HOUSE BILL 603

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Rod Montoya

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR RETAIL
RECIPROCITY BETWEEN SMALL BREWERS, WINEGROWERS AND CRAFT
DISTILLERS.

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

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

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

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

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

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

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

(5) nothing in this section shall prevent a
craft distiller from receiving other licenses pursuant to the
Liquor Control Act.

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

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

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

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

(4) deal in warehouse receipts for spirituous
liquors;

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

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

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

(8) conduct spirituous liquor tastings
and sell, by the glass or by the bottle, or in unbroken packages for consumption off the premises but not for resale:

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

(b) spirituous liquors produced by another New Mexico craft distiller or New Mexico manufacturer on the craft distiller's premises; and

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

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

(a) spirituous liquors produced and
bottled by or for the craft distiller [or];

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

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

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

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

D. Sales and tastings of spirituous liquors, beer
and wine authorized in this section shall be permitted during
the hours set forth in Subsection A of Section 60-7A-1 NMSA
1978 and between the hours of noon and midnight on Sunday and
shall conform to the limitations regarding Christmas day sales
and the expansion of Sunday sales hours to 2:00 a.m. on January
1, when December 31 falls on a Sunday as set forth in Section
60-7A-1 NMSA 1978."

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

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

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

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

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

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

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

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

(5) deal in warehouse receipts for wine;

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

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

(8) buy or otherwise obtain beer from a small brewer for the purposes described in this subsection;
(9) conduct wine tastings and sell, by the
glass or by the bottle, or sell in unbroken packages for
consumption off the premises, but not for resale:
  (a) wine of the winegrower's own
  production;
  (b) wine produced by another New Mexico
  winegrower on the winegrower's premises; or
  (c) beer produced and bottled by or for
  a small brewer pursuant to Section [60-2A-26.1] 60-6A-26.1 NMSA
1978 or spirituous liquors produced and packaged by or for a
craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;
provided that no more than thirty percent of a winegrower's
gross receipts shall be from the sale of beer or spirituous
liquors as provided in this subparagraph;

(10) at no more than three off-premises
locations, and after the director has determined that the off-
premises locations meet the requirements of the Liquor Control
Act and the department rules for new liquor license locations,
conduct wine tastings, sell by the glass and sell in unbroken
packages for consumption off premises, but not for resale:
  (a) wine of the winegrower's own
  production;
  (b) wine produced by another New Mexico
  winegrower [or];
  (c) beer produced and bottled by or for
a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 [after
the director has determined that the off-premises locations
meet the requirements of the Liquor Control Act and the
department rules for new liquor license locations]; and
(d) spirituous liquors produced and
packaged by or for a craft distiller pursuant to Section
60-6A-6.1 NMSA 1978;
(11) be deemed a manufacturer for purposes of
the Gross Receipts and Compensating Tax Act;
(12) at public celebrations on or off the
winegrower's premises, after the winegrower has paid the
applicable fees and been issued the appropriate permit, to
conduct wine tastings, sell by the glass or the bottle, or sell
in unbroken packages, for consumption off premises, but not for
resale, wine produced by or for the winegrower;
(13) sell wine or cider in a growler for
consumption off premises; and
(14) in accordance with the provisions of this
section that relate to the sale of wine, accept and fulfill an
order for wine that is placed via an internet [web site]
website, whether the financial transaction related to the order
is administered by the licensee or the licensee's agent.
C. Sales of wine [or], beer or spirituous liquors
as provided for in this section shall be permitted between the
hours of 7:00 a.m. and midnight Monday through Saturday, and
the holder of a winegrower's license or public celebration permit may conduct wine tastings and sell, by the glass or bottle, or sell in unbroken packages for consumption off premises, but not for resale, wine of the winegrower's own production [or], beer [produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 on the winegrower's premises] or spirituous liquors as provided in Paragraphs (9) and (10) of Subsection B of this section between the hours of 12:00 noon and midnight on Sunday.

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

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

1. less than five thousand gallons per year, twenty-five dollars ($25.00) per year;
2. between five thousand and one hundred thousand gallons per year, one hundred dollars ($100) per year; and
3. over one hundred thousand gallons per year, two hundred fifty dollars ($250) per year."

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

"60-6A-26.1. SMALL BREWER'S LICENSE.--
A. In a 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 small brewer's license.
B. A small brewer's license authorizes the person to whom it is issued to:
   (1) manufacture or produce beer;
   (2) package, label and export beer, whether
manufactured, bottled or produced by the licensee or any other person;

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

(4) deal in warehouse receipts for beer;

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

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

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

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

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

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

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

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

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

(b) beer produced and bottled by or for another New Mexico small brewer [e#];

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

(d) spirituous liquors produced and packaged by or for a craft distiller pursuant to Section .213435.1

- 13 -
60-6A-6.1 NMSA 1978;

(10) allow members of the public, on the
licensed premises and under the direct supervision of the
licensee, to manufacture beer for personal consumption and not
for resale using the licensee's equipment and ingredients; and

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

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

D. Sales and tastings of beer [or
spirituous liquors authorized in this section shall be
permitted during the hours set forth in Subsection A of Section
.213435.1
60-7A-1 NMSA 1978 and between the hours of noon and midnight on
Sunday and shall conform to the limitations regarding Christmas
and voting-day sales found in Section 60-7A-1 NMSA 1978 and the
expansion of Sunday sales hours to 2:00 a.m. on January 1, when
December 31 falls on a Sunday."

SECTION 4. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2019.

- 15 -