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HOUSE BILL 175

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO ALCOHOL; AMENDING A SECTION OF THE LIQUOR CONTROL ACT TO INCREASE THE FREQUENCY FOR ALCOHOL SERVER TRAINING FROM EVERY FIVE YEARS TO EVERY THREE YEARS; REDUCING THE PENALTY FOR SERVING ALCOHOLIC BEVERAGES TO MINORS; CHANGING THE KNOWLEDGE REQUIREMENT FOR PROVIDING ALCOHOL TO MINORS.

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

SECTION 1. Section 60-6E-1 NMSA 1978 (being Laws 1999, Chapter 277, Section 2) is amended to read:

"60-6E-1. ARTICLE DESIGNATION--ALCOHOL SERVER EDUCATION.--Chapter 60, Article [~~6D~~] 6E NMSA 1978 may be cited as the "Alcohol Server Education Article of the Liquor Control Act"."

SECTION 2. Section 60-6E-7 NMSA 1978 (being Laws 1999, Chapter 277, Section 8) is amended to read:

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~~[bracketed material] = delete~~

1 "60-6E-7. SERVER PERMITS--ISSUANCE--OWNERSHIP--FEES.--

2 A. The director shall issue a server permit to each
3 applicant who obtains a certificate of program completion and
4 provides such other information as may be required by the
5 director. The director may, in the director's discretion,
6 issue temporary server permits if circumstances warrant such
7 issuance.

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

10 C. A server permit is the property of the server to
11 whom it is issued.

12 D. The director may charge a fee for the issuance
13 of the server permit.

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

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

19 SECTION 3. Section 60-7B-1 NMSA 1978 (being Laws 1993,
20 Chapter 68, Section 22, as amended) is amended to read:

21 "60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO
22 MINORS--POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS.--

23 A. It is a violation of the Liquor Control Act for
24 a person, including a person licensed pursuant to the
25 provisions of the Liquor Control Act, or an employee, agent or

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1 lessee of that person, if [~~he~~] the person knows or has reason
2 to know that [~~he~~] the person is violating the provisions of
3 this section, to:

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

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

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

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

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

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

18 (2) alcoholic beverages are used in the
19 practice of religious beliefs.

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

24 D. When a person other than a minor procures
25 another person to sell, serve or deliver alcoholic beverages to

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

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

11 F. In addition to the penalties provided in Section
12 60-6C-1 NMSA 1978, a violation of the provisions of Subsection
13 A of this section is [~~a fourth degree felony and the offender~~]:

14 (1) a fourth degree felony for an offender,
15 other than a server certified pursuant to Section 60-6E-7 NMSA
16 1978, who shall be sentenced pursuant to Section 31-18-15 NMSA
17 1978;

18 (2) a misdemeanor for a first violation if the
19 offender is a server, certified pursuant to Section 60-6E-7
20 NMSA 1978, who shall be sentenced pursuant to the provisions of
21 Section 31-19-1 NMSA 1978; or

22 (3) a fourth degree felony for a second or
23 subsequent violation if the offender is a server, certified
24 pursuant to Section 60-6E-7 NMSA 1978, who shall be sentenced
25 pursuant to the provisions of Section 31-18-15 NMSA 1978.

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1 G. A violation of the provisions of Subsection C of
2 this section is a misdemeanor and the offender shall be
3 punished as follows:

4 (1) for a first violation, the offender shall
5 be:

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

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

12 (2) for a second violation, the offender
13 shall:

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

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

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

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1 (3) for a third or subsequent violation, the
2 offender shall:

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

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

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

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