corporation, for each principal officer, for each member of the  
21 board of directors and for each stockholder with a ten percent  
22 or greater interest in the applicant entity;

23 (3) if the applicant or the holder of a ten  
24 percent or greater interest in the applicant entity is a  
25 general partnership, for each partner;

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1 (4) if the applicant or the holder of a ten  
2 percent or greater interest in the applicant entity is a  
3 limited partnership, for each general partner, for each limited  
4 partner holding a ten percent or greater interest in the  
5 applicant entity and for any principal officers of the limited  
6 partnership;

7 (5) if the applicant or the holder of a ten  
8 percent or greater interest in the applicant entity is a  
9 limited liability company, for each managing member, for each  
10 member who owns a ten percent or greater interest in the  
11 applicant entity and for any principal officer of the limited  
12 liability company; and

13 (6) if the applicant is a trust, for each  
14 trustee and for each beneficiary who has control over trust  
15 property and income or who receives substantial and regular  
16 distributions from the trust.

17 C. Upon submission of a sworn affidavit from each  
18 person who is required to file fingerprints stating that the  
19 person has not been convicted of a felony in any jurisdiction  
20 and pending the results of background investigations, a  
21 temporary license for ninety days may be issued. The temporary  
22 license may be extended by the director for an additional  
23 ninety days if the director determines there is not sufficient  
24 time to complete the background investigation or obtain reviews  
25 of fingerprints from appropriate agencies. A temporary license

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1 shall be surrendered immediately upon order of the director.

2 D. An applicant who files a false affidavit shall  
3 be denied a license. When the director determines a false  
4 affidavit has been filed, the director shall refer the matter  
5 to the attorney general or district attorney for prosecution of  
6 perjury.

7 E. If an applicant is not a resident of New Mexico,  
8 fingerprints may be taken under supervision and certification  
9 of comparable officers in the state of residence of the  
10 applicant.

11 F. Before issuing a license or transferring a  
12 license pursuant to Subsection G of this section, the  
13 department shall hold a public hearing pursuant to Subsection K  
14 of this section within [~~thirty~~] fifty days after receipt of  
15 [~~the application pursuant to Subsection K of this section~~] a  
16 completed application as determined by the director.

17 G. An application for transfer of ownership shall  
18 be filed with the department no later than thirty days after  
19 the date a person acquired an ownership interest in a license.  
20 It shall contain the actual date of sale of the license and  
21 shall be accompanied by a sworn affidavit from the owner of  
22 record of the license agreeing to the sale of the license to  
23 the applicant as well as attesting to the accuracy of the  
24 information required by this section to be filed with the  
25 department. A license shall not be transferred unless it will

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1 be placed into operation in an actual location within one  
2 hundred twenty days of issuance of the license, unless for good  
3 cause shown the director grants an additional extension for a  
4 length of time determined by the director.

5 H. Whenever it appears to the director that there  
6 will be more applications for new licenses than the available  
7 number of new licenses during any time period, a random  
8 selection method for the qualification, approval and issuance  
9 of new licenses shall be provided by the director. The random  
10 selection method shall allow each applicant an equal  
11 opportunity to obtain an available license, provided that all  
12 dispenser's and retailer's licenses issued in a calendar year  
13 shall be issued to residents of the state. For the purposes of  
14 random selection, the director shall also set a reasonable  
15 deadline by which applications for the available licenses shall  
16 be filed. A person shall not file more than one application  
17 for each available license and no more than three applications  
18 per calendar year.

19 I. After the deadline set in accordance with  
20 Subsection H of this section, no more than ten applications per  
21 available license shall be selected at random for priority of  
22 qualification and approval. Within thirty days after the  
23 random selection for the ten priority positions for each  
24 license, a hearing pursuant to Subsection K of this section  
25 shall be held to determine the qualifications of the applicant

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1 having the highest priority for each available license. If  
2 necessary, such a hearing shall be held on each selected  
3 application by priority until a qualified applicant for each  
4 available license is approved. Further random selections for  
5 priority positions shall also be held pursuant to this section  
6 as necessary.

7 J. All applications submitted for a license shall  
8 expire upon the director's final approval of a qualified  
9 applicant for that available license.

10 K. The director shall notify the applicant by  
11 certified mail of the date, time and place of ~~[the]~~ a hearing.  
12 The hearing shall be held in Santa Fe. The director may  
13 designate a hearing officer to take evidence at the hearing.  
14 The director or the hearing officer shall have the power to  
15 administer oaths.

16 L. In determining whether a license shall be issued  
17 or transferred, the director shall take into consideration all  
18 requirements of the Liquor Control Act and the decision of the  
19 governing body of the local option district pursuant to Section  
20 60-6B-4 NMSA 1978. In the ~~[issuance of a license]~~  
21 determination, the director shall specifically consider the  
22 nature and number of prior violations of the Liquor Control Act  
23 by the applicant or of any citations issued within the prior  
24 five years against a license held by the applicant or in which  
25 the applicant had an ownership interest required to be

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1 disclosed under the Liquor Control Act. The director shall  
2 approve or disapprove the issuance [~~or give preliminary~~  
3 ~~approval of the issuance~~] or transfer of the license based upon  
4 a review of all documentation submitted, the governing body  
5 hearing record and any investigation deemed necessary by the  
6 director.

7 M. Before a new license is issued for or  
8 transferred to a location, the director shall cause a notice of  
9 the application for the license to be posted conspicuously, on  
10 a sign not smaller than thirty inches by forty inches, on the  
11 outside of the front wall or front entrance of the immediate  
12 premises for which the license is sought, or, if no building or  
13 improvements exist on the premises, the notice shall be posted  
14 at the front entrance of the immediate premises for which the  
15 license is sought on a billboard not smaller than five feet by  
16 five feet. The contents of the notice shall be in the form  
17 prescribed by the department, and such posting shall be over a  
18 continuous period of twenty days prior to [~~preliminary approval~~  
19 ~~of the license~~] the hearing pursuant to Subsection F of this  
20 section. The director shall prescribe the manner in which the  
21 posting may be accomplished by the licensee, the licensee's  
22 representative or the director's designee.

23 N. A license shall not be issued or transferred  
24 until the posting requirements of Subsection M of this section  
25 have been met.

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1           O. All costs of publication and posting shall be  
2 paid by the applicant.

3           P. It is unlawful for a person to remove or deface  
4 a notice posted in accordance with this section. A person  
5 convicted of a violation of this subsection shall be punished  
6 by a fine of not more than three hundred dollars (\$300) or by  
7 imprisonment in the county jail for not more than one hundred  
8 twenty days or by both.

9           Q. A person aggrieved by a decision made by the  
10 director as to the approval or disapproval of the issuance or  
11 transfer of a license may appeal to the district court pursuant  
12 to the provisions of Section 39-3-1.1 NMSA 1978. If the  
13 director's disapproval is based upon [~~local option district~~]  
14 governing body disapproval pursuant to [~~Subsection H of~~]  
15 Section 60-6B-4 NMSA 1978, the [~~local option district~~]  
16 governing body shall be a necessary party to an appeal. The  
17 decision of the director shall continue in force, pending a  
18 reversal or modification by the district court, unless  
19 otherwise ordered by the court."

20           Section 13. Section 60-6B-4 NMSA 1978 (being Laws 1981,  
21 Chapter 39, Section 40) is amended to read:

22           "60-6B-4. ISSUANCE OR TRANSFER OF LICENSE--APPROVAL OF  
23 APPROPRIATE GOVERNING BODY.--

24           A. [~~Prior to the approval of~~] Upon receipt of a  
25 completed application, as determined by the director, for the

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1 issuance of a new license [~~and prior to the approval of any~~  
2 ~~transfer permitted by Section 39 or 113 of the Liquor Control~~  
3 ~~Act]~~ or transfer of a license, the director shall notify the  
4 governing body of the local option district where the licensed  
5 premises will be or are located of [~~his preliminary approval of~~  
6 ~~the issuance or transfer of the license. Notice to the~~  
7 ~~governing body shall be]~~ the application by certified mail.

8 B. A governing body [~~which]~~ that has received a  
9 notice of [~~preliminary approval of]~~ an application for the  
10 issuance or transfer of a license from the department may  
11 approve or disapprove the issuance or transfer of the license  
12 in accordance with the provisions of this section.

13 C. Within [~~forty-five]~~ thirty-five days after  
14 receipt of a notice of [~~preliminary approval]~~ an application  
15 from the department, the governing body shall hold a public  
16 hearing on the question of whether the [~~department]~~ director  
17 should approve the proposed issuance or transfer. If the  
18 governing body does not hold a hearing within the prescribed  
19 time, the director shall approve or disapprove the application  
20 for a new license or transfer of a license based upon the  
21 hearing held pursuant to Subsections F and K of Section 60-6B-2  
22 NMSA 1978.

23 D. Notice of the public hearing required by  
24 Subsection C of this section shall be given by the governing  
25 body by:

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1 (1) publishing a notice of the date, time and  
2 place of the hearing at least once a week for two consecutive  
3 weeks, with the last publication taking place at least one week  
4 prior to the hearing, in a newspaper of general circulation  
5 within the territorial limits of the governing body. The  
6 notice shall set forth:

7 (a) the name and address of the  
8 licensee;

9 (b) the action proposed to be taken by  
10 the department;

11 (c) the location of the licensee's  
12 premises; [~~and~~]

13 (d) an invitation for public comment;  
14 and

15 [~~(d)~~] (e) such other information as may  
16 be required by the department; and

17 (2) sending a notice by certified mail to the  
18 applicant of the date, time and place of the public hearing.

19 E. The governing body may designate a hearing  
20 officer to conduct the hearing. A record shall be made of the  
21 hearing.

22 F. The governing body may disapprove the issuance  
23 or transfer of the license if:

24 (1) the proposed location is within an area  
25 where the sale of alcoholic beverages is prohibited by the laws

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1 of New Mexico;

2 (2) the issuance or transfer would be in  
3 violation of a zoning or other ordinance of the governing body;  
4 or

5 (3) the issuance or transfer would be  
6 detrimental to the public health, safety or morals of the  
7 residents of the local option district.

8 G. Within [~~thirty~~] ten days after the public  
9 hearing, the governing body shall notify the department as to  
10 whether the governing body has approved or disapproved the  
11 proposed issuance or transfer of the license and shall submit  
12 with the notice a copy of the minutes of the public hearing.  
13 If the governing body fails to either approve or disapprove the  
14 issuance or transfer of the license within [~~thirty~~] ten days  
15 after the public hearing, the director [~~may give final approval~~  
16 ~~to the issuance or transfer of the license~~] shall approve or  
17 disapprove the issuance or transfer based upon the hearing held  
18 pursuant to Subsections F and K of Section 60-6B-2 NMSA 1978.

19 [~~H. If the governing body disapproves the issuance~~  
20 ~~or transfer of the license, it shall notify the department~~  
21 ~~within the time required by Subsection G of this section~~  
22 ~~setting forth the reasons for the disapproval. A copy of the~~  
23 ~~minutes of the public hearing shall be submitted to the~~  
24 ~~department by the governing body with the notice of~~  
25 ~~disapproval. If the governing body disapproves of the issuance~~

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1 ~~or transfer of the license, the director shall disapprove the~~  
2 ~~issuance or transfer of the license.~~

3 ~~I. If the governing body approves the issuance or~~  
4 ~~transfer of the license, it shall notify the department within~~  
5 ~~the time required by Subsection G of this section of its~~  
6 ~~approval. If the governing body approves of the issuance or~~  
7 ~~transfer of the license, the director shall approve the~~  
8 ~~issuance or transfer of the license.]"~~

9 Section 14. Section 60-6B-5 NMSA 1978 (being Laws 1981,  
10 Chapter 39, Section 41, as amended) is amended to read:

11 "60-6B-5. EXPIRATION AND RENEWAL OF LICENSES.--

12 A. All licenses provided for in the Liquor Control  
13 Act, except nonresident licenses and common carrier  
14 registrations, shall expire on June 30 of each year and may be  
15 renewed from year to year under the rules of the department.  
16 Current nonresident licenses and common carrier registrations  
17 shall expire on June 30, 1998 and may be renewed for three-year  
18 periods thereafter. The director shall determine whether any  
19 of the licensees under [~~his~~] the director's jurisdiction are  
20 delinquent in any taxes administered by the taxation and  
21 revenue department as of June 1 of each renewal period. The  
22 director shall also determine whether [~~or not~~] there exists any  
23 other reason why a license should not be renewed. If the  
24 director determines that the license should not be renewed,  
25 [~~he~~] the director shall enter an order requiring the licensee,

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1 after notice, to show cause why [~~his~~] the licensee's license  
2 should be renewed, and [~~he~~] the director shall conduct a  
3 hearing on the matter. If, after the hearing, the director  
4 finds that the licensee is qualified, [~~he~~] the director shall  
5 renew the license.

6 B. A license that is not renewed for five  
7 consecutive years shall expire without option to renew on June  
8 30 of the fifth year after the year the license was issued or  
9 last renewed."

10 Section 15. Section 60-6B-12 NMSA 1978 (being Laws 1981,  
11 Chapter 39, Section 113, as amended) is amended to read:

12 "60-6B-12. INTER-LOCAL OPTION DISTRICT TRANSFERS.--

13 A. [~~All~~] Dispenser's and retailer's licenses  
14 originally issued before July 1, 1981, except rural dispenser's  
15 and rural retailer's licenses and canopy licenses that were  
16 replaced by dispenser's licenses pursuant to Section 60-6B-16  
17 NMSA 1978, may be transferred to any location within the state,  
18 except class B counties having a population of between fifty-  
19 six thousand and fifty-seven thousand according to the 1980  
20 federal decennial census, the municipalities located within  
21 those class B counties and any municipality or county that  
22 prohibits by election the transfer of a license from another  
23 local option district, without regard to the limitations on the  
24 maximum number of licenses provided in Section 60-6A-18 NMSA  
25 1978, not otherwise contrary to law subject to the approval of

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1 transferring locations of [~~such~~] those liquor licenses [~~of~~] by  
2 the [~~governing body~~] director for that location and provided  
3 [~~all~~] the requirements of the Liquor Control Act and department  
4 regulations for the transfer of licenses are fulfilled and  
5 provided further:

6 [~~(1)~~] ~~the transfer of location does not lower~~  
7 ~~the number of dispenser's and retailer's licenses below that~~  
8 ~~number allowed by law in the local option district from which a~~  
9 ~~license will be transferred;~~

10 ~~(2)~~] (1) beginning in calendar year 1997, no  
11 more than ten dispenser's or retailer's licenses shall be  
12 transferred to any local option district in any calendar year;

13 [~~(3)~~] (2) the dispenser's or retailer's  
14 licenses transferred under this section shall count in the  
15 computation of the limitation of the maximum number of licenses  
16 that may be issued in the future in any local option district  
17 as provided in Section 60-6A-18 NMSA 1978 for the purpose of  
18 determining whether additional licenses may be issued in the  
19 local option district [~~under the provisions of Subsection E of~~]  
20 pursuant to Section 60-6B-2 NMSA 1978; and

21 [~~(4)~~] (3) the dispenser's or retailer's  
22 licenses shall be operated or leased by the person who  
23 transfers the license to the local option district for at least  
24 a period of one year from the date of the approval of the  
25 transfer by the department.

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1           B. [~~Transfers~~] Transfer of location of [~~each~~] a  
2 liquor license pursuant to Subsection A of this section shall  
3 become effective upon approval of the [~~local governing body~~]  
4 director, unless within one hundred twenty days after the  
5 effective date of the Liquor Control Act a petition requesting  
6 an election on the question of approval of statewide transfers  
7 of liquor licenses into that local option district is filed  
8 with the clerk of the local option district and the petition is  
9 signed by at least five percent of the number of registered  
10 voters of the district. The clerk of the district shall verify  
11 the petition signatures. If the petition is verified as  
12 containing the required number of signatures of registered  
13 voters, the governing body shall adopt a resolution calling an  
14 election on the question of approving or disapproving statewide  
15 transfers of liquor licenses into that district. Notice of  
16 [~~such~~] the election shall be published as provided in Section  
17 3-8-35 NMSA 1978, and the election shall be held within sixty  
18 days after the date the petition is verified, or it may be held  
19 in conjunction with a regular election of the governing body if  
20 [~~such~~] the election occurs within sixty days after the date of  
21 verification. If a majority of the registered voters of the  
22 district voting in such election votes to approve statewide  
23 transfers of liquor licenses into the local option district,  
24 each license proposing to be transferred shall be subject to  
25 the approval of the governing body. If the voters of the

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1 district voting in the election vote against the approval, then  
2 all statewide transfers of liquor licenses pursuant to  
3 Subsection A of this section shall be prohibited in that  
4 district unless a petition is filed requesting the question be  
5 again submitted to the voters as provided in this subsection.  
6 The question of approving or disapproving statewide transfers  
7 of liquor licenses into the local option district shall not be  
8 submitted again within two years from the date of the last  
9 election on the question.

10 C. Any dispenser's license transferred pursuant to  
11 this section outside its local option district shall only  
12 entitle the licensee to sell, serve or permit the consumption  
13 of alcoholic beverages by the drink on the licensed premises.

14 D. Rural dispenser's, rural retailer's and rural  
15 club licenses issued under any former act may be transferred to  
16 any location, subject to the restrictions as to location  
17 contained in the Liquor Control Act, within the unincorporated  
18 area of the county in which they are currently located;  
19 provided that they shall not be transferred to any location  
20 within ten miles of another licensed premises; and provided  
21 further that all requirements of the Liquor Control Act and  
22 department regulations for the transfer of licenses are  
23 fulfilled."

24 Section 16. Section 60-6C-1 NMSA 1978 (being Laws 1981,  
25 Chapter 39, Section 97, as amended) is amended to read:

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1 "60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR  
2 ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

3 A. The director may suspend or revoke the license  
4 or permit or fine the licensee in an amount not more than ten  
5 thousand dollars (\$10,000), or both, when ~~[he]~~ the director  
6 finds that any licensee has:

7 (1) violated any provision of the Liquor  
8 Control Act or ~~[any regulation]~~ a rule or order promulgated  
9 pursuant to that act;

10 (2) been convicted of a felony pursuant to the  
11 provisions of the Criminal Code, the Liquor Control Act or  
12 federal law; or

13 (3) permitted ~~[his]~~ the licensee's licensed  
14 premises to be or remain a public nuisance ~~[in the neighborhood~~  
15 ~~where it is located after written notice from the director that~~  
16 ~~investigation by the department has revealed that the~~  
17 ~~establishment is a public nuisance in the neighborhood]~~ without  
18 taking reasonable steps to prevent the licensed premises and  
19 any adjacent area that is owned, leased or rented by the  
20 licensee from being a public nuisance.

21 B. If the director finds that a licensee or  
22 permittee or the licensee's or permittee's employee or agent  
23 knew or should have known that the licensee or permittee or the  
24 employee or agent of either sold, served or gave alcoholic  
25 beverages to a minor in violation of Section 60-7B-1 NMSA 1978

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1 or to an intoxicated person in violation of Section 60-7A-16  
2 NMSA 1978, permitted a minor to enter and remain in a  
3 prohibited area in violation of Section 60-7B-10 NMSA 1978 or  
4 violated a rule promulgated pursuant to those sections, the  
5 director shall suspend or revoke the involved license or permit  
6 and shall fine the licensee or permittee in an amount not to  
7 exceed ten thousand dollars (\$10,000) subject to the following:

8 (1) for a first violation, the director shall  
9 impose a minimum one-day suspension and a minimum two thousand  
10 dollar (\$2,000) fine;

11 (2) for a second and subsequent violation, the  
12 director shall impose a minimum seven-day suspension and a  
13 minimum five thousand dollar (\$5,000) fine; and

14 (3) upon two separate violations within any  
15 twelve-month period, the director shall suspend or revoke the  
16 license or permit and shall fine the licensee or permittee in an  
17 amount not to exceed ten thousand dollars (\$10,000).

18 ~~[B-]~~ C. The director shall suspend or revoke the  
19 license or permit and may fine the licensee in an amount not to  
20 exceed ten thousand dollars (\$10,000), or both, when ~~[he]~~ the  
21 director finds that any licensee or

22 ~~[(1) his]~~ the licensee's employee or agent  
23 ~~[knowingly has sold, served or given any alcoholic beverage to~~  
24 ~~a minor in violation of Section 60-7B-1 NMSA 1978 or to an~~  
25 ~~intoxicated person in violation of Section 60-7A-16 NMSA 1978,~~

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1 ~~on two separate occasions within any twelve-month period; or~~  
2 ~~(2) his agent~~] has made [any] a material false  
3 statement or concealed [any] material facts in [~~his~~] the  
4 licensee's application for the license or permit granted [~~him~~]  
5 the licensee pursuant to the provisions of the Liquor Control  
6 Act.

7 [~~G. Any~~] D. A licensee aggrieved by a revocation,  
8 suspension or fine proposed to be imposed by the director  
9 pursuant to this section shall be entitled to the hearing  
10 procedures set forth in Chapter 60, Article 6C NMSA 1978 before  
11 the revocation, suspension or fine shall be effective.

12 [~~D. Any~~] E. A charge filed against a licensee by  
13 the department and the resulting disposition of the charge  
14 shall be reported to the department of public safety and local  
15 law enforcement agencies whose jurisdictions include the  
16 licensed establishment."

17 Section 17. Section 60-6C-2 NMSA 1978 (being Laws 1981,  
18 Chapter 39, Section 98, as amended) is amended to read:

19 "60-6C-2. HEARINGS--LOCATION--OPEN TO PUBLIC--HEARING  
20 OFFICER.--

21 A. All hearings held pursuant to the provisions of  
22 the Liquor Control Act shall be public and conducted by the  
23 director or a hearing officer appointed by the director. [~~and~~  
24 ~~shall be held in the county in which the licensed premises that~~  
25 ~~are the subject matter of the hearing are located.~~ All such

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1 ~~hearings shall be open to the public.]~~

2           B. The hearing described in Subsection A of this  
3 section shall be held in the state capital or, at the  
4 licensee's request, in the county where the subject licensed  
5 premises are located. If the hearing is held at a location  
6 other than the state capital at the licensee's request, the  
7 director shall assess the licensee the reasonable costs of the  
8 hearing, including per diem and mileage."

9           Section 18. Section 60-6C-4 NMSA 1978 (being Laws 1981,  
10 Chapter 39, Section 100, as amended) is amended to read:

11           "60-6C-4. ADMINISTRATIVE PROCEEDINGS--COMPLAINTS--  
12 INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS.--

13           A. Whenever a person lodges a signed, written  
14 complaint with the department alleging that a licensee has  
15 violated any of the provisions of the Liquor Control Act,  
16 unless the complaint is deficient on its face, or when a law  
17 enforcement agency cites a licensee for violation of the Liquor  
18 Control Act, the director shall request that the department of  
19 public safety investigate the complaint.

20           B. The department of public safety shall  
21 investigate the complaint and make a written report to the  
22 director.

23           C. If the director believes from the report that  
24 probable cause exists for filing charges against the licensee  
25 for the revocation or suspension of ~~[his]~~ the licensee's

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1 license or permit or for fining [~~him~~] the licensee, or for  
2 both, [~~he~~] the director or [~~his~~] the director's designee shall  
3 file in the department a charge against the licensee in the  
4 name of the state, stating the nature of the grounds relied  
5 upon for the filing, the approximate date of the alleged  
6 violation and the names and addresses of the witnesses who are  
7 expected to give testimony or evidence against the licensee.

8 D. After charges have been filed, the director  
9 shall issue a signed order for the licensee to appear at a  
10 hearing to explain, on the basis of any ground set out in the  
11 charge, why the license should not be revoked or suspended or  
12 why the licensee should not be fined, or both.

13 E. The director shall keep the original of the  
14 charge and the order to show cause on file in [~~his~~] the  
15 director's office.

16 F. The director shall appoint a hearing officer no  
17 later than ten days prior to the date set for the hearing at  
18 which the licensee shall appear to explain why [~~his~~] the  
19 licensee's license should not be revoked or suspended or why  
20 the licensee should not be fined, or both.

21 G. The director shall have a copy of the charge and  
22 a copy of the order to show cause sent to the licensee or the  
23 licensee's resident agent at the agent's last known address by  
24 certified mail at least fourteen days before the date set for  
25 the hearing on the order to show cause.

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1           H. At ~~any~~ a hearing on an order to show cause,  
2 the director shall cause a record of hearing to be made, which  
3 shall record:

- 4                   (1) the style of the proceedings;  
5                   (2) the nature of the proceedings, including a  
6 copy of the charge and a copy of the order to show cause;  
7                   (3) the place, date and time of the hearing  
8 and all continuances or recesses of the hearing;  
9                   (4) the appearance or nonappearance of the  
10 licensee;  
11                   (5) if the licensee appears with an attorney,  
12 the name and address of the attorney;  
13                   (6) a record of all evidence and testimony and  
14 a copy or record of all exhibits introduced in evidence;  
15                   (7) the findings of fact and law as to whether  
16 ~~or not~~ the licensee has violated the Liquor Control Act as  
17 set out in the charge; and  
18                   (8) the decision of the director.

19           I. If the licensee fails to appear without good  
20 cause at the time and place designated in the order to show  
21 cause for the hearing, the director shall order the  
22 nonappearance of the licensee to be entered in the record of  
23 hearing and shall order the license revoked or suspended or the  
24 licensee fined, or both, on all the grounds alleged in the  
25 charge and shall cause the record of hearing to show the

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1 particulars in detail. In such a case, there shall be no  
2 reopening, appeal or review of the proceedings.

3 J. If the licensee admits guilt on all grounds set  
4 out in the charge, the director shall order the revocation or  
5 suspension of the license or the licensee fined, or both, and  
6 cause a record of hearing to be made showing the facts and  
7 particulars of [~~his~~] the director's order of revocation or  
8 suspension of the license or fine of the licensee, or both. In  
9 such a case, there shall be no review or appeal of the  
10 proceedings.

11 K. If the licensee appears at the hearing and does  
12 not testify or denies guilt of any [~~or all~~] of the grounds set  
13 out in the charge, the hearing shall proceed as follows:

14 (1) the director or the hearing officer shall  
15 administer oaths to all witnesses, the department shall cause  
16 all testimony and evidence in support of the grounds alleged in  
17 the charge to be presented in the presence of the licensee and  
18 the director shall allow the licensee or [~~his~~] the licensee's  
19 attorney to cross-examine all witnesses;

20 (2) the licensee shall be allowed to present  
21 testimony and evidence [~~he~~] the licensee may have in denial or  
22 in mitigation of the grounds set out in the charge;

23 (3) the department shall have the right to  
24 cross-examine the licensee or any witness testifying in [~~his~~]  
25 the licensee's favor;

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1 (4) the department shall present any evidence  
2 or testimony in rebuttal of that produced by the licensee;

3 (5) the director or the hearing officer shall  
4 make a finding on each ground alleged and a finding of the  
5 guilt or innocence of the licensee on each ground;

6 (6) if the licensee is found guilty on any  
7 ground alleged and proved, the director shall make [~~his~~] an  
8 order of revocation or suspension of the license or fine of the  
9 licensee, or both; and

10 (7) the rules of evidence shall not be  
11 required to be observed, but the order of suspension or  
12 revocation or fine, or both, shall be based upon substantial,  
13 competent and relevant evidence and testimony appearing in the  
14 record of hearing.

15 L. No admission of guilt, admission against  
16 interest or transcript of testimony made or given in [~~any~~] a  
17 hearing pursuant to this section shall be received or used in  
18 [~~any~~] criminal proceedings wherein the licensee is a defendant;  
19 provided, however, if the licensee commits perjury in a  
20 hearing, the evidence shall be admissible in a perjury trial if  
21 otherwise competent and relevant.

22 M. The director shall adopt reasonable  
23 regulations setting forth uniform standards of penalties  
24 concerning fines and suspensions imposed by the director."

25 Section 19. Section 60-6C-6 NMSA 1978 (being Laws 1981,

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1 Chapter 39, Section 102, as amended by Laws 1999, Chapter 265,  
2 Section 75 and also by Laws 1999, Chapter 277, Section 1) is  
3 amended to read:

4 "60-6C-6. NO INJUNCTION OR MANDAMUS PERMITTED--APPEAL.--

5 A. No injunction or writ of mandamus or other legal  
6 or equitable process shall issue in any suit, action or  
7 proceeding to prevent or enjoin any finding of guilt or order  
8 of suspension or revocation or fine made by a liquor control  
9 hearing officer under the provisions of Section 60-6C-4 NMSA  
10 1978. A licensee aggrieved or adversely affected by an order  
11 of revocation, suspension or fine shall have the right to  
12 appeal to the district court pursuant to the provisions of  
13 Section 39-3-1.1 NMSA 1978.

14 B. No appeal shall have the effect of suspending  
15 the operation of the order of suspension, revocation or fine,  
16 but the liquor control hearing officer may, for good cause  
17 shown and upon such terms and conditions as ~~[he]~~ the officer  
18 may find are just, ~~[in his discretion]~~ suspend the operation of  
19 the order of suspension, revocation or fine pending the appeal.  
20 ~~[The court shall tax costs against the losing party.]~~

21 C. For purposes of this section, "licensee"  
22 includes a person issued a server permit pursuant to the  
23 Alcohol Server Education Article of the Liquor Control Act."

24 Section 20. Section 60-6C-8 NMSA 1978 (being Laws 1981,  
25 Chapter 39, Section 104) is amended to read:

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1 "60-6C-8. RESTRICTION ON LICENSE AFTER REVOCATION.--

2 A. A revoked license shall be delivered to the  
3 director, if not already in the director's possession,  
4 immediately upon notice of the revocation by the person who  
5 previously owned the license and it shall be cancelled in the  
6 records of the director and physically destroyed. Upon notice  
7 of the revocation, the person who owned the license prior to  
8 revocation shall immediately cease the sale and service of  
9 alcoholic beverages at the previously licensed premises if the  
10 sale and service are then ongoing.

11 B. If a license is revoked under the provisions of  
12 the Liquor Control Act, the [~~licensee~~] person who owned the  
13 license shall not be issued or be the transferee of a license  
14 within two years of the date of the revocation."

15 Section 21. Section 60-6E-3 NMSA 1978 (being Laws 1999,  
16 Chapter 277, Section 4) is amended to read:

17 "60-6E-3. DEFINITIONS.--As used in Chapter 60, Article  
18 [~~6D~~] 6E NMSA 1978:

19 A. "director" means the director of the division;

20 B. "division" means the alcohol and gaming division  
21 of the regulation and licensing department;

22 C. "licensee" means a person issued a license  
23 pursuant to the provisions of the Liquor Control Act to sell,  
24 serve or dispense alcoholic beverages for consumption and not  
25 for resale;

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1           D. "program" means an alcohol server education  
2 course and examination approved by the director to be  
3 administered by providers;

4           E. "provider" means an individual, partnership,  
5 corporation, public or private school or any other legal entity  
6 certified by the director to provide a program;

7           F. "server" means an individual who sells, serves  
8 or dispenses alcoholic beverages for consumption on or off  
9 licensed premises, including persons who manage, direct or  
10 control the sale or service of alcohol or who manage, direct or  
11 control patrons of licensed premises. "Server" does not  
12 include officers of a corporate licensee or lessee who do not  
13 manage, direct or control the sale or service of alcohol; and

14           G. "server permit" means an authorization issued by  
15 the director for a person to be employed or engaged to sell,  
16 serve or dispense alcoholic beverages."

17           Section 22. Section 60-6E-7 NMSA 1978 (being Laws 1999,  
18 Chapter 277, Section 8) is amended to read:

19           "60-6E-7. SERVER PERMITS--ISSUANCE--OWNERSHIP--FEES.--

20           A. The director shall issue a server permit to each  
21 applicant who obtains a certificate of program completion and  
22 provides [~~such~~] other information as may be required by the  
23 director. The director may, in the director's discretion,  
24 issue temporary server permits if circumstances warrant [~~such~~]  
25 the issuance.

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1           B. Server permits shall not be issued to graduates  
2 of programs that are not approved by the director.

3           C. A server permit is the property of the server to  
4 whom it is issued.

5           D. The director may charge a fee for the issuance  
6 of the server permit.

7           E. Server permits shall be valid for a period of  
8 [~~five~~] three years from the date the server permit was issued.

9           F. A certificate of completion of an alcohol server  
10 education program issued pursuant to previous law shall remain  
11 valid until the date of its expiration."

12           Section 23. Section 60-6E-8 NMSA 1978 (being Laws 1999,  
13 Chapter 277, Section 9) is amended to read:

14           "60-6E-8. SERVER PERMIT--SUSPENSION--REVOCATION--  
15 ADMINISTRATIVE FINES--PENALTIES.--

16           A. In addition to any other penalties available,  
17 the following penalties may be imposed for sales to minors or  
18 intoxicated persons in violation of the provisions of the  
19 Liquor Control Act or rules of the division:

20           [~~A.~~] (1) the director may suspend a server's  
21 server permit for a period of thirty days or fine the server in  
22 an amount not to exceed five hundred dollars (\$500), or both,  
23 when [~~he~~] the director finds that the server is guilty of a  
24 first offense of selling, serving or dispensing an alcoholic  
25 beverage to an intoxicated person in violation of Section

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1 60-7A-16 NMSA 1978 or to a minor in violation of Section  
2 60-7B-1 NMSA 1978;

3 [B-] (2) the director shall suspend a server's  
4 server permit for a period of one year when [he] the director  
5 finds that the server is guilty of a second offense of selling,  
6 serving or dispensing alcoholic beverages to intoxicated  
7 persons in violation of Section 60-7A-16 NMSA 1978 or to minors  
8 in violation of Section 60-7B-1 NMSA 1978 arising separately  
9 from the incident giving rise to [his] the server's first  
10 offense;

11 [G-] (3) the director shall permanently revoke  
12 a server's server permit when [he] the director finds that the  
13 server is guilty of a third offense of selling, serving or  
14 dispensing alcoholic beverages to intoxicated persons in  
15 violation of Section 60-7A-16 NMSA 1978 or to minors in  
16 violation of Section 60-7B-1 NMSA 1978 arising separately from  
17 the incidents giving rise to [his] the server's first and  
18 second offenses;

19 [D-] (4) no person whose server permit is  
20 suspended or revoked pursuant to the provisions of this section  
21 may be a server of alcoholic beverages on a licensed premises  
22 during the period of suspension or revocation; and

23 [E-] (5) no person whose server permit is  
24 suspended may serve alcoholic beverages on or after the date of  
25 suspension unless the period of suspension is completed and the

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1 person obtains a new server permit in accordance with the  
2 provisions of [~~Article 6D of~~] Chapter 60, Article 6E NMSA 1978.

3 [~~F.~~] B. Nothing in this act shall be interpreted to  
4 waive [~~any~~] a license holder's liability that may arise  
5 pursuant to the provisions of [~~this~~] the Liquor Control Act."

6 Section 24. Section 60-7A-1 NMSA 1978 (being Laws 1981,  
7 Chapter 39, Section 47, as amended) is amended to read:

8 "60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--  
9 CHRISTMAS DAY SALES--SUNDAY SALES FOR CONSUMPTION OFF THE  
10 LICENSED PREMISES--ELECTIONS.--

11 A. Except for restaurant licenses and limited  
12 dispensers and subject to the restriction in Subsection K of  
13 this section, alcoholic beverages shall be sold, served and  
14 consumed on licensed premises only during the following hours  
15 and days:

16 (1) on Mondays from 7:00 a.m. until midnight;

17 (2) on other weekdays from after midnight of  
18 the previous day until 2:00 a.m., then from 7:00 a.m. until  
19 midnight, except as provided in Subsections D and F of this  
20 section; and

21 (3) on Sundays only after midnight of the  
22 previous day until 2:00 a.m., except as provided in Subsections  
23 C and E of this section and Section 60-7A-2 NMSA 1978;

24 provided, however, nothing in this section shall prohibit the  
25 consumption at any time of alcoholic beverages in guest rooms

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1 of hotels.

2 B. Alcoholic beverages shall be sold by a dispenser  
3 or a retailer in unbroken packages, for consumption off the  
4 licensed premises and not for resale, on Mondays through  
5 Saturdays from 7:00 a.m. until 12:00 a.m. on the following day,  
6 except as provided in Subsections D and F of this section.

7 C. A dispenser, limited dispenser, restaurant  
8 licensee or club may, upon payment of an additional fee of one  
9 hundred dollars (\$100), obtain a permit to sell, serve or  
10 permit the consumption of alcoholic beverages by the drink on  
11 the licensed premises on Sundays subject to Subsection E of  
12 this section from 12:00 noon until midnight and in those years  
13 when December 31 falls on a Sunday from 12:00 noon until 2:00  
14 a.m. of the following day, except [~~as otherwise provided in~~  
15 ~~Subsection E of this section~~] that the closing time for  
16 restaurant licenses and limited dispensers shall be pursuant to  
17 Section 60-6A-4 NMSA 1978 and Section 10 of this 2009 act. The  
18 permit shall expire on June 30 of each year and may be renewed  
19 from year to year upon application for renewal and payment of  
20 the required fee. The permit fee shall not be prorated. Sales  
21 made pursuant to this subsection or Subsection G of this  
22 section shall be called "Sunday sales".

23 D. Retailers, dispensers, limited dispensers,  
24 canopy licensees that were replaced by dispenser's licensees  
25 pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees,

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1 club licensees and governmental licensees or their lessees  
2 shall not sell, serve, deliver or allow the consumption of  
3 alcoholic beverages on the licensed premises from 2:00 a.m. on  
4 Christmas day until 7:00 a.m. on the day after Christmas,  
5 except as permitted pursuant to Subsection F of this section.

6 E. Sunday sales pursuant to the provisions of  
7 Subsection C of this section are permitted in a local option  
8 district that voted to permit them. If in that election a  
9 majority of the voters in a local option district voted "no" on  
10 the question "Shall Sunday sales of alcoholic beverages by the  
11 drink for consumption on the licensed premises of licensees be  
12 allowed in this local option district?", Sunday sales are  
13 unlawful in that local option district upon certification of  
14 the election returns unless the provisions of Subsection J of  
15 this section apply. The question shall not again be placed on  
16 the ballot in that local option district until:

17 (1) at least one year has passed; and

18 (2) a petition is filed with the local  
19 governing body bearing the signatures of registered qualified  
20 electors of the local option district equal in number to ten  
21 percent of the number of votes cast and counted in the local  
22 option district for governor in the last preceding general  
23 election in which a governor was elected. The signatures on  
24 the petition shall be verified by the clerk of the county in  
25 which the local option district is situated.

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1 F. On and after July 1, 2002, dispensers, limited  
2 dispensers, canopy licensees that were replaced by dispenser's  
3 licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant  
4 licensees, club licensees and governmental licensees or lessees  
5 of these licensees; provided that the licensees have current,  
6 valid food service establishment permits, may sell, serve or  
7 allow the consumption of alcoholic beverages by the drink on  
8 licensed premises from noon until 10:00 p.m. on Christmas day,  
9 except in a local option district in which, pursuant to  
10 petition and election under this subsection, [~~a~~] the majority  
11 of the voters voting on the question [~~votes~~] vote against  
12 continuing such sales or consumption on Christmas day. An  
13 election shall be held on the question of whether to continue  
14 to allow the sale, service or consumption of alcoholic  
15 beverages by the drink on licensed premises from noon until  
16 10:00 p.m. on Christmas day in a local option district if a  
17 petition requesting the governing body of that district to call  
18 the election is signed by at least ten percent of the  
19 registered voters of the district and is filed with the clerk  
20 of the governing body of the district. Upon verification by  
21 the clerk that the petition contains the required number of  
22 signatures of registered voters, the governing body shall adopt  
23 a resolution calling an election on the question of allowing  
24 the sale, service or consumption of alcoholic beverages by the  
25 drink on licensed premises from noon until 10:00 p.m. on

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1 Christmas day. The election shall be held within sixty days  
2 after the date the petition is verified, or it may be held in  
3 conjunction with a regular election of the governing body if  
4 that election occurs within sixty days of such verification.  
5 The election shall be called, conducted, counted and canvassed  
6 in substantially the same manner as provided for general  
7 elections in the county under the Election Code or for special  
8 municipal elections in a municipality under the Municipal  
9 Election Code. If [~~a~~] the majority of the voters voting on the  
10 question [~~votes~~] vote against continuing the sale, service or  
11 consumption of alcoholic beverages by the drink on licensed  
12 premises from noon until 10:00 p.m. on Christmas day, then such  
13 sales and consumption shall be prohibited. If [~~a~~] the majority  
14 of the voters voting on the question [~~votes~~] vote to allow  
15 continued sale, service and consumption of alcoholic beverages  
16 by the drink on licensed premises from noon until 10:00 p.m. on  
17 Christmas day, then such sales and consumption shall be allowed  
18 to continue. The question then shall not be submitted again to  
19 the voters within two years of the date of the last election on  
20 the question.

21 G. Notwithstanding the provisions of Subsection E  
22 of this section, any Indian tribe or pueblo whose lands are  
23 wholly situated within the state that has, by statute,  
24 ordinance or resolution, elected to permit the sale, possession  
25 or consumption of alcoholic beverages on lands within the

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1 territorial boundaries of the tribe or pueblo may, by statute,  
2 ordinance or resolution of the governing body of the Indian  
3 tribe or pueblo, permit Sunday sales by the drink on the  
4 licensed premises of licensees on lands within the territorial  
5 boundaries of the tribe or pueblo; provided that a certified  
6 copy of such enactment is filed with the office of the director  
7 and [øf] with the secretary of state.

8 H. Subject to the provisions of Subsection I of  
9 this section, a dispenser or retailer, upon payment of an  
10 additional fee of one hundred dollars (\$100), may obtain a  
11 permit to sell alcoholic beverages in unbroken packages for  
12 consumption off the licensed premises on Sundays from 12:00  
13 noon until midnight, and in those years when December 31 falls  
14 on a Sunday, from 12:00 noon on December 31 until 2:00 a.m. of  
15 the following day. The permit shall expire on June 30 of each  
16 year and may be renewed from year to year upon application for  
17 renewal and payment of the required fee. The permit fee shall  
18 not be prorated. Sales made pursuant to the provisions of this  
19 subsection shall be called "Sunday package sales".

20 I. If a petition requesting the governing body of a  
21 local option district to call an election on the question of  
22 continuing to allow sales of alcoholic beverages in unbroken  
23 packages for consumption off the licensed premises on Sundays  
24 is filed with the clerk of the governing body and that petition  
25 is signed by at least ten percent of the number of registered

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1 voters of the local option district and the clerk of the  
2 governing body verifies the petition signatures, the governing  
3 body shall adopt a resolution calling an election on the  
4 question. The election shall be held within sixty days of the  
5 date the petition is verified, or it may be held in conjunction  
6 with a regular election of the governing body if the regular  
7 election occurs within sixty days of the petition verification.  
8 The election shall be called, conducted, counted and canvassed  
9 substantially in the manner provided by law for general  
10 elections within a county or special municipal elections within  
11 a municipality. If [~~a~~] the majority of the voters of the local  
12 option district voting in the election [~~votes~~] vote to allow  
13 the sale of alcoholic beverages in unbroken packages for  
14 consumption off the licensed premises, then those sales shall  
15 continue to be allowed. If [~~a~~] the majority of the voters of  
16 the local option district voting in the election [~~votes~~] vote  
17 not to allow the Sunday package sales, then those Sunday  
18 package sales shall be prohibited commencing the first Sunday  
19 after the results of the election are certified. Following the  
20 election, the question of allowing the Sunday package sales  
21 shall not be submitted again to the voters within two years of  
22 the date of the last election on the question.

23 J. Sunday sales of alcoholic beverages shall be  
24 permitted at resorts and at horse racetracks statewide pursuant  
25 to the provisions of Section 60-7A-2 NMSA 1978.

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1                   K. In a licensed premises that sells or serves  
2 alcoholic beverages by the drink for consumption on the  
3 licensed premises, the sale and service of alcoholic beverages  
4 shall cease at least one hour before the licensed premises  
5 closes for business. During the period of time from the  
6 cessation of sales and service of alcoholic beverages until the  
7 close of business, the business at the licensed premises shall  
8 sell or serve only nonalcoholic beverages and shall provide  
9 food service. If a licenced premises sells, serves and allows  
10 the consumption of alcoholic beverages until 2:00 a.m., when  
11 permitted, it shall remain open until 3:00 a.m., during which  
12 hour it shall sell and serve only nonalcoholic beverages and  
13 shall provide food service. The director shall issue a rule  
14 prescribing the type of food service that shall meet the  
15 requirement of this subsection."

16                   Section 25. Section 60-7A-4.1 NMSA 1978 (being Laws 1985,  
17 Chapter 179, Section 1, as amended) is amended to read:

18                   "60-7A-4.1. UNLAWFUL SALE OF ALCOHOLIC BEVERAGES--  
19 VIOLATIONS OF THE LIQUOR CONTROL ACT--CRIMINAL PENALTY--  
20 FORFEITURE.--

21                   A. It is unlawful for [~~any~~] a person to sell or  
22 attempt to sell or to deliver to a purchaser alcoholic  
23 beverages at any place other than a licensed premises or [~~as~~] a  
24 place otherwise provided by the Liquor Control Act.

25                   B. It is unlawful for a licensee to sell or attempt

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1 to sell or to deliver alcoholic beverages to a person in  
2 violation of the provisions of the Liquor Control Act or to  
3 otherwise act in violation of that act.

4 [B.—Any] C. A person who violates the provisions  
5 of [~~Subsection A~~] Subsections A or B of this section is guilty  
6 of a fourth degree felony.

7 [G.—Any conveyance] D. A means of transport,  
8 including a motor vehicle, watercraft or aircraft of any type,  
9 used or intended to be used [~~for the purpose of unlawful sale~~  
10 of alcoholic beverages] in the commission of a felony described  
11 in this section or money [~~which~~] that is the fruit or  
12 instrumentality of the [~~crime~~] felony is subject to forfeiture,  
13 and the provisions of the Forfeiture Act apply to the seizure,  
14 forfeiture and disposal of [~~such~~] that property."

15 Section 26. Section 60-7A-12 NMSA 1978 (being Laws 1981,  
16 Chapter 39, Section 78, as amended) is amended to read:

17 "60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES,  
18 RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES  
19 AND CLUBS.--It is a violation of the Liquor Control Act for  
20 [~~any~~] a dispenser, canopy licensee, restaurant licensee,  
21 governmental licensee or its lessee or club to:

22 A. receive [~~any~~] alcoholic beverages for the  
23 purpose of or with the intent of reselling the same from [~~any~~]  
24 a person other than one duly licensed to sell alcoholic  
25 beverages to dispensers for resale;

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1           B. sell, possess for the purpose of sale or bottle  
2 [any] bulk wine for sale other than by the drink for immediate  
3 consumption on [his] its licensed premises;

4           C. directly, indirectly or through [any] subterfuge  
5 own, operate or control [any] an interest in [any] a wholesale  
6 liquor establishment or liquor manufacturing or wine bottling  
7 firm; provided that this section shall not prevent a dispenser  
8 from owning an interest in [any] a legal entity, directly or  
9 indirectly or through an affiliate, that wholesales alcoholic  
10 beverages and that operates or controls an interest in an  
11 establishment operating pursuant to the provisions of  
12 Subsection B of Section 60-7A-10 NMSA 1978;

13           D. sell or possess for the purpose of sale [any]  
14 alcoholic beverages at [any] a location or place except [his]  
15 the licensed premises to which the alcoholic beverages have  
16 been invoiced or the location permitted pursuant to the  
17 provisions of Section 60-6A-12 NMSA 1978;

18           E. employ or engage a person to sell, serve or  
19 dispense alcoholic beverages if the person has not received  
20 alcohol server training within thirty days of employment; or

21           F. employ or engage a person to sell, serve or  
22 dispense alcoholic beverages during a period when the server  
23 permit of that person is suspended or revoked."

24           Section 27. Section 60-7A-24 NMSA 1978 (being Laws 1981,  
25 Chapter 39, Section 110, as amended) is amended to read:

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1 "60-7A-24. [~~OBSTRUCTION OF~~] IMPEDING THE ADMINISTRATION  
2 OF THE LIQUOR CONTROL ACT--CRIMINAL PENALTY--SENTENCING.--

3 A. [~~Any person who forcibly or by bribe, threat or~~  
4 ~~other corrupt practice obstructs, impedes or attempts to~~  
5 ~~obstruct the administration of the provisions of the Liquor~~  
6 ~~Control Act] A person who interferes with the administration of  
7 the Liquor Control Act, including bribery or undue influence;  
8 causing or threatening harm to a witness, potential witness,  
9 government official or legal officer or impeding a witness,  
10 potential witness, government official or legal officer from  
11 truthful testimony or faithful execution of a duty; furnishing  
12 false or misleading information; or otherwise impeding an  
13 investigation or legal process, is guilty of a fourth degree  
14 felony and shall be sentenced pursuant to the provisions of  
15 Section 31-18-15 NMSA 1978.~~

16 B. [~~Any licensee who forcibly or by bribe, threat~~  
17 ~~or other corrupt practice obstructs, impedes or attempts to~~  
18 ~~obstruct the administration of the provisions of the Liquor~~  
19 ~~Control Act] A licensee who interferes with the administration  
20 of the Liquor Control Act, including bribery or undue  
21 influence; causing or threatening harm to a witness, potential  
22 witness, government official or legal officer or impeding a  
23 witness, potential witness, government official or legal  
24 officer from truthful testimony or faithful execution of a  
25 duty; furnishing false or misleading information; or otherwise~~

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1 impeding an investigation or legal process, is guilty of a  
2 fourth degree felony and shall be sentenced pursuant to the  
3 provisions of Section 31-18-15 NMSA 1978, and is guilty of  
4 violating the Liquor Control Act and shall be punished by fine,  
5 suspension or revocation under the procedures of the Liquor  
6 Control Act."

7 Section 28. Section 60-7B-1 NMSA 1978 (being Laws 1993,  
8 Chapter 68, Section 22, as amended) is amended to read:

9 "60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO  
10 MINORS--POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS.--

11 A. It is a violation of the Liquor Control Act for  
12 a person, including a person licensed pursuant to the  
13 provisions of the Liquor Control Act, or an employee, agent or  
14 lessee of that person if [~~he knows or has reason to know that~~  
15 ~~he is~~] the person knew or should have known that the person was  
16 violating the provisions of this section to:

17 (1) sell, serve or give alcoholic beverages to  
18 a minor or permit a minor to consume alcoholic beverages on the  
19 licensed premises;

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

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

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

25 B. It is not a violation of the Liquor Control Act,

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1 as provided in Subsection A or C of this section, when:

2 (1) a parent, legal guardian or adult spouse  
3 of a minor serves alcoholic beverages to that minor on real  
4 property, other than licensed premises, under the control of  
5 the parent, legal guardian or adult spouse; or

6 (2) alcoholic beverages are used in the  
7 practice of religious beliefs.

8 C. It is a violation of the Liquor Control Act for  
9 a minor to buy, attempt to buy, receive, possess or permit  
10 [~~himself~~] the minor's self to be served with alcoholic  
11 beverages.

12 D. When a person other than a minor procures  
13 another person to sell, serve or deliver alcoholic beverages to  
14 a minor by actual or constructive misrepresentation of facts or  
15 concealment of facts calculated to cause the person selling,  
16 serving or delivering the alcoholic beverages to the minor to  
17 believe that the minor is legally entitled to be sold, served  
18 or delivered alcoholic beverages, and actually deceives that  
19 person by that misrepresentation or concealment, then the  
20 procurer and not the person deceived shall have violated the  
21 provisions of the Liquor Control Act.

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

24 F. In addition to the penalties provided in Section  
25 60-6C-1 NMSA 1978, the penalty for a violation of the

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1 provisions of Subsection A of this section is [~~a fourth degree~~  
2 ~~felony and the offender shall be sentenced pursuant to the~~  
3 ~~provisions of Section 31-18-15 NMSA 1978~~]:

4 (1) a fourth degree felony for an offender  
5 other than a server as "server" is defined in Section 60-6E-3  
6 NMSA 1978, and the offender shall be sentenced pursuant to  
7 Section 31-18-15 NMSA 1978;

8 (2) a fourth degree felony for an offender who  
9 is a server as "server" is defined in Section 60-6E-3 NMSA 1978  
10 and who intentionally and willfully commits a violation, and  
11 the offender shall be sentenced pursuant to Section 31-18-15  
12 NMSA 1978;

13 (3) a misdemeanor for a first or second  
14 violation by an offender who is a server as "server" is defined  
15 in Section 60-6E-3 NMSA 1978 and who knew or should have known  
16 that the offender was committing a violation, and the offender  
17 shall be sentenced pursuant to Section 31-19-1 NMSA 1978; and

18 (4) a fourth degree felony for a third or  
19 subsequent violation by an offender who is a server as "server"  
20 is defined in Section 60-6E-3 NMSA 1978 and who knew or should  
21 have known that the offender was committing a violation, and  
22 the offender shall be sentenced pursuant to Section 31-18-15  
23 NMSA 1978.

24 G. A violation of the provisions of Subsection C of  
25 this section is a misdemeanor and the offender shall be

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1 punished as follows:

2 (1) for a first violation, the offender shall  
3 be:

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

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

10 (2) for a second violation, the offender  
11 shall:

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

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

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

24 (3) for a third or subsequent violation, the  
25 offender shall:

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

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

7 (c) have [~~his~~] the offender's driver's  
8 license suspended for a period of two years or until the  
9 offender reaches twenty-one years of age, whichever period of  
10 time is greater.

11 H. A violation of the provisions of Subsection D of  
12 this section is a fourth degree felony and the offender shall  
13 be sentenced pursuant to the provisions of Section 31-18-15  
14 NMSA 1978."

15 Section 29. Section 60-7B-10 NMSA 1978 (being Laws 1981,  
16 Chapter 39, Section 90, as amended) is amended to read:

17 "60-7B-10. MINORS IN LICENSED PREMISES--REGULATIONS.--

18 A. [~~Any~~] A person licensed pursuant to the  
19 provisions of the Liquor Control Act, or any employee, agent or  
20 lessee of that person, who permits a minor to enter and remain  
21 in [~~any~~] an area of a licensed premises that is prohibited to  
22 the use of minors is guilty of a violation of the Liquor  
23 Control Act.

24 B. A minor shall not enter or attempt to enter  
25 [~~any~~] an area of a licensed premises that is posted or

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1 otherwise identified as being prohibited to the use of minors,  
2 except as authorized by regulation or as necessitated by an  
3 emergency. A person who violates the provisions of this  
4 subsection is guilty of a petty misdemeanor and shall be  
5 punished pursuant to the provisions of Section 31-19-1 NMSA  
6 1978.

7 C. The director of the alcohol and gaming division  
8 of the regulation and licensing department shall adopt  
9 [~~regulations~~] rules classifying the types of licensed premises  
10 or areas of licensed premises where minors may be present. The  
11 director shall require that signs issued by the division be  
12 posted by licensees to inform the public, including minors, of  
13 the areas in licensed premises that are open to minors. [~~The~~  
14 ~~regulations~~]

15 D. The rules authorized in Subsection C of this  
16 section may allow minors in those areas of licensed premises  
17 where [~~(1)~~] the consumption of alcoholic beverages is the  
18 primary business activity, when a minor is accompanied by a  
19 parent, adult spouse or legal guardian or [~~(2)~~ ~~there is no~~  
20 ~~consumption of alcoholic beverages~~] during the course of a  
21 minor's employment or official duties."

22 Section 30. REPEAL.--Section 60-7A-15 NMSA 1978 (being  
23 Laws 1981, Chapter 39, Section 92) is repealed.

24 Section 31. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2009.

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