

1 SENATE BILL 440

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Richard C. Martinez

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10 AN ACT

11 RELATING TO ALCOHOLIC BEVERAGES; REVISING THE LIQUOR CONTROL
12 ACT TO CREATE RETAIL RECIPROCITY BETWEEN SMALL BREWERS AND
13 WINEGROWERS; RECONCILING CONFLICTING AMENDMENTS TO THE SAME
14 SECTION OF LAW IN LAWS 2001 BY REPEALING LAWS 2001, CHAPTER
15 248, SECTION 2.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 60-6A-11 NMSA 1978 (being Laws 1981,
19 Chapter 39, Section 28, as amended) is amended to read:

20 "60-6A-11. WINEGROWER'S LICENSE.--

21 A. A person in this state who produces wine is
22 exempt from the procurement of any other license pursuant to
23 the terms of the Liquor Control Act, but not from the
24 procurement of a winegrower's license [~~is a person in this~~
25 ~~state who produces wine~~]. Except during periods of shortage or

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1 reduced availability, at least fifty percent of a winegrower's
2 overall annual production of wine shall be produced from grapes
3 or other agricultural products grown in this state pursuant to
4 rules adopted by the director; provided, however, that, for
5 purposes of determining annual production and compliance with
6 the fifty percent New Mexico grown provision of this
7 subsection, the calculation of a winegrower's overall annual
8 production of wine shall not include the winegrower's
9 production of wine for out-of-state wine producer license
10 holders.

11 B. A person issued a winegrower's license pursuant
12 to this section may do any of the following:

13 (1) manufacture or produce wine, including
14 blending, mixing, flavoring, coloring, bottling and labeling,
15 whether the wine is manufactured or produced for a winegrower
16 or an out-of-state wine producer holding a permit issued [~~by~~
17 ~~the federal alcohol tax unit of the internal revenue service~~]
18 pursuant to the Federal Alcohol Administration Act and a valid
19 license in a state that authorizes the wine producer to
20 manufacture, produce, store or sell wine;

21 (2) store, transport, import or export wines;

22 (3) sell wines to a holder of a New Mexico
23 winegrower's, wine wholesaler's, wholesaler's or wine
24 exporter's license or to a winegrower's agent;

25 (4) transport not more than two hundred cases

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1 of wine in a calendar year to another location within New
2 Mexico by common carrier;

3 (5) deal in warehouse receipts for wine;

4 (6) sell wines in other states or foreign
5 jurisdictions to the holders of a license issued under the
6 authority of that state or foreign jurisdiction authorizing
7 the purchase of wine;

8 (7) buy wine or distilled wine products from
9 other persons, including licensees and permittees under the
10 Liquor Control Act, for use in blending, mixing or bottling of
11 wines;

12 (8) buy or otherwise obtain beer from a small
13 brewer for the purposes described in this subsection;

14 [~~8~~] (9) conduct wine tastings and sell, by
15 the glass or by the bottle, or sell in unbroken packages for
16 consumption off the premises, but not for resale, wine of the
17 winegrower's own production [~~or~~], wine produced by another New
18 Mexico winegrower on the winegrower's premises or beer produced
19 and bottled by or for a small brewer pursuant to Section 60-2A-
20 26.1 NMSA 1978;

21 [~~9~~] (10) at no more than three off-premises
22 locations, conduct wine tastings, sell by the glass and sell in
23 unbroken packages for consumption off premises, but not for
24 resale, wine of the winegrower's own production, [~~or~~] wine
25 produced by another New Mexico winegrower or beer produced and

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1 bottled by or for a small brewer pursuant to Section 60-6A-26.1
2 NMSA 1978 after the director has determined that the off-
3 premises locations meet the requirements of the Liquor Control
4 Act and the department rules for new liquor license locations;

5 [~~(10)~~] (11) be deemed a manufacturer for
6 purposes of the Gross Receipts and Compensating Tax Act; and
7 [~~(11)~~] (12) at public celebrations on or off
8 the winegrower's premises, after the winegrower has paid the
9 applicable fees and been issued the appropriate permit, to
10 conduct wine tastings, sell by the glass or the bottle, or sell
11 in unbroken packages, for consumption off premises, but not for
12 resale, wine produced by or for the winegrower.

13 C. Sales of wine or beer as provided for in this
14 section shall be permitted between the hours of 7:00 a.m. and
15 midnight Monday through Saturday, and the holder of a
16 winegrower's license or public celebration permit may conduct
17 wine tastings and sell, by the glass or bottle, or sell in
18 unbroken packages for consumption off premises, but not for
19 resale, wine of the winegrower's own production or beer
20 produced and bottled by or for a small brewer pursuant to
21 Section 60-6A-26.1 NMSA 1978 on the winegrower's premises
22 between the hours of 12:00 noon and midnight on Sunday.

23 D. At public celebrations off the winegrower's
24 premises in any local option district permitting the sale of
25 alcoholic beverages, the holder of a winegrower's license shall

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1 pay ten dollars (\$10.00) to the alcohol and gaming division of
2 the regulation and licensing department for a "winegrower's
3 public celebration permit" to be issued under rules adopted by
4 the director. Upon request, the alcohol and gaming division of
5 the regulation and licensing department may issue to a holder
6 of a winegrower's license a public celebration permit for a
7 location at the public celebration that is to be shared with
8 other winegrowers and small brewers. As used in this
9 subsection, "public celebration" includes any state or county
10 fair, community fiesta, cultural or artistic event, sporting
11 competition of a seasonal nature or activities held on an
12 intermittent basis.

13 E. Every application for the issuance or annual
14 renewal of a winegrower's license shall be on a form prescribed
15 by the director and accompanied by a license fee to be computed
16 as follows on the basis of total annual wine produced or
17 blended:

18 (1) less than five thousand gallons per year,
19 twenty-five dollars (\$25.00) per year;

20 (2) between five thousand and one hundred
21 thousand gallons per year, one hundred dollars (\$100) per year;
22 and

23 (3) over one hundred thousand gallons per
24 year, two hundred fifty dollars (\$250) per year."

25 SECTION 2. Section 60-6A-26.1 NMSA 1978 (being Laws 1985,
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1 Chapter 217, Section 5, as amended by Laws 2001, Chapter 248,
2 Section 2 and by Laws 2001, Chapter 260, Section 2) is amended
3 to read:

4 "60-6A-26.1. SMALL BREWER'S LICENSE.--

5 A. In any local option district, a person qualified
6 under the provisions of the Liquor Control Act, except as
7 otherwise provided in the Domestic Winery, ~~[and]~~ Small Brewery
8 and Craft Distillery Act, may apply for and be issued a small
9 brewer's license.

10 B. A small brewer's license authorizes the person
11 to whom it is issued to:

12 (1) become a manufacturer or producer of beer;

13 (2) package, label and export beer, whether
14 manufactured, bottled or produced by ~~[him]~~ the licensee or any
15 other person;

16 (3) sell only beer that is packaged by or for
17 ~~[him]~~ the licensee to a person holding a wholesaler's license
18 or a small brewer's license;

19 (4) deal in warehouse receipts for beer;

20 (5) conduct beer tastings and sell for
21 consumption on or off premises, but not for resale, beer
22 produced and bottled by, or produced and packaged for, the
23 licensee, ~~[or]~~ beer produced and bottled by or for another New
24 Mexico small brewer on the small brewer's premises or wine
25 produced by a winegrower pursuant to Section 60-6A-11 NMSA

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1 1978;

2 (6) be deemed a manufacturer for purposes of
3 the Gross Receipts and Compensating Tax Act;

4 (7) at public celebrations off the small
5 brewer's premises, after the small brewer has paid the
6 applicable fee for a small brewer's public celebration permit,
7 conduct tastings and sell by the glass or in unbroken packages,
8 but not for resale, beer produced and bottled by or for the
9 small brewer or wine produced by a winegrower pursuant to
10 Section 60-6A-11 NMSA 1978;

11 (8) buy or otherwise obtain wine from a
12 winegrower;

13 [~~8~~] (9) for the purposes described in this
14 subsection, at no more than [~~two~~] three other locations off the
15 small brewer's premises, after the small brewer has paid the
16 applicable fee for a small brewer's off-premises permit, after
17 the director has determined that the off-premises locations
18 meet the requirements of the Liquor Control Act and department
19 rules for new liquor license locations and after the director
20 has issued a small brewer's off-premises permit for each off-
21 premises location, conduct beer tastings and sell by the glass
22 or in unbroken packages for consumption off the small brewer's
23 off-premises location, but not for resale, beer produced and
24 bottled by or for the small brewer [~~or~~], beer produced and
25 bottled by or for another New Mexico small brewer or wine

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1 produced by a winegrower pursuant to Section 60-6A-11 NMSA
2 1978; and

3 [~~(9)~~] (10) allow members of the public, on the
4 licensed premises and under the direct supervision of the
5 licensee, to manufacture beer for personal consumption and not
6 for resale using the licensee's equipment and ingredients.

7 C. At public celebrations off the small brewer's
8 premises in any local option district permitting the sale of
9 alcoholic beverages, the holder of a small brewer's license
10 shall pay ten dollars (\$10.00) to the alcohol and gaming
11 division of the regulation and licensing department for a
12 "small brewer's public celebration permit" to be issued under
13 rules adopted by the director. Upon request, the alcohol and
14 gaming division of the regulation and licensing department may
15 issue to a holder of a small brewer's license a public
16 celebration permit for a location at the public celebration
17 that is to be shared with other small brewers and winegrowers.
18 As used in this subsection, "public celebration" includes any
19 state or county fair, community fiesta, cultural or artistic
20 event, sporting competition of a seasonal nature or activities
21 held on an intermittent basis.

22 D. Sales and tastings of beer or wine authorized in
23 this section shall be permitted during the hours set forth in
24 Subsection A of Section 60-7A-1 NMSA 1978 and between the hours
25 of noon and midnight on Sunday and shall conform to the

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1 limitations regarding Christmas and voting-day sales found in
2 Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales
3 hours to 2:00 a.m. on January 1, when December 31 falls on a
4 Sunday."

5 SECTION 3. REPEAL.--Laws 2001, Chapter 248, Section 2 is
6 repealed.

7 SECTION 4. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2015.

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