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HOUSE BILL 51

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Stephanie Garcia Richard

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING THE LIQUOR CONTROL ACT TO CREATE RETAIL RECIPROCITY AMONG CRAFT DISTILLERS, SMALL BREWERS AND WINEGROWERS.

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

**SECTION 1.** Section 60-6A-6.1 NMSA 1978 (being Laws 2011, Chapter 110, Section 3, as amended) is amended to read:

"60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

A. In any local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a craft distiller's license subject to the following conditions:

(1) the applicant submits evidence to the department that the applicant has a valid and appropriate

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1 permit issued by the federal government to be a craft  
2 distiller;

3 (2) renewal of the license shall be  
4 conditioned upon:

5 (a) no less than sixty percent of the  
6 gross receipts from the sale of spirituous liquors for the  
7 preceding twelve months of the licensee's operation being  
8 derived from the sale of spirituous liquors produced by the  
9 licensee;

10 (b) the manufacture of no less than one  
11 thousand proof gallons of spirituous liquors per license year  
12 at the licensee's premises; and

13 (c) submission to the department by the  
14 licensee of a report showing the number of proof gallons of  
15 spirituous liquors manufactured by the licensee at the  
16 licensee's premises and the annual gross receipts from the sale  
17 of spirituous liquors produced by the licensee and from the  
18 licensee's sale of distilled spirituous liquors produced by  
19 other New Mexico licensed craft distillers;

20 (3) a craft distiller's license shall not be  
21 transferred from person to person or from one location to  
22 another;

23 (4) the provisions of Section 60-6A-18 NMSA  
24 1978 shall not apply to a craft distiller's license; and

25 (5) nothing in this section shall prevent a

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1 craft distiller from receiving other licenses pursuant to the  
2 Liquor Control Act.

3 B. A person to whom a craft distiller's license is  
4 issued pursuant to this section may do any of the following:

5 (1) manufacture or produce spirituous liquors,  
6 including aging, filtering, blending, mixing, flavoring,  
7 coloring, bottling and labeling;

8 (2) store, transport, import or export  
9 spirituous liquors;

10 (3) sell only spirituous liquors that are  
11 packaged by or for the craft distiller to a person holding a  
12 wholesaler's license, a craft distiller's license or a  
13 manufacturer's license;

14 (4) deal in warehouse receipts for spirituous  
15 liquors;

16 (5) buy spirituous liquors from other persons,  
17 including licensees and permittees under the Liquor Control  
18 Act, for use in blending, flavoring, mixing or bottling of  
19 spirituous liquors;

20 (6) buy or otherwise obtain beer from a small  
21 brewer or wine from a winegrower for the purposes described in  
22 this subsection;

23 [~~6~~] (7) be deemed a manufacturer for  
24 purposes of the Gross Receipts and Compensating Tax Act;

25 [~~7~~] (8) conduct spirituous liquor tastings

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1 and sell, by the glass or by the bottle, or in unbroken  
2 packages for consumption off the premises but not for resale:

3 (a) spirituous liquors of the craft  
4 distiller's own production; [~~or~~]

5 (b) spirituous liquors produced by  
6 another New Mexico craft distiller or New Mexico manufacturer  
7 on the craft distiller's premises; [~~and~~] or

8 (c) beer produced and bottled by or for  
9 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 or wine  
10 produced by a winegrower pursuant to Section 60-6A-11 NMSA  
11 1978; provided that no more than thirty percent of the craft  
12 distiller's gross receipts shall be from the sale of beer or  
13 wine; or

14 [~~(8)~~] (9) at no more than three other  
15 locations off the craft distiller's premises, after the craft  
16 distiller has paid the applicable fee for a craft distiller's  
17 off-premises permit, after the director has determined that the  
18 off-premises locations meet the requirements of the Liquor  
19 Control Act and department rules for new liquor license  
20 locations and after the director has issued a craft distiller's  
21 off-premises permit for each off-premises location, conduct  
22 spirituous liquor tastings and sell by the glass, or in  
23 unbroken packages for consumption off premises and not for  
24 resale:

25 (a) spirituous liquors produced and

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1 bottled by or for the craft distiller; [~~or~~]

2                   (b) spirituous liquors produced and  
3 bottled by or for another New Mexico craft distiller or  
4 manufacturer;

5                   (c) beer produced and bottled by or for  
6 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978; or

7                   (d) wine produced by a winegrower  
8 pursuant to Section 60-6A-11 NMSA 1978.

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

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

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

5 SECTION 2. Section 60-6A-11 NMSA 1978 (being Laws 1981,  
6 Chapter 39, Section 28, as amended by Laws 2015, Chapter 102,  
7 Section 4 and by Laws 2015, Chapter 105, Section 1 and also by  
8 Laws 2015, Chapter 124, Section 1) is amended to read:

9 "60-6A-11. WINEGROWER'S LICENSE.--

10 A. A person in this state who produces wine is  
11 exempt from the procurement of any other license pursuant to  
12 the terms of the Liquor Control Act, but not from the  
13 procurement of a winegrower's license. Except during periods  
14 of shortage or reduced availability, at least fifty percent of  
15 a winegrower's overall annual production of wine shall be  
16 produced from grapes or other agricultural products grown in  
17 this state pursuant to rules adopted by the director; provided,  
18 however, that, for purposes of determining annual production  
19 and compliance with the fifty percent New Mexico grown  
20 provision of this subsection, the calculation of a winegrower's  
21 overall annual production of wine shall not include the  
22 winegrower's production of wine for out-of-state wine producer  
23 license holders.

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

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1 (1) manufacture or produce wine, including  
2 blending, mixing, flavoring, coloring, bottling and labeling,  
3 whether the wine is manufactured or produced for a winegrower  
4 or an out-of-state wine producer holding a permit issued  
5 pursuant to the Federal Alcohol Administration Act and a valid  
6 license in a state that authorizes the wine producer to  
7 manufacture, produce, store or sell wine;

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

9 (3) sell wines to a holder of a New Mexico  
10 winegrower's, wine wholesaler's, wholesaler's or wine  
11 exporter's license or to a winegrower's agent;

12 (4) transport not more than two hundred cases  
13 of wine in a calendar year to another location within New  
14 Mexico by common carrier;

15 (5) deal in warehouse receipts for wine;

16 (6) sell wines in other states or foreign  
17 jurisdictions to the holders of a license issued under the  
18 authority of that state or foreign jurisdiction authorizing  
19 the purchase of wine;

20 (7) buy wine or distilled wine products from  
21 other persons, including licensees and permittees under the  
22 Liquor Control Act, for use in blending, mixing or bottling of  
23 wines;

24 (8) buy or otherwise obtain beer from a small  
25 brewer or spirituous liquors from a craft distiller for the

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1 purposes described in this subsection;

2 (9) conduct wine tastings and sell, by the  
3 glass or by the bottle, or sell in unbroken packages for  
4 consumption off the premises, but not for resale:

5 (a) wine of the winegrower's own  
6 production;

7 (b) wine produced by another New Mexico  
8 winegrower on the winegrower's premises; or

9 (c) beer produced and bottled by or for  
10 a small brewer pursuant to Section ~~[60-2A-26.1]~~ 60-6A-26.1 NMSA  
11 1978 or spirituous liquors produced and packaged by or for a  
12 craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;  
13 provided that no more than thirty percent of a winegrower's  
14 gross receipts shall be from the sale of beer or spirituous  
15 liquors;

16 (10) at no more than three off-premises  
17 locations, after the director has determined that the off-  
18 premises locations meet the requirements of the Liquor Control  
19 Act and department rules for new liquor license locations,  
20 conduct wine tastings, sell by the glass and sell in unbroken  
21 packages for consumption off premises, but not for resale:

22 (a) wine of the winegrower's own  
23 production;

24 (b) wine produced by another New Mexico  
25 winegrower; [ø]

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

6                   (d) spirituous liquors produced and  
7 packaged by or for a craft distiller pursuant to Section  
8 60-6A-6.1 NMSA 1978;

9                   (11) be deemed a manufacturer for purposes of  
10 the Gross Receipts and Compensating Tax Act;

11                   (12) at public celebrations on or off the  
12 winegrower's premises, after the winegrower has paid the  
13 applicable fees and been issued the appropriate permit, to  
14 conduct wine tastings, sell by the glass or the bottle, or sell  
15 in unbroken packages, for consumption off premises, but not for  
16 resale, wine produced by or for the winegrower;

17                   (13) sell wine or cider in a growler for  
18 consumption off premises; [~~and~~] or

19                   (14) in accordance with the provisions of this  
20 section that relate to the sale of wine, accept and fulfill an  
21 order for wine that is placed via an internet [~~web site~~]  
22 website, whether the financial transaction related to the order  
23 is administered by the licensee or the licensee's agent.

24                   C. Sales of wine, [~~or~~] beer or spirituous liquors  
25 as provided for in this section shall be permitted between the

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1 hours of 7:00 a.m. and midnight Monday through Saturday, and  
2 the holder of a winegrower's license or public celebration  
3 permit may on the winegrower's premises between the hours of  
4 12:00 noon and midnight on Sunday conduct wine tastings and  
5 sell, by the glass or bottle, or sell in unbroken packages for  
6 consumption off premises, but not for resale, wine of the  
7 winegrower's own production, [~~or~~] beer produced and bottled by  
8 or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978  
9 [~~on the winegrower's premises between the hours of 12:00 noon~~  
10 ~~and midnight on Sunday~~] or spirituous liquors produced and  
11 packaged by or for a craft distiller pursuant to Section  
12 60-6A-6.1 NMSA 1978.

13 D. At public celebrations off the winegrower's  
14 premises in any local option district permitting the sale of  
15 alcoholic beverages, the holder of a winegrower's license shall  
16 pay ten dollars (\$10.00) to the alcohol and gaming division of  
17 the regulation and licensing department for a "winegrower's  
18 public celebration permit" to be issued under rules adopted by  
19 the director. Upon request, the alcohol and gaming division of  
20 the regulation and licensing department may issue to a holder  
21 of a winegrower's license a public celebration permit for a  
22 location at the public celebration that is to be shared with  
23 other winegrowers, [~~and~~] small brewers and craft distillers.  
24 As used in this subsection, "public celebration" includes any  
25 state or county fair, community fiesta, cultural or artistic

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1 event, sporting competition of a seasonal nature or activities  
2 held on an intermittent basis.

3 E. Every application for the issuance or annual  
4 renewal of a winegrower's license shall be on a form prescribed  
5 by the director and accompanied by a license fee to be computed  
6 as follows on the basis of total annual wine produced or  
7 blended:

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

10 (2) between five thousand and one hundred  
11 thousand gallons per year, one hundred dollars (\$100) per year;  
12 and

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

15 SECTION 3. Section 60-6A-26.1 NMSA 1978 (being Laws 1985,  
16 Chapter 217, Section 5, as amended by Laws 2015, Chapter 102,  
17 Section 5 and by Laws 2015, Chapter 124, Section 2) is amended  
18 to read:

19 "60-6A-26.1. SMALL BREWER'S LICENSE.--

20 A. In a local option district, a person qualified  
21 pursuant to the provisions of the Liquor Control Act, except as  
22 otherwise provided in the Domestic Winery, Small Brewery and  
23 Craft Distillery Act, may apply for and be issued a small  
24 brewer's license.

25 B. A small brewer's license authorizes the person

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1 to whom it is issued to:

2 (1) manufacture or produce beer;

3 (2) package, label and export beer, whether  
4 manufactured, bottled or produced by the licensee or any other  
5 person;

6 (3) sell only beer that is packaged by or for  
7 the licensee to a person holding a wholesaler's license or a  
8 small brewer's license;

9 (4) deal in warehouse receipts for beer;

10 (5) conduct beer tastings and sell for  
11 consumption on or off premises, but not for resale:

12 (a) beer produced and bottled by, or  
13 produced and packaged for, the licensee;

14 (b) beer produced and bottled by or for  
15 another New Mexico small brewer on the small brewer's premises;  
16 or

17 (c) wine produced by a winegrower  
18 pursuant to Section 60-6A-11 NMSA 1978 or spirituous liquors  
19 produced and packaged by or for a craft distiller pursuant to  
20 Section 60-6A-6.1 NMSA 1978; provided that no more than thirty  
21 percent of a small brewer's gross receipts shall be from the  
22 sale of wine or spirituous liquors;

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

25 (7) at public celebrations off the small

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

7 (8) buy or otherwise obtain wine from a  
8 winegrower or spirituous liquor from a craft distiller;

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

20 (a) beer produced and bottled by or for  
21 the small brewer;

22 (b) beer produced and bottled by or for  
23 another New Mexico small brewer; [~~or~~]

24 (c) wine produced by a winegrower  
25 pursuant to Section 60-6A-11 NMSA 1978; or

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1                                    (d) spirituous liquors produced and  
2 packaged by or for a craft distiller pursuant to Section  
3 60-6A-6.1 NMSA 1978;

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

9                                    (11) sell beer in a growler for consumption  
10 off premises.

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

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