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AN ACT

RELATING TO TAXATION; INCREASING FOR TEN YEARS THE VOLUME
LIMIT FOR MICROBREWERS FOR PURPOSES OF THE LIQUOR EXCISE TAX;
INCREASING THE LIQUOR EXCISE TAX PAID BY CERTAIN
MICROBREWERS.

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

SECTION 1. Section 7-17-2 NMSA 1978 (being Laws 1966,
Chapter 49, Section 2, as amended) is amended to read:

"7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax
Act:

A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, brandy, whiskey, rum,
gin, aromatic bitters or any similar beverage, including
blended or fermented beverages, dilutions or mixtures of one
or more of the foregoing containing more than one-half of one
percent alcohol by volume, but "alcoholic beverages" does not
include medicinal bitters;

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

C. "cider" means an alcoholic beverage made from
the normal alcoholic fermentation of the juice of sound, ripe
apples that contains not less than one-half of one percent of

1 alcohol by volume and not more than seven percent of alcohol
2 by volume;

3 D. "department" means the taxation and revenue
4 department, the secretary of taxation and revenue or any
5 employee of the department exercising authority lawfully
6 delegated to that employee by the secretary;

7 E. "fortified wine" means wine containing more
8 than fourteen percent alcohol by volume when bottled or
9 packaged by the manufacturer, but "fortified wine" does not
10 include:

11 (1) wine that is sealed or capped by cork
12 closure and aged two years or more;

13 (2) wine that contains more than fourteen
14 percent alcohol by volume solely as a result of the natural
15 fermentation process and that has not been produced with the
16 addition of wine spirits, brandy or alcohol; or

17 (3) vermouth and sherry;

18 F. "microbrewer" means:

19 (1) for years prior to 2014, a person who
20 produces fewer than five thousand barrels of beer in a year;

21 (2) for years 2014 through 2023, a person
22 who produces fewer than fifteen thousand barrels of beer in a
23 year; and

24 (3) for year 2024 and subsequent years, a
25 person who produces fewer than five thousand barrels of beer

1 in a year;

2 G. "person" includes, to the extent permitted by
3 law, a federal, state or other governmental unit or
4 subdivision or an agency, department, institution or
5 instrumentality thereof;

6 H. "small winegrower" means a winegrower who
7 produces fewer than nine hundred fifty thousand liters of
8 wine in a year;

9 I. "spirituous liquor" means alcoholic beverages,
10 except fermented beverages such as wine, beer, cider and ale;

11 J. "wholesaler" means a person holding a license
12 issued under Section 60-6A-1 NMSA 1978 or a person selling
13 alcoholic beverages that were not purchased from a person
14 holding a license issued under Section 60-6A-1 NMSA 1978;

15 K. "wine" means an alcoholic beverage other than
16 cider that is obtained by the fermentation of the natural
17 sugar contained in fruit or other agricultural products, with
18 or without the addition of sugar or other products, and that
19 does not contain more than twenty-one percent alcohol by
20 volume; and

21 L. "winegrower" means a person licensed pursuant
22 to Section 60-6A-11 NMSA 1978."

23 SECTION 2. Section 7-17-5 NMSA 1978 (being Laws 1993,
24 Chapter 65, Section 8, as amended) is amended to read:

25 "7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

1 A. There is imposed on a wholesaler who sells
2 alcoholic beverages on which the tax imposed by this section
3 has not been paid an excise tax, to be referred to as the
4 "liquor excise tax", at the following rates on alcoholic
5 beverages sold:

6 (1) on spirituous liquors, one dollar sixty
7 cents (\$1.60) per liter;

8 (2) on beer, except as provided in Paragraph
9 (5) of this subsection, forty-one cents (\$.41) per gallon;

10 (3) on wine, except as provided in
11 Paragraphs (4) and (6) of this subsection, forty-five cents
12 (\$.45) per liter;

13 (4) on fortified wine, one dollar fifty
14 cents (\$1.50) per liter;

15 (5) on beer manufactured or produced by a
16 microbrewer and sold in this state, provided that proof is
17 furnished to the department that the beer was manufactured or
18 produced by a microbrewer, eight cents (\$.08) per gallon on
19 the first ten thousand barrels sold and twenty-eight cents
20 (\$.28) per gallon for all barrels sold over ten thousand
21 barrels but fewer than fifteen thousand barrels;

22 (6) on wine manufactured or produced by a
23 small winegrower and sold in this state, provided that proof
24 is furnished to the department that the wine was manufactured
25 or produced by a small winegrower, ten cents (\$.10) per liter

1 on the first eighty thousand liters sold and twenty cents
2 (\$.20) per liter on all liters sold over eighty thousand
3 liters but less than nine hundred fifty thousand liters; and
4 (7) on cider, forty-one cents (\$.41) per
5 gallon.

6 B. The volume of wine transferred from one
7 winegrower to another winegrower for processing, bottling or
8 storage and subsequent return to the transferor shall be
9 excluded pursuant to Section 7-17-6 NMSA 1978 from the
10 taxable volume of wine of the transferee. Wine transferred
11 from an initial winegrower to a second winegrower remains a
12 tax liability of the transferor, provided that if the wine is
13 transferred to the transferee for the transferee's use or for
14 resale, the transferee then assumes the liability for the tax
15 due pursuant to this section.

16 C. A transfer of wine from a winegrower to a
17 wholesaler for distribution of the wine transfers the
18 liability for payment of the liquor excise tax to the
19 wholesaler upon the sale of the wine by the wholesaler."

20 SECTION 3. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is January 1, 2014. _____