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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 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:

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

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

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

1 C. A server permit is the property of the server  
2 to whom it is issued.

3 D. The director may charge a fee for the issuance  
4 of the server permit.

5 E. Server permits shall be valid for a period of  
6 three years from the date the server permit was issued.

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

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

12 "60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO  
13 MINORS--POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS.--

14 A. It is a violation of the Liquor Control Act for  
15 a person, including a person licensed pursuant to the  
16 provisions of the Liquor Control Act, or an employee, agent  
17 or lessee of that person, if the person knows or has reason  
18 to know that the person is violating the provisions of this  
19 section, to:

20 (1) sell, serve or give alcoholic beverages  
21 to a minor or permit a minor to consume alcoholic beverages  
22 on the licensed premises;

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

25 (3) deliver alcoholic beverages to a minor;

1 or

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

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

6 (1) a parent, legal guardian or adult spouse  
7 of a minor serves alcoholic beverages to that minor on real  
8 property, other than licensed premises, under the control of  
9 the parent, legal guardian or adult spouse; or

10 (2) alcoholic beverages are used in the  
11 practice of religious beliefs.

12 C. It is a violation of the Liquor Control Act for  
13 a minor to buy, attempt to buy, receive, possess or permit  
14 the minor's self to be served with alcoholic beverages.

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

25 E. As used in the Liquor Control Act, "minor"

1 means a person under twenty-one years of age.

2 F. In addition to the penalties provided in  
3 Section 60-6C-1 NMSA 1978, a violation of the provisions of  
4 Subsection A of this section is:

5 (1) a fourth degree felony for an offender,  
6 other than a server certified pursuant to Section 60-6E-7  
7 NMSA 1978, who shall be sentenced pursuant to Section  
8 31-18-15 NMSA 1978;

9 (2) a misdemeanor for a first violation if  
10 the offender is a server, certified pursuant to Section  
11 60-6E-7 NMSA 1978, who shall be sentenced pursuant to the  
12 provisions of Section 31-19-1 NMSA 1978; or

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

17 G. A violation of the provisions of Subsection C  
18 of this section is a misdemeanor and the offender shall be  
19 punished as follows:

20 (1) for a first violation, the offender  
21 shall be:

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

24 (b) ordered by the sentencing court to  
25 perform thirty hours of community service related to reducing

1 the incidence of driving while under the influence of  
2 intoxicating liquor;

3 (2) for a second violation, the offender  
4 shall:

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

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

11 (c) have the offender's driver's  
12 license suspended for a period of ninety days. If the minor  
13 is too young to possess a driver's license at the time of the  
14 violation, then ninety days shall be added to the date the  
15 offender would otherwise become eligible to obtain a driver's  
16 license; and

17 (3) for a third or subsequent violation, the  
18 offender shall:

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

21 (b) be ordered by the sentencing court  
22 to perform sixty hours of community service related to  
23 reducing the incidence of driving while under the influence  
24 of intoxicating liquor; and

25 (c) have the offender's driver's

1 license suspended for a period of two years or until the  
2 offender reaches twenty-one years of age, whichever period of  
3 time is greater.

4 H. A violation of the provisions of Subsection D  
5 of this section is a fourth degree felony and the offender  
6 shall be sentenced pursuant to the provisions of Section  
7 31-18-15 NMSA 1978."

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