HOUSE BILL 255
55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021
INTRODUCED BY
Antonio Maestas and Daniel A. Ivey-Soto and Rod Montoya and
Joshua N. Hernandez and Dayan Hochman-Vigil

AN ACT
RELATING TO LIQUOR CONTROL; AMENDING AND ENACTING SECTIONS OF
THE LIQUOR CONTROL ACT TO PERMIT CERTAIN PERSONS TO DELIVER
ALCOHOLIC BEVERAGES; ADDING A NEW TYPE OF RESTAURANT LICENSE
THAT ALLOWS SALE OF ALCOHOLIC BEVERAGES IN RESTAURANTS;
IMPOSING LICENSE ISSUANCE FEES; PROVIDING FOR TAX DEDUCTIONS
FOR CERTAIN LICENSE HOLDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
SECTION 1. A new section of the Income Tax Act is enacted
to read:
"[NEW MATERIAL] DEDUCTION--INCOME FROM LEASING A LIQUOR
LICENSE.--
A. Prior to January 1, 2026, a taxpayer who is a
liquor license lessor and who held the license on June 30, 2021
may claim a deduction from net income in an amount equal to the
.218143.5
gross receipts from sales of alcoholic beverages made by each liquor license lessee in an amount:

(1) if the liquor license is a dispenser's license, not to exceed fifty thousand dollars ($50,000) for each of four taxable years; and

(2) if the liquor license is a retailer's license, not to exceed twenty-five thousand dollars ($25,000) for each of four taxable years.

B. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of a deduction provided by this section that would have been claimed on a joint return.

C. A taxpayer may claim the deduction provided by this section in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the deduction. The total deduction claimed in the aggregate by all members of the partnership or association with respect to the deduction shall not exceed the amount of the deduction that could have been claimed by a sole owner of the business.

D. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction to the department in a manner required by the department.
E. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the cost of the deduction. The department shall provide the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

F. As used in this section:

(1) "alcoholic beverage" means alcoholic beverage as defined in the Liquor Control Act;

(2) "dispenser's license" means a license issued pursuant to the provisions of the Liquor Control Act allowing the licensee to sell, offer for sale or have in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

(3) "growler" means a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider;

(4) "liquor license" means a retailer's license issued pursuant to Section 60-6A-2 NMSA 1978, a
dispenser's license issued pursuant to Section 60-6A-3 NMSA 1978 or a dispenser's license issued pursuant to Section 60-6A-12 NMSA 1978 issued prior to July 1, 2021;

(5) "liquor license lessee" means a person that leases a liquor license from a liquor license lessor;

(6) "liquor license lessor" means a person that leases a liquor license to a third party; and

(7) "retailer's license" means a license issued pursuant to the provisions of the Liquor Control Act allowing the licensee to sell, offer for sale or have in the person's possession with the intent to sell alcoholic beverages in unbroken packages, including growlers, for consumption and not for resale off the licensed premises."

SECTION 2. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--INCOME FROM LEASING A LIQUOR LICENSE.--

A. Prior to January 1, 2026, a taxpayer that is a liquor license lessor and that held the license on June 30, 2021 may claim a deduction from taxable income in an amount equal to the gross receipts from sales of alcoholic beverages made by each liquor license lessee in an amount:

(1) if the liquor license is a dispenser's license, not to exceed fifty thousand dollars ($50,000) for each of four taxable years; and

.218143.5
(2) if the liquor license is a retailer's license, not to exceed twenty-five thousand dollars ($25,000) for each of four taxable years.

B. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction to the department in a manner required by the department.

C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the cost of the deduction. The department shall provide the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

D. As used in this section:

(1) "alcoholic beverage" means alcoholic beverage as defined in the Liquor Control Act;

(2) "dispenser's license" means a license issued pursuant to the provisions of the Liquor Control Act allowing the licensee to sell, offer for sale or have in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;
(3) "growler" means a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider;

(4) "liquor license" means a retailer's license issued pursuant to Section 60-6A-2 NMSA 1978, a dispenser's license issued pursuant to Section 60-6A-3 NMSA 1978 or a dispenser's license issued pursuant to Section 60-6A-12 NMSA 1978 issued prior to July 1, 2021;

(5) "liquor license lessee" means a person that leases a liquor license from a liquor license lessor;

(6) "liquor license lessor" means a person that leases a liquor license to a third party; and

(7) "retailer's license" means a license issued pursuant to the provisions of the Liquor Control Act allowing the licensee to sell, offer for sale or have in the person's possession with the intent to sell alcoholic beverages in unbroken packages, including growlers, for consumption and not for resale off the licensed premises."

SECTION 3. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--SALES MADE BY RETAILER'S OR DISPENSER'S LICENSE HOLDER.--

A. Prior to January 1, 2026, a liquor license holder who held the license on June 30, 2021 may deduct from
gross receipts the following receipts:

(1) for each dispenser's license, up to fifty thousand dollars ($50,000) of receipts from the sale of alcoholic beverages for taxable years 2022 through 2025; and

(2) for each retailer's license, up to twenty-five thousand dollars ($25,000) of receipts from the sale of alcoholic beverages per year for four consecutive taxable years.

B. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall compile and present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

D. As used in this section:

(1) "alcoholic beverage" means alcoholic beverage as defined in the Liquor Control Act;

(2) "dispenser's license" means a license issued pursuant to the provisions of the Liquor Control Act.
allowing the licensee to sell, offer for sale or have in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

(3) "growler" means a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider;

(4) "liquor license holder" means a person that holds a retailer's license issued pursuant to Section 60-6A-2 NMSA 1978, a dispenser's license issued pursuant to Section 60-6A-3 NMSA 1978 or a dispenser's license issued pursuant to Section 60-6A-12 NMSA 1978 issued prior to July 1, 2021; and

(5) "retailer's license" means a license issued pursuant to the provisions of the Liquor Control Act allowing the licensee to sell, offer for sale or have in the person's possession with the intent to sell alcoholic beverages in unbroken packages, including growlers, for consumption and not for resale off the licensed premises."

SECTION 4. A new section of the Liquor Control Act is enacted to read:

"[NEW MATERIAL] ALCOHOLIC BEVERAGE DELIVERY PERMIT--THIRD-PARTY DELIVERY LICENSE.--
A. A person otherwise qualified pursuant to the provisions of the Liquor Control Act may apply for and the department may issue an alcoholic beverage delivery permit authorizing the person to deliver alcoholic beverages if the applicant holds a valid retailer's, dispenser's, craft distiller's, winegrower's, small brewer's or restaurant license and, in the case of a restaurant license, if the restaurant has a facility with less than ten thousand square feet in size.

B. An alcoholic beverage delivery permit issued to a valid restaurant licensee shall only convey the authority to deliver alcoholic beverages concurrently with the delivery of a minimum of twenty-five dollars ($25.00) worth of food; provided that under no circumstances shall the delivery of alcoholic beverages be more than twenty-five fluid ounces of wine, seventy-two fluid ounces of beer or one locally produced growler.

C. An alcoholic beverage delivery permit is not transferable from person to person or from one location to another.

D. An alcoholic beverage delivery permit issued pursuant to this section is valid for one year from the date of issuance. An alcoholic beverage delivery permittee may renew an alcoholic beverage delivery permit annually as required by the department.

E. The director shall promulgate rules to implement
the provisions of this section, which shall include the following requirements and restrictions:

(1) an alcoholic beverage delivery permittee shall deliver alcoholic beverages only in unbroken packages or growlers;

(2) payment for alcoholic beverages shall be received only at the licensed premises of the selling licensee personally or by other means, including telephonically, electronically, via website, application or internet platform;

(3) a licensee shall not change the price charged for an alcoholic beverage because that beverage is purchased for delivery; provided that a separate fee may be charged for delivery; and further provided that the fee shall be disclosed to the customer at the time of the purchase;

(4) deliveries of alcoholic beverages shall occur only during the hours the selling licensee is authorized to sell alcoholic beverages;

(5) an alcoholic beverage delivery permittee shall not deliver an alcoholic beverage to a business, a commercial establishment, a college or university campus or a school campus that is not a home school;

(6) an alcoholic beverage delivery permittee delivering alcoholic beverages shall obtain valid proof of the recipient's identity and age;

(7) deliveries of alcoholic beverages shall
not be made to an intoxicated person in violation of Section 60-7A-16 NMSA 1978 or to a minor in violation of Section 60-7B-1 NMSA 1978;

(8) while delivering alcoholic beverages, an alcoholic beverage delivery permittee shall have in the permittee's possession only alcoholic beverages that have been purchased for delivery; and

(9) while delivering alcoholic beverages, an alcoholic beverage delivery permittee shall have in the permittee's possession the original or an electronic or physical copy of the permittee's alcoholic beverage delivery permit.

F. A licensee that holds an alcoholic beverage delivery permit issued pursuant to this section may utilize an employee who is at least twenty-one years of age and who holds a valid server permit to deliver alcoholic beverages.

G. A licensee that holds an alcoholic beverage delivery permit issued pursuant to this section may contract with a third-party alcohol delivery service licensed by the department; provided that the licensee, the third-party alcohol delivery service and the server who delivers alcohol may be separately liable for violations of the Liquor Control Act, including for the delivery of alcohol to an intoxicated person or to a minor.

H. The department, by rule, shall create a third-

218143.5

- 11 -
party alcohol delivery permit and, at a minimum, condition the
issuance of a third-party alcohol delivery permit on:

(1) requiring that all delivery employees of
the third-party alcohol delivery service hold a valid New
Mexico alcohol server permit; and

(2) requiring proof of general liability
insurance coverage with a liquor liability endorsement in an
amount not less than one million dollars ($1,000,000) per
occurrence.

I. A person, company or licensee that wishes to
deliver retail sales of alcohol in New Mexico on behalf of
valid retailer's, dispenser's, craft distiller's, winegrower's,
small brewer's or restaurant licensees that also hold a valid
alcoholic beverage delivery permit shall obtain a third-party
alcohol delivery license from the department.

J. An applicant for a third-party alcohol delivery
license is required to be authorized to do business in this
state, may not share in the profits of the sale of alcohol with
a licensee and may only charge a delivery fee that is disclosed
to the buyer at the time of sale.

K. A third-party alcohol delivery licensee shall
not have the ability to buy, hold or deliver alcohol under its
own license but to only allow for delivery of alcohol from a
licensed premises and from a qualified licensee with a valid
alcoholic beverage delivery permit to the buyer.
L. A third-party alcohol delivery licensee shall be independently liable for the delivery of alcoholic beverages to an intoxicated person or to a minor or for any violation of the Liquor Control Act and be subject to suspension, revocation or administrative fine pursuant to Sections 60-6C-1 through 60-6C-6 NMSA 1978.

M. A third-party alcohol delivery license shall be valid for one year, and may be renewed."

SECTION 5. 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 beverage serving" means a serving of a beverage containing sixteen ounces or less of an alcoholic beverage and sold to a customer for immediate consumption;

[B–] B. "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–] C. "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;

[D.] D. "cider" means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears that contains not less than one-half of one percent [of] alcohol by volume and not more than eight and one-half percent [of] alcohol by volume;

[E.] E. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

[F.] F. "fortified wine" means wine containing more than fourteen percent alcohol by volume when bottled or packaged by the manufacturer, but "fortified wine" does not include:

1. wine that is sealed or capped by cork closure and aged two years or more;
2. wine that contains more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that has not been produced with the addition of wine spirits, brandy or alcohol; or
3. vermouth and sherry;

[G.] G. "microbrewer" means a person who produces less than two hundred thousand barrels of beer per year;

[H.] H. "person" includes, to the extent permitted by law, a federal, state or other governmental unit or
subdivision or an agency, department, institution or
instrumentality thereof;

[H] I. "small winegrower" means a winegrower who
produces less than one million five hundred thousand liters of
wine in a year;

[J] J. "spirituous liquors" means alcoholic
beverages, except fermented beverages such as wine, beer, cider
and ale;

[K] K. "wholesaler" means a person holding a
license issued under Section 60-6A-1 NMSA 1978 or a person
selling alcoholic beverages that were not purchased from a
person holding a license issued under Section 60-6A-1 NMSA
1978;

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

[M] M. "winegrower" means a person licensed
pursuant to Section 60-6A-11 NMSA 1978."

SECTION 6. A new Section 7-17-5.2 NMSA 1978 is enacted to
read:

"7-17-5.2. [NEW MATERIAL] ALCOHOLIC BEVERAGE SERVING
TAX.--
A. An excise tax is imposed on a retailer that sells alcoholic beverage servings in this state on which the tax imposed by this section has not been paid. The tax imposed by this section may be referred to as the "alcoholic beverage serving tax".

B. The rate of the alcoholic beverage serving tax is five percent and is applied to the price paid for each alcoholic beverage serving sold. If the price paid does not represent the value of the alcoholic beverage serving, the tax rate shall be applied to the reasonable value of the alcoholic beverage serving at the time it was sold.

C. As used in this section, "retailer" means a person having a place of business and who sells, offers for sale or possesses for the purpose of selling alcoholic beverage servings to customers of the business."

SECTION 7. Section 7-17-9 NMSA 1978 (being Laws 1966, Chapter 49, Section 7, as amended) is amended to read:

"7-17-9. EXEMPTION--CERTAIN SALES TO OR BY INSTRUMENTALITIES OF ARMED FORCES.--Exempted from the [taxes] imposed by Section 7-17-5 NMSA 1978 are alcoholic beverages and alcoholic beverage servings sold to or by any instrumentality of the armed forces of the United States engaged in resale activities."

SECTION 8. Section 7-17-10 NMSA 1978 (being Laws 1966, Chapter 49, Section 8, as amended) is amended to read:
"7-17-10. DATE PAYMENT DUE.--The [tax] taxes imposed by
the Liquor Excise Tax Act [is] are to be paid on or before the
twenty-fifth day of the month following the month in which the
taxable event occurs."

SECTION 9. Section 7-17-12 NMSA 1978 (being Laws 1984,
Chapter 85, Section 8, as amended) is amended to read:

"7-17-12. INTERPRETATION OF ACT--ADMINISTRATION AND
ENFORCEMENT OF TAX.--

A. The department shall interpret the provisions of
the Liquor Excise Tax Act.

B. The department shall administer and enforce the
collection of the [liquor excise tax] taxes imposed pursuant to
the Liquor Excise Tax Act, and the Tax Administration Act
applies to the administration and enforcement of [the tax]
those taxes."

SECTION 10. Section 60-3A-3 NMSA 1978 (being Laws 1981,
Chapter 39, Section 3, as amended by Laws 2019, Chapter 29,
Section 2 and by Laws 2019, Chapter 229, Section 3) is amended
to read:

"60-3A-3. DEFINITIONS.--As used in the Liquor Control
Act:

A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, powdered alcohol, frozen or
freeze-dried alcohol, brandy, whiskey, rum, gin and aromatic
bitters bearing the federal internal revenue strip stamps or
.218143.5
any similar alcoholic beverage, including blended or fermented
beverages, dilutions or mixtures of one or more of the
foregoing containing more than one-half percent alcohol, but
excluding 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. "brewer" means a person who owns or operates a
business for the manufacture of beer;

D. "cider" means an alcoholic beverage made from
the normal alcoholic fermentation of the juice of sound, ripe
apples or pears that contains not less than one-half of one
percent alcohol by volume and not more than eight and one-half
percent alcohol by volume;

E. "club" means:

   (1) any nonprofit group, including an
auxiliary or subsidiary group, organized and operated under the
laws of this state, with a membership of not less than fifty
members who pay membership dues at the rate of not less than
five dollars ($5.00) per year and who, under the constitution
and bylaws of the club, have all voting rights and full
membership privileges, and which group is the owner, lessee or
occupant of premises used exclusively for club purposes and
which group the director finds:
(a) is operated solely for recreation, social, patriotic, political, benevolent or athletic purposes; and

(b) has been granted an exemption by the United States from the payment of the federal income tax as a club under the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended, or, if the applicant has not operated as a club for a sufficient time to be eligible for the income tax exemption, it must execute and file with the director a sworn letter of intent declaring that it will, in good faith, apply for an income tax exemption as soon as it is eligible; or

(2) an airline passenger membership club operated by an air common carrier that maintains or operates a clubroom at an [international] airport terminal. As used in this paragraph, "air common carrier" means a person engaged in regularly scheduled air transportation between fixed termini under a certificate of public convenience and necessity issued by the federal aviation administration;

F. "commission" means the secretary of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;
G. "department" means the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcoholic beverage control division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

H. "director" means the chief of the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcoholic beverage control division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

I. "dispenser" means a person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages, including locally produced growlers, for consumption and not for resale off the licensed premises;

J. "distiller" means a person engaged in manufacturing spirituous liquors;

K. "golf course" means a tract of land and
facilities used for playing golf and other recreational activities that includes tees, fairways, greens, hazards, putting greens, driving ranges, recreational facilities, patios, restaurants, banquet halls, pro shops, cart paths and public and private roads that are located within the tract of land;

L. "governing body" means the board of county commissioners of a county or the city council or city commissioners of a municipality;

M. "growler" means a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of New Mexico-produced beer, wine or cider for consumption off premises;

N. "hotel" means an establishment or complex having a resident of New Mexico as a proprietor or manager and where, in consideration of payment, meals food and lodging are regularly furnished to the general public. The establishment or complex must maintain for the use of its guests a minimum of twenty-five sleeping rooms;

O. "licensed premises" means the contiguous areas [or areas connected by indoor passageways of a structure and the outside dining, recreation and lounge areas] of the structure and the grounds [and vineyards of a structure that is a winery] that are under the direct control of the licensee.
[and from which the licensee is authorized to sell, serve or
allow the consumption of alcoholic beverages under the
provisions of its license]; provided that [in the case of a
restaurant] "licensed premises" includes a restaurant that has
operated continuously in two separate structures since July 1,
1987 and that is located in a local option district that has
voted to disapprove the transfer of liquor licenses into that
local option district, hotel, golf course, ski area or
racetrack and all public and private rooms, facilities and
areas in which alcoholic beverages are sold or served in the
customary operating procedures of the restaurant, hotel, golf
course, ski area or racetrack. "Licensed premises" also
includes rural dispenser licenses located in the unincorporated
areas of a county with a population of less than thirty
thousand, located in buildings in existence as of January 1,
2012, that are within one hundred fifty feet of one another and
that are under the direct control of the license holder;

P. "local option district" means a county that has
voted to approve the sale, serving or public consumption of
alcoholic beverages, or an incorporated municipality that falls
within a county that has voted to approve the sale, serving or
public consumption of alcoholic beverages, or an incorporated
municipality of over five thousand population that has
independently voted to approve the sale, serving or public
consumption of alcoholic beverages under the terms of the
.218143.5
Liquor Control Act or any former act;

Q. "manufacturer" means a distiller, rectifier, brewer or winer;

R. "minor" means a natural person under twenty-one years of age;

S. "package" means an immediate container of alcoholic beverages that is filled or packed by a manufacturer or wine bottler for sale by the manufacturer or wine bottler to wholesalers;

T. "person" means an individual, corporation, firm, partnership, copartnership, association or other legal entity;

U. "rectifier" means a person who blends, mixes or distills alcohol with other liquids or substances for the purpose of making an alcoholic beverage for the purpose of sale other than to the consumer by the drink, and includes all bottlers of spirituous liquors;

V. "restaurant" means an establishment having a New Mexico resident as a proprietor or manager that is held out to the public as a place where food is prepared and served primarily for on-premises consumption to the general public in consideration of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving food; provided that "restaurant" does not include establishments as defined in rules promulgated by the director serving only hamburgers, sandwiches, salads and other meals.
fast foods;

W. "retailer" means a person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in the person's possession with the intent to sell alcoholic beverages in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

X. "ski area" means a tract of land and facilities for the primary purpose of alpine skiing, snowboarding or other snow sports with trails, parks and at least one chairlift with uphill capacity and may include facilities necessary for other seasonal or year-round recreational activities;

Y. "spirituous liquors" means alcoholic beverages as defined in Subsection A of this section except fermented beverages such as wine, beer and cider [and ale];

Z. "wholesaler" means a person whose place of business is located in New Mexico and who sells, offers for sale or possesses for the purpose of sale any alcoholic beverages for resale by the purchaser;

AA. "wine" [includes the words "fruit juices" and] means alcoholic beverages obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, that do not contain less than one-half percent nor more than twenty-one percent alcohol by volume;

BB. "wine bottler" means a [New Mexico] wholesaler
who is licensed to sell wine at wholesale for resale only and
who buys wine in bulk and bottles it for wholesale resale;

CC. "winegrower" means a person who owns or
operates a business for the manufacture of wine or cider;

DD. "winer" means a winegrower; and

EE. "winery" means a [facility] licensed premise in
which a winegrower manufactures and stores wine or cider."

SECTION 11. Section 60-6A-4 NMSA 1978 (being Laws 1981,
Chapter 39, Section 21, as amended) is amended to read:

"60-6A-4. RESTAURANT LICENSE.--

A. A local option district may approve the issuance
of restaurant licenses for the sale of beer and wine by holding
an election on that question pursuant to the procedures set out
in Section 60-5A-1 NMSA 1978. The election also may be
initiated by a resolution adopted by the governing body of the
local option district without a petition from qualified
electors having been submitted.

B. A local option district that has approved the
issuance of restaurant licenses for the sale of beer and wine
may approve the issuance of restaurant licenses for the sale of
beer, wine and alcoholic beverages in restaurants by adoption
of an ordinance.

C. A restaurant license issued or renewed on or
after July 1, 2020 that permits the sale and service of beer
and wine only shall be designated a type A restaurant license.
The license shall be issued in accordance with the provisions of this section and rules adopted by the department.

D. A restaurant license issued on or after July 1, 2020 that permits the sale and service of beer, wine and alcoholic beverages shall be designated a type B restaurant license. The license shall be issued in accordance with the provisions of this section and rules adopted by the department.

E. After the approval of restaurant licenses by the qualified electors of the local option district for the sale of beer and wine and upon completion of all requirements in the Liquor Control Act for the issuance of licenses, a restaurant located or to be located within the local option district may receive a type A restaurant license to sell, serve or allow the consumption of beer and wine subject to the following requirements and restrictions:

   (1) the applicant shall submit evidence to the department that the applicant has a current valid food service establishment permit;

   (2) the applicant shall satisfy the director that the primary source of revenue from the operation of the restaurant will be derived from [meals] food and not from the sale of beer and wine;

   (3) the director shall condition renewal upon a requirement that no less than sixty percent of gross receipts from the preceding twelve months' operation of the licensed
restaurant was derived from the sale of [meals] food;

(4) upon application for renewal, the licensee shall submit an annual report to the director indicating the annual gross receipts from the sale of [meals] food and from beer and wine sales;

[(5) restaurant licensees shall not sell beer and wine for consumption off the licensed premises;

(6) all sales, services and consumption of beer and wine authorized by a type A restaurant license shall cease at the time [meal] food sales and services cease or at 11:00 p.m., whichever time is earlier;

(7) if Sunday sales have been approved in the local option district, a restaurant licensee may serve beer and wine on Sundays from 7:00 a.m. until the time meal sales and services cease or 11:00 p.m., whichever time is earlier; and

(8) a type A restaurant license shall not be transferable from person to person [or be transferrable from one location to another location within the same local option district.

F. Upon completion of all requirements in the Liquor Control Act for the issuance of licenses on and after July 1, 2020, and upon the adoption of an ordinance by the governing body of a local option district, a restaurant located or to be located within the local option district may receive a
type B restaurant license to sell, serve or allow the
cConsumption of beer, wine and alcoholic beverages subject to
the following requirements and restrictions:

(1) the applicant shall submit evidence to the
department that the applicant has a current valid food service
establishment permit;

(2) the applicant shall satisfy the director
that the primary source of revenue from the operation of the
restaurant will be derived from the sale of food and not from
the sale of beer, wine and alcoholic beverages;

(3) the director shall condition renewal upon
a requirement that no less than sixty percent of gross receipts
from the preceding twelve months' operation of the licensed
restaurant was derived from the sale of food;

(4) upon application for renewal, the licensee
shall submit an annual report to the director indicating the
annual gross receipts from the sale of food and from beer, wine
and alcoholic beverages sales;

(5) if Sunday sales have been approved in the
local option district, a type B restaurant licensee may serve
beer and wine on Sundays from 7:00 a.m. until the time meal
sales and services cease or 11:00 p.m., whichever time is
earlier; and

(6) a type B restaurant license shall not be
transferable from person to person but shall be transferable
from one location to another location within the same local
option district.

[G–] G. The provisions of Section 60-6A-18 NMSA
1978 shall not apply to restaurant licenses.

[B–] H. Nothing in this section shall prevent a
restaurant licensee from receiving other licenses pursuant to
the Liquor Control Act.

SECTION 12. 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 \[one thousand\] \[five hundred\] 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 or cider 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;

(7) conduct spirituous liquor, wine, cider or beer tastings and sell, by the glass or by the bottle, or in unbroken packages for consumption off the premises but not for resale, spirituous liquors of the craft distiller's own production or spirituous liquors produced by another New Mexico craft distiller or New Mexico manufacturer on the craft distiller's premises, wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1
NMSA 1978; 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, wine, cider or beer tastings and sell by the glass, or in unbroken packages for consumption and not for resale, spirituous liquors produced and bottled by or for the craft distiller or spirituous liquors produced and bottled by or for another New Mexico craft distiller or manufacturer, wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978.

C. For a public or private celebration on or 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" or a "craft distiller's private 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 .218143.5
the public celebration that is to be shared with other craft
distillers, small brewers and winegrowers.

D. At private celebrations on or off the craft
distiller's premises after the craft distiller has paid the
applicable fees and been issued the appropriate permit, the
craft distiller may sell by the glass spirituous liquors
produced by or for the craft distiller, wine or cider produced
by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or beer
produced and bottled by or for a small brewer pursuant to
Section 60-6A-26.1 NMSA 1978.

E. Sales and tastings of spirituous liquors, wine,
cider and beer 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 11:00 a.m. 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.

F. As used in this section:

(1) "private celebration" means any
celebratory activity that is held in a private or public venue
not open to the general public and for which attendance is
subject to private invitation; and

(2) "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."

SECTION 13. Section 60-6A-10 NMSA 1978 (being Laws 1981,
Chapter 39, Section 27, as amended) is amended to read:

"60-6A-10. GOVERNMENTAL LICENSE.--

A. A governmental entity may sell alcoholic
beverages directly or through its lessee at a governmental
facility if the governing body applies to the director for a
governmental license. The governmental entity and its lessee
shall be subject to all state laws and regulations governing
dispensers.

B. A governmental license may be leased to a
qualified lessee and may only be used by the lessee for its
operation during events authorized by the governmental entity
at the governmental facility designated on the governmental
license. The governmental entity and its lessee shall not sell
alcoholic beverages for consumption off the licensed premises.
On the licensed premises of a [municipal baseball park]
governmental facility, the sale or service of alcoholic
beverages in unbroken packages is allowed. Alcoholic beverages
shall not be removed from the licensed premises of a [municipal
baseball park] governmental facility. A server as defined in
Section 60-6E-3 NMSA 1978 is not required to be present in a
[skybox] suite to serve alcoholic beverages to the person
leasing the [skybox] suite or the person's guests.
C. A governmental entity holding a governmental license shall annually and not less than sixty days prior to the date for renewal of its license submit to the director documentary proof that its lessee is fully qualified to be a lessee of a governmental license. If the director finds that the lessee is qualified to lease a governmental license, the director shall renew the license for an additional period of one year. If the director determines that the proof is inadequate, the director shall notify the governing body of the decision and shall conduct a hearing as provided by law. If the director finds that the lessee does not qualify and the governmental entity does not change its lessee, the director shall revoke the license.

D. The provisions of Section 60-6A-18 NMSA 1978 shall not apply to governmental licenses.

E. For the purposes of this section:
   
   (1) "governmental entity" means a municipality, a county, a state fair that is held for less than ten days per year, the state fair commission, a state museum, a state university or the spaceport authority;

   (2) "governmental facility" means locations on property owned or operated by a governmental entity, including county fairs; state fairs held for less than ten days per year; convention centers; airports; civic centers; food service facilities in state museums; auditoriums; all facilities on the
New Mexico state fairgrounds; facilities used for athletic
competitions; golf courses, including golf courses required to
be used for municipal purposes notwithstanding that there may
be an existing club license at the same location operated by
the same club licensee; other facilities used for cultural or
artistic performances; and all spaceport authority facilities
[but "governmental facility" does not include tennis
facilities];

(3) "lessee" means an individual, corporation,
partnership, firm or association that fulfills the requirements
set forth in Subsections A through D of Section 60-6B-2 NMSA
1978; and

(4) "municipal baseball park" means a
governmental facility owned by a governmental entity in a class
A county having a population of three hundred fifty thousand or
more pursuant to the most recent federal decennial census that
is the home stadium of an affiliate of a professional baseball
team and that may be used throughout the year for baseball
games and other events; and

(5) "skybox" (4) "suite" means a room or
area of seating [of a municipal baseball park] at an event,
separated from the general seating [and usually located in the
upper decks of the park], leased to a person for that person's
exclusive use during [baseball games] events and at any other
time throughout the year.
F. The provisions of Section 60-6B-10 NMSA 1978, with respect to golf courses owned by a governmental entity and civic centers owned and operated by a governmental entity, shall not apply to governmental licenses."

SECTION 14. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended) is amended to read:

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

A. A person in this state who produces wine or cider 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:

(1) manufacture or produce wine or cider, including blending, mixing, flavoring, coloring, bottling and

.218143.5  -  37  -
labeling, whether the wine or cider 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 or
cider producer to manufacture, produce, store or sell wine or
cider;

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

(3) sell wines or ciders 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 or
cider;

(6) sell wines or ciders 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 or cider;

(7) buy wine or cider 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 or ciders;

(8) buy or otherwise obtain beer from a small
brewer or spirituous liquor from a craft distiller for the purposes described in this subsection;

(9) conduct wine, [or] cider, beer or spirituous liquor tastings and sell, by the glass or by the bottle, or sell in unbroken packages for consumption off the premises, but not for resale, wine or cider of the winegrower's own production, wine or cider produced by another New Mexico winegrower on the winegrower's premises, [or] beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 or spirituous liquor produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

(10) at no more than three off-premises locations, conduct wine, [or] cider, beer or spirituous liquor tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale, wine or cider of the winegrower's own production, wine or cider produced by another New Mexico winegrower or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 or spirituous liquor produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 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;

(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 or cider tastings, sell by the glass or the bottle, or sell in unbroken packages, for consumption off premises, but not for resale, wine or cider produced by or for the winegrower;

(13) at private celebrations on or off the winegrower's premises after the winegrower has paid the applicable fees and been issued the appropriate permit, sell:

(a) by the glass or bottle, wine or cider produced by or for the winegrower; [or]

(b) by the glass, beer produced by a small brewer pursuant to Section 60-6A-26.1 NMSA 1978; or

(c) by the drink, spirituous liquors produced and bottled by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

(14) sell wine or cider in a growler for consumption off premises; and

(15) in accordance with the provisions of this section that relate to the sale of wine or cider, accept and fulfill an order for wine or cider that is placed via an internet website, whether the financial transaction related to the order is administered by the licensee or the licensee's agent.
C. Sales of wine, [or] cider, [or] beer or spirituous liquor 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 or cider tastings and sell, by the glass or bottle, or sell in unbroken packages for consumption off premises, but not for resale, wine or cider 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 between the hours of 11:00 a.m. and midnight on Sunday.

D. At public and private celebrations on or 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] alcoholic beverage control division of the regulation and licensing department for a "winegrower's public celebration permit" or a "winegrower's private celebration permit" to be issued under rules adopted by the director. Upon request, the [alcohol and gaming] alcoholic beverage control 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.

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 or cider 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.

F. As used in this section:

(1) "private celebration" means any celebratory activity that is held in a private or public venue not open to the general public and for which attendance is subject to private invitation; and
(2) "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."

SECTION 15. Section 60-6A-15 NMSA 1978 (being Laws 1981, Chapter 39, Section 32, as amended) is amended to read:

"60-6A-15. LICENSE AND PERMIT FEES.--Every application for the issuance or renewal of the following licenses and permits shall be accompanied by a [license] fee in the
following specified amounts:

A. manufacturer's license as a distiller, except a brandy manufacturer, three thousand dollars ($3,000);

B. manufacturer's license as a brewer, three thousand dollars ($3,000);

C. manufacturer's license as a rectifier, one thousand fifty dollars ($1,050);

D. wholesaler's license to sell all alcoholic beverages for resale only, two thousand five hundred dollars ($2,500);

E. wholesaler's license to sell spirituous liquors and wine for resale only, one thousand seven hundred fifty dollars ($1,750);

F. wholesaler's license to sell spirituous liquors for resale only, one thousand five hundred dollars ($1,500);

G. wholesaler's license to sell beer and wine for resale only, one thousand five hundred dollars ($1,500);

H. wholesaler's license to sell beer for resale only, one thousand dollars ($1,000);

I. wholesaler's license to sell wine for resale only, seven hundred fifty dollars ($750);

J. retailer's license, one thousand three hundred dollars ($1,300);

K. dispenser's license, one thousand three hundred dollars ($1,300);
L. canopy license, one thousand three hundred dollars ($1,300); 

M. restaurant license type A, one thousand fifty dollars ($1,050); 

N. restaurant license type B shall be based upon the seating capacity of the restaurant:

(1) zero to twenty-five seats, five thousand dollars ($5,000); 

(2) twenty-six to fifty seats, ten thousand dollars ($10,000); 

(3) fifty-one to one hundred seats, fifteen thousand dollars ($15,000); and 

(4) more than one hundred seats, twenty thousand dollars ($20,000); 

O. club license, for clubs with more than two hundred fifty members, one thousand two hundred fifty dollars ($1,250), and for clubs with two hundred fifty members or fewer, two hundred fifty dollars ($250); 

P. wine bottler's license to sell to wholesalers only, five hundred dollars ($500); 

Q. public service license, one thousand two hundred fifty dollars ($1,250); 

R. nonresident licenses, for a total billing to New Mexico wholesalers:

(1) in excess of:
$3,000,000 annually . . . . . . . . . . . . . . . . . . $10,500;
1,000,000 annually . . . . . . . . . . . . . . . . . . 5,250;
500,000 annually . . . . . . . . . . . . . . . . . . 3,750;
200,000 annually . . . . . . . . . . . . . . . . . . 2,700;
100,000 annually . . . . . . . . . . . . . . . . . . 1,800;
and
50,000 annually . . . . . . . . . . . . . . . . . . . 900;
and
(2) of $50,000 or less . . . . . . . . . . . . . . . . . . $300;
[R] S. wine wholesaler's license, for persons with
sales of five thousand gallons of wine per year or less,
twenty-five dollars ($25.00), and for persons with sales in
excess of five thousand gallons of wine per year, one hundred
dollars ($100); [and
S.] T. beer bottler's license, two hundred dollars
($200);
U. third-party alcohol delivery license, not to
exceed three hundred dollars ($300);
V. alcoholic beverage delivery permit, not to
exceed three hundred dollars ($300); and
W. retailer's, dispenser's or canopy licenses, if
the licensee held the license on June 30, 2020, there shall be
no renewal fee for applications filed by the licensee or
successor licensees on or before June 30, 2026."

SECTION 16. Section 60-6A-19 NMSA 1978 (being Laws 1981,
Chapter 39, Section 36, as amended) is amended to read:

"60-6A-19. NO PROPERTY RIGHT IN LICENSE--EXCEPTION.--

A. The holder of [any] a license issued under the
Liquor Control Act or any former act has no vested property
right in the license, which is the property of the state;
provided that retailer's licenses, dispenser's licenses and
canopy licenses that were replaced by dispenser's licenses
pursuant to Section 60-6B-16 NMSA 1978:

(1) shall be considered property subject to
execution, attachment, a security transaction, liens,
receivership and [all] other incidents of tangible personal
property under the laws of this state, except as otherwise
provided in the Liquor Control Act;

(2) on or before July 1, 2026, may be
assigned, transferred from person to person or leased, provided
all requirements of the Liquor Control Act and department
regulations are fulfilled; and

(3) shall be transferred as personal property
upon attachment, execution, repossession by a secured party or
lienor, foreclosure by a creditor, appointment of a receiver
for the licensee, death of the licensee, filing of a petition
of bankruptcy by or for the licensee, incapacity of the
licensee or dissolution of the licensee. The director may, by
rule or regulation, determine [any] an application or notice
requirement for a person who temporarily holds a license
pursuant to this subsection.

B. [Any] A license issued under the Liquor Control Act may be transferred to any location not otherwise contrary to law within the same local option district where the license is then located, provided all requirements of the Liquor Control Act and department regulations are fulfilled."

SECTION 17. Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended) 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, wine, cider and spirituous
liquor tastings and sell for consumption on or off premises,
but not for resale, beer produced and bottled by, or produced
and packaged for, the licensee, beer produced and bottled by or
for another New Mexico small brewer on the small brewer's
premises or wine or cider produced by a winegrower pursuant to
Section 60-6A-11 NMSA 1978 or spirituous liquor produced and
bottled by or for a craft distiller pursuant to Section
60-6A-6.1 NMSA 1978;

(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 or cider produced by a winegrower pursuant
to Section 60-6A-11 NMSA 1978 or spirituous liquor produced and
bottled by or for a craft distiller pursuant to Section
60-6A-6.1 NMSA 1978;

(8) at private celebrations on or off the
small brewer's premises after the small brewer has paid the
applicable fees for a private celebration permit, sell by the
glass, beer produced and bottled by or for the small brewer or
wine or cider produced by a winegrower pursuant to Section
60-6A-11 NMSA 1978 or spirituous liquor produced and bottled by
or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978;

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

(10) 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, but not for resale, beer produced and bottled by or for the small brewer, beer produced and bottled by or for another New Mexico small brewer or wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

(11) 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

(12) sell beer in a growler for consumption off premises.
C. Renewal of a small brewer's license shall be conditioned upon submission to the department by the licensee of a report showing proof that:

(1) no less than fifty percent of the gross receipts from the sale of beer for the preceding twelve months of the licensee's operation are derived from the sale of beer produced by the licensee; or

(2) the licensee manufactures no less than fifty barrels of beer per license year at the licensee's premises.

D. At public and private celebrations on or 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] alcoholic beverage control division of the regulation and licensing department for a "small brewer's public celebration permit" or a "small brewer's private celebration permit" to be issued under rules adopted by the director. Upon request, the [alcohol and gaming] alcoholic beverage control 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.

E. Sales and tastings of beer, wine, [or] cider or spirituous liquor 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 11:00 a.m. 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.

F. As used in this section:

(1) "private celebration" means any celebratory activity that is held in a private or public venue not open to the general public and for which attendance is subject to private invitation; and

(2) "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."

SECTION 18. Section 60-6A-32 NMSA 1978 (being Laws 1998, Chapter 109, Section 7) is amended to read:

"60-6A-32. INTERSTATE WINE TASTINGS--COMPETITIONS--PERMITS.--

A. Exempt from the procurement of any other license or permit issued pursuant to the terms of the Liquor Control Act, but not exempt from the procurement of a competition permit, is a winemaker or winery licensed outside of New Mexico that desires to participate in a regional wine, cider, beer or spirituous liquor tasting or competition within New Mexico.
One permit shall be issued by the director to an out-of-state winemaker or winery for the duration of the wine tasting or competition.

B. A person issued a competition permit pursuant to this section may do any of the following:

(1) bring no more than twenty-five cases of wine into New Mexico after indicating on [his] the permit application the number of cases to be brought into the state;

(2) participate in the regional competition and [any] wine tastings associated with the competition for which the competition permit is issued;

(3) participate in the regional wine tasting for which the competition permit is issued; and

(4) at a wine tasting for which [he] the person is issued the permit, conduct tasting of wine and sell by the glass or bottle or in unbroken packages for consumption off the wine-tasting premises but not for resale, wine brought into the state by [him] the person for the wine tasting or competition.

C. Every application for the issuance of a competition permit shall be on a form prescribed by the director and accompanied by a permit fee of twenty-five dollars ($25.00).

D. As used in this section:

(1) "competition" means an event at which a
jury of wine tasters compares the quality of the wines entered
for judging and at which prizes are offered for the wines
judged to be of the best quality;

(2) "regional competition" means a competition
at which the wines to be judged are from more than one state or
country;

(3) "regional wine tasting" means a wine
tasting at which the wines offered for tasting are from more
than one state or country;

(4) "winemaker" means a person who
manufactures or produces wine;

(5) "winery" means an establishment at which
wine is manufactured or produced and that is licensed for that
purpose by the state or country in which it is located; and

(6) "wine tasting" means an event at which
wines are offered for tasting but not necessarily for sale and
not for comparison for the purpose of awarding prizes to the
wines of the best quality."

SECTION 19. Section 60-6B-4 NMSA 1978 (being Laws 1981,
Chapter 39, Section 40, as amended) is amended to read:

"60-6B-4. ISSUANCE OR TRANSFER OF LICENSE--APPROVAL OF
APPROPRIATE GOVERNING BODY.--

A. Prior to the approval of the issuance of a new
license, and prior to the approval of a transfer permitted by
Section 60-6B-3 or 60-6B-12 NMSA 1978, the director shall
notify the governing body of the director's preliminary approval of the issuance or transfer of the license. Notice to the governing body shall be by certified mail.

B. A governing body that has received a notice of preliminary approval of the issuance or transfer of a license from the department may approve or disapprove the issuance or transfer of the license in accordance with the provisions of this section.

C. Within forty-five days after receipt of a notice of preliminary approval from the department, the governing body shall hold a public hearing on the question of whether the department should approve the proposed issuance or transfer.

D. The governing body shall give notice of the public hearing, as required by Subsection C of this section, and the notice shall:

   (1) be published at least twice, with the initial notice published at least thirty days before the hearing, in a newspaper of general circulation within the territorial limits of the governing body;

   (2) in addition to required print publication, be published on a local option district's [website] website, if the district has a [website] website;

   (3) set forth:

       (a) the date, time and place of the hearing;
(b) the name and address of the
licensee;

c) the action proposed to be taken by
the department;

d) the location of the licensee's
premises; and

e) such other information as may be
required by the department; and

(4) be sent by certified mail to the
applicant.

E. The governing body may designate a hearing
officer to conduct the hearing. A record shall be made of the
hearing.

F. The governing body may disapprove the issuance
or transfer of the license if:

(1) the proposed location is within an area
where the sale of alcoholic beverages is prohibited by the laws
of New Mexico;

(2) the issuance or transfer would be in
violation of a zoning or other ordinance of the governing body;
or

(3) the issuance or transfer would be
detrimental to the public health, safety or morals of the
residents of the local option district.

G. Within thirty days after the public hearing, the
governing body shall notify the department as to whether the
governing body has approved or disapproved the proposed
issuance or transfer of the license. If the governing body
fails to either approve or disapprove the issuance or transfer
of the license within thirty days after the public hearing, the
director may give final approval to the issuance or transfer of
the license.

H. If the governing body disapproves the issuance
or transfer of the license, it shall notify the department
within the time required by Subsection G of this section
setting forth the reasons for the disapproval. A copy of the
minutes of the public hearing shall be submitted to the
department by the governing body with the notice of
disapproval. If the governing body disapproves of the issuance
or transfer of the license, the director shall disapprove the
issuance or transfer of the license.

I. If the governing body approves the issuance or
transfer of the license, it shall notify the department within
the time required by Subsection G of this section of its
approval. If the governing body approves of the issuance or
transfer of the license, the director shall approve the
issuance or transfer of the license.

J. Licenses may not be leased, sold or transferred
after June 30, 2026."

SECTION 20. Section 60-6C-1 NMSA 1978 (being Laws 1981,
.218143.5

- 56 -
Chapter 39, Section 97, as amended) is amended to read:

"60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR
ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

A. The director may suspend or revoke the license
or permit or fine the licensee in an amount not more than ten
thousand dollars ($10,000), or both, when [he] the director
finds that [any] a licensee has:

(1) violated any provision of the Liquor
Control Act or any [regulation] rule or order promulgated
pursuant to that act;

(2) been convicted of a felony pursuant to the
provisions of the Criminal Code, the Liquor Control Act or
federal law; or

(3) permitted [his] the licensee's licensed
premises to remain a public nuisance in the neighborhood where
it is located after written notice from the director that
investigation by the department has revealed that the
establishment is a public nuisance in the neighborhood.

B. The director shall suspend or revoke the license
or permit and may fine the licensee in an amount not to exceed
ten thousand dollars ($10,000), or both, when [he] the director
finds that any licensee or:

(1) [his] the licensee's employee or agent
knowingly has sold, served, delivered or given [any] an
alcoholic beverage to a minor in violation of Section 60-7B-1
NMSA 1978 or to an intoxicated person in violation of Section 60-7A-16 NMSA 1978, on two separate occasions within any twelve-month period; or

(2) [his] the licensee's agent has made any material false statement or concealed any material facts in [his] the licensee's application for the license or permit granted [him] the licensee pursuant to the provisions of the Liquor Control Act.

C. [Any] A licensee aggrieved by a revocation, suspension or fine proposed to be imposed by the director pursuant to this section shall be entitled to the hearing procedures set forth in Chapter 60, Article 6C NMSA 1978 before the revocation, suspension or fine shall be effective.

D. [Any] A charge filed against a licensee by the department and the resulting disposition of the charge shall be reported to the department of public safety [and local law enforcement agencies whose jurisdictions include the licensed establishment].

E. For purposes of this section, "licensee" includes any person issued an alcoholic beverage delivery permit."

SECTION 21. Section 60-6C-2 NMSA 1978 (being Laws 1981, Chapter 39, Section 98, as amended) is amended to read:

"60-6C-2. HEARINGS--LOCATION--OPEN TO PUBLIC--HEARING OFFICER.--All hearings held pursuant to the provisions of the
Liquor Control Act shall be conducted by the director or a hearing officer appointed by the director and shall be held in the county in which the licensed premises or the business of the person issued an alcoholic beverage delivery permit that [are] is the subject matter of the hearing [are] is located. All such hearings shall be open to the public."

SECTION 22. Section 60-6C-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 100, as amended) is amended to read:

"60-6C-4. ADMINISTRATIVE PROCEEDINGS--COMPLAINTS--INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS.--

A. Whenever a person lodges a signed, written complaint with the department alleging that a licensee has violated any of the provisions of the Liquor Control Act, unless the complaint is deficient on its face, the director shall request that the department of public safety investigate the complaint.

B. The department of public safety shall investigate the complaint and make a written report to the director.

C. If the director believes from the report that probable cause exists for filing charges against the licensee for the revocation or suspension of [his] the licensee's license or permit or for fining [him] the licensee, or for both, [he] the director or [his] the director's designee shall file in the department a charge against the licensee in the
name of the state, stating the nature of the grounds relied
upon for the filing, the approximate date of the alleged
violation and the names and addresses of the witnesses who are
expected to give testimony or evidence against the licensee.

D. After charges have been filed, the director
shall issue a signed order for the licensee to appear at a
hearing to explain, on the basis of any ground set out in the
charge, why the license or permit should not be revoked or
suspended or why the licensee should not be fined, or both.

E. The director shall keep the original of the
charge and the order to show cause on file in [his] the
director's office.

F. The director shall appoint a hearing officer no
later than ten days prior to the date set for the hearing at
which the licensee shall appear to explain why [his] the
licensee's license or permit should not be revoked or suspended
or why the licensee should not be fined, or both.

G. The director shall have a copy of the charge and
a copy of the order to show cause sent to the licensee or the
licensee's resident agent at the agent's last known address by
certified mail at least fourteen days before the date set for
the hearing on the order to show cause.

H. At [any] a hearing on an order to show cause,
the director shall cause a record of hearing to be made, which
shall record:

.218143.5
(1) the style of the proceedings;
(2) the nature of the proceedings, including a copy of the charge and a copy of the order to show cause;
(3) the place, date and time of the hearing and all continuances or recesses of the hearing;
(4) the appearance or nonappearance of the licensee;
(5) if the licensee appears with an attorney, the name and address of the attorney;
(6) a record of all evidence and testimony and a copy or record of all exhibits introduced in evidence;
(7) the findings of fact and law as to whether [or not] the licensee has violated the Liquor Control Act as set out in the charge; and
(8) the decision of the director.

I. If the licensee fails to appear without good cause at the time and place designated in the order to show cause for the hearing, the director shall order the nonappearance of the licensee to be entered in the record of hearing and shall order the license or permit revoked or suspended or the licensee fined, or both, on all the grounds alleged in the charge and shall cause the record of hearing to show the particulars in detail. In such a case, there shall be no reopening, appeal or review of the proceedings unless pursued by a co-owner of a license who did not receive notice.
of the hearing.

J. If the licensee admits guilt on all grounds set out in the charge, the director shall order the revocation or suspension of the license or permit or the licensee fined, or both, and cause a record of hearing to be made showing the facts and particulars of [his] the director's order of revocation or suspension of the license or permit or fine of the licensee, or both. In such a case, there shall be no review or appeal of the proceedings.

K. If the licensee appears at the hearing and does not testify or denies guilt of any or all of the grounds set out in the charge, the hearing shall proceed as follows:

(1) the director or the hearing officer shall administer oaths to all witnesses, the department shall cause all testimony and evidence in support of the grounds alleged in the charge to be presented in the presence of the licensee and the director shall allow the licensee or [his] the licensee's attorney to cross-examine all witnesses;

(2) the licensee shall be allowed to present testimony and evidence [he] the licensee may have in denial or in mitigation of the grounds set out in the charge;

(3) the department shall have the right to cross-examine the licensee or any witness testifying in [his] the licensee's favor;

(4) the department shall present any evidence
or testimony in rebuttal of that produced by the licensee;

(5) the director or the hearing officer shall make a finding on each ground alleged and a finding of the guilt or innocence of the licensee on each ground;

(6) if the licensee is found guilty on any ground alleged and proved, the director shall make [his] an order of revocation or suspension of the license or permit or fine of the licensee, or both; and

(7) the rules of evidence shall not be required to be observed, but the order of suspension or revocation or fine, or both, shall be based upon substantial, competent and relevant evidence and testimony appearing in the record of hearing.

L. No admission of guilt, admission against interest or transcript of testimony made or given in [any] a hearing pursuant to this section shall be received or used in [any] criminal proceedings wherein the licensee is a defendant; provided, however, if the licensee commits perjury in a hearing, the evidence shall be admissible in a perjury trial if otherwise competent and relevant.

M. The director shall adopt reasonable [regulations] rules setting forth uniform standards of penalties concerning fines and suspensions imposed by the director.

N. For purposes of this section, "licensee"
includes a person issued an alcoholic beverage delivery permit."

SECTION 23. Section 60-6C-6 NMSA 1978 (being Laws 1981, Chapter 39, Section 102, as amended by Laws 1999, Chapter 265, Section 75 and by Laws 1999, Chapter 277, Section 1) is amended to read:

"60-6C-6. [NO INJUNCTION OR MANDAMUS PERMITTED] APPEAL.--

A. [No injunction or writ of mandamus or other legal or equitable process shall issue in any suit, action or proceeding to prevent or enjoin any finding of guilt or order of suspension or revocation or fine made by a liquor control hearing officer under the provisions of Section 60-6C-4 NMSA 1978.] A licensee aggrieved or adversely affected by an order of revocation, suspension or fine shall have the right to appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

B. No appeal shall have the effect of suspending the operation of the order of suspension, revocation or fine, but the liquor control hearing officer may, for good cause shown and upon such terms and conditions as [he] the officer may find are just, in [his] the officer's discretion suspend the operation of the order of suspension, revocation or fine pending the appeal. The court shall tax costs against the losing party.

C. For purposes of this section, "licensee"
includes a person issued an alcoholic beverage delivery permit
and includes a person issued a server permit pursuant to the
Alcohol Server Education Article of the Liquor Control Act."

SECTION 24. Section 60-6E-3 NMSA 1978 (being Laws 1999,
Chapter 277, Section 4) is amended to read:

"60-6E-3. DEFINITIONS.--As used in [Chapter 60, Article
6D NMSA 1978] the Alcohol Server Education Article of the
Liquor Control Act:

A. "director" means the director of the division;
B. "division" means the [alcohol and gaming]
alcoholic beverage control division of the regulation and
licensing department;
C. "licensee" means a person issued a license
pursuant to the provisions of the Liquor Control Act to sell,
serve or dispense alcoholic beverages for consumption and not
for resale;
D. "program" means an alcohol server education
course and examination approved by the director to be
administered by providers;
E. "provider" means an individual, partnership,
corporation, public or private school or any other legal entity
certified by the director to provide a program;
F. "server" means an individual who sells, serves,
or dispenses alcoholic beverages for consumption on or off
licensed premises, including persons who manage, direct or
control the sale or service of alcohol and when the context
requires, includes a person who delivers alcoholic beverages.
"Server" does not include officers of a corporate licensee or
lessee who do not manage, direct or control the sale, delivery
or service of alcohol; and

G. "server permit" means an authorization issued by
the director for a person to be employed or engaged to sell,
serve or dispense alcoholic beverages."

SECTION 25. Section 60-6E-8 NMSA 1978 (being Laws 1999,
Chapter 277, Section 9) is amended to read:

"60-6E-8. SERVER PERMIT--SUSPENSION--REVOCATION--
ADMINISTRATIVE FINES--PENALTIES.--[In addition to any other
penalties available] The following penalties [may be imposed]
are in addition to any other penalties available for sales to
minors or intoxicated persons in violation of the provisions of
the Liquor Control Act or rules of the division:

A. the director may suspend a server's server
permit for a period of thirty days or fine the server in an
amount not to exceed five hundred dollars ($500), or both, when
[he] the director finds that the server is guilty of a first
offense of selling, serving, delivering or dispensing an
alcoholic beverage to an intoxicated person in violation of
Section 60-7A-16 NMSA 1978 or to a minor in violation of
Section 60-7B-1 NMSA 1978;

B. the director shall suspend a server's server
permit for a period of one year when [he] the director finds that the server is guilty of a second offense of selling, serving, delivering or dispensing alcoholic beverages to intoxicated persons in violation of Section 60-7A-16 NMSA 1978 or to minors in violation of Section 60-7B-1 NMSA 1978 arising separately from the incident giving rise to [his] the server's first offense;

C. the director shall permanently revoke a server's server permit when [he] the director finds that the server is guilty of a third offense of selling, serving, delivering or dispensing alcoholic beverages to intoxicated persons in violation of Section 60-7A-16 NMSA 1978 or to minors in violation of Section 60-7B-1 NMSA 1978 arising separately from the incidents giving rise to [his] the server's first and second offenses;

D. no person whose server permit is suspended or revoked pursuant to the provisions of this section may be a server of alcoholic beverages on a licensed premises or deliver alcoholic beverages during the period of suspension or revocation;

E. no person whose server permit is suspended may serve or deliver alcoholic beverages on or after the date of suspension unless the person obtains a new server permit in accordance with the provisions of [Article 6D of Chapter 60] the Alcohol Server Education Article of the Liquor Control Act.
and

F. nothing in [this] the Alcohol Server Education Article of the Liquor Control Act shall be interpreted to waive [any] a permit holder's or license holder's liability that may arise pursuant to the provisions of [this] the Liquor Control Act."

SECTION 26. Section 60-6E-9 NMSA 1978 (being Laws 1999, Chapter 277, Section 10) is amended to read:

"60-6E-9. ALCOHOL SERVER EDUCATION--REQUIRED FOR LICENSE RENEWAL.--A licensee seeking renewal of a license shall submit to the division, as a condition of license renewal, proof that the licensee, [his] the lessee, if any, and each server employed by the licensee or lessee during the prior licensing year have or had valid server permits at all times that alcoholic beverages were sold, served, delivered or dispensed." 

SECTION 27. Section 60-6E-10 NMSA 1978 (being Laws 1999, Chapter 277, Section 11) is amended to read:

"60-6E-10. ADMINISTRATIVE PROCEEDINGS--HEARINGS.--

A. Hearings for the suspension or revocation of any server's server permit or delivery permit or for imposing a fine on the server, or both, shall be conducted in accordance with the provisions of Sections 60-6C-2 through 60-6C-6 NMSA 1978.

B. The director may suspend or revoke a server permit or delivery permit or impose a fine on a server, or
impose a combination of those penalties, only if the server
violates the provisions of Section 60-7A-16 or 60-7B-1 NMSA
1978."

SECTION 28. Section 60-7A-4 NMSA 1978 (being Laws 1981,
Chapter 39, Section 50, as amended) is amended to read:

"60-7A-4. SALE, SHIPMENT AND DELIVERY UNLAWFUL.--

A. It is unlawful for [any] a person on [his] the
person's own behalf or as the agent of another person, except a
licensed New Mexico wholesaler or manufacturer or the agent of
either, to directly or indirectly sell or offer for sale for
shipment into the state or ship into the state, except as
provided in Section 60-7A-3 NMSA 1978, [any] alcoholic
beverages unless [such] the person or [his] the person's
principals [has] have secured a nonresident license as provided

B. It is a violation of the Liquor Control Act to
deliver any alcoholic beverages transported into the state
unless the delivery is made in accordance with Section 60-7A-3
NMSA 1978 or Section 4 of this 2021 act.

C. As used in this section, "into the state [of New
Mexico]" means into the exterior boundaries of the state."

SECTION 29. Section 60-7A-12 NMSA 1978 (being Laws 1981,
Chapter 39, Section 78, as amended) is amended to read:

"60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES,
RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES
AND CLUBS.--It is a violation of the Liquor Control Act for any
dispenser, canopy licensee, restaurant licensee, governmental
licensee or its lessee or club to:

   A. receive any alcoholic beverages for the purpose
or with the intent of reselling the alcoholic beverages from
any person unless the person is duly licensed to sell alcoholic
beverages to dispensers for resale;

   B. sell; possess for the purpose of sale; or bottle
bulk wine for sale other than by the drink for immediate
consumption on its licensed premises;

   C. directly, indirectly or through subterfuge, own,
operate or control any interest in a wholesale liquor
establishment or liquor manufacturing or wine bottling firm;
provided that this section shall not prevent:

       (1) a dispenser from owning an interest in a
legal entity, directly or indirectly or through an affiliate,
that wholesales alcoholic beverages and that operates or
controls an interest in an establishment operating pursuant to
the provisions of Subsection B of Section 60-7A-10 NMSA 1978;
or

       (2) a small brewer or winegrower licensed
pursuant to the Domestic Winery, Small Brewery and Craft
Distillery Act from holding an interest in a legal entity,
directly or indirectly or through an affiliate, that holds a
restaurant or a dispenser's license and a small brewer and

.218143.5

- 70 -
winegrower limited wholesaler's license issued pursuant to the Liquor Control Act;

D. sell or possess for the purpose of sale any alcoholic beverages at any location or place except its licensed premises or the location permitted pursuant to the provisions of Section 60-6A-12 NMSA 1978;

E. employ or engage a person to sell, serve or dispense alcoholic beverages if the person has not received alcohol server training within thirty days of employment; or

F. employ or engage a person to sell, serve, deliver or dispense alcoholic beverages during a period when the server permit of that person is suspended or revoked."

SECTION 30. Section 60-7A-16 NMSA 1978 (being Laws 1981, Chapter 39, Section 93, as amended) is amended to read:

"60-7A-16. SALE TO INTOXICATED PERSONS.--It is a violation of the Liquor Control Act for a person to sell, deliver or serve alcoholic beverages to or to procure or aid in the procurement of alcoholic beverages for an intoxicated person if the person selling, delivering, serving, procuring or aiding in procurement knows or has reason to know that the person is selling, delivering, serving, procuring or aiding in procurement of alcoholic beverages for a person who is intoxicated."

SECTION 31. Section 60-7B-2 NMSA 1978 (being Laws 1981, Chapter 39, Section 82, as amended) is amended to read:

.218143.5
"60-7B-2. DOCUMENTARY EVIDENCE OF AGE AND IDENTITY.--

A. Evidence of the age and identity of the person may be shown by any document [which] that contains a picture of the person issued by a federal, state, county or municipal government, or subdivision or agency thereof, including but not limited to a motor vehicle operator's license or an identification card issued to a member of the armed forces.

B. An identity document is valid for the purposes of the Liquor Control Act even if it has expired.

C. It is unnecessary to ask for an identity document if the person clearly looks older than thirty-five years of age."

SECTION 32. Section 60-7B-5 NMSA 1978 (being Laws 1981, Chapter 39, Section 85, as amended) is amended to read:

"60-7B-5. REFUSAL TO SELL, [OR] SERVE OR DELIVER ALCOHOLIC BEVERAGES TO PERSON UNABLE TO PRODUCE IDENTITY CARD.--[Any]

A. A person licensed pursuant to the provisions of the Liquor Control Act or any employee, agent or lessee of that person [shall] may refuse to deliver, sell or serve alcoholic beverages to any person who is unable to produce an identity card as evidence that [he] the person is twenty-one years of age or over.

B. An identity document is valid for the purposes of the Liquor Control Act even if it has expired.
C. It is unnecessary to ask for an identity document if the person clearly looks older than thirty-five years of age."

SECTION 33. Section 60-7B-6 NMSA 1978 (being Laws 1981, Chapter 39, Section 86, as amended) is amended to read:

"60-7B-6. DEMANDING AND SEEING IDENTITY CARD BEFORE FURNISHING ALCOHOLIC BEVERAGES.--In any criminal prosecution or in any proceedings for the suspension or revocation of a license or alcoholic beverage delivery permit or in any proceeding for violation of a municipal or county ordinance prohibiting the gift, sale or service of alcoholic beverages to minors, proof that the accused licensee or alcoholic beverage delivery permittee in good faith demanded and was shown an identity card as evidence the person is twenty-one years of age or older before furnishing any alcoholic beverages to a minor shall be a defense to the prosecution or proceedings."

SECTION 34. Section 60-7B-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 91, as amended) is amended to read:

"60-7B-11. EMPLOYMENT OF MINORS.--

A. Except as provided in Subsection B or C of this section, it is a violation of the Liquor Control Act for any person licensed pursuant to the provisions of the Liquor Control Act or for any employee, agent or lessee of that person knowingly to employ or use the service of any minor in the sale and service of alcoholic beverages."
B. A person holding a dispenser's, restaurant or club license may employ persons eighteen years of age or older to sell or serve alcoholic beverages in an establishment that is held out to the public as a place where meals are prepared and served and the primary source of revenue is food, and where the sale or consumption of alcoholic beverages is not the primary activity, except that a person under twenty-one years of age shall not be employed as a bartender or deliverer.

C. A person holding a wholesaler's license may employ persons eighteen years of age or older who are licensed pursuant to the New Mexico Commercial Driver's License Act to engage in activities customary to warehouse operations and to handle and deliver alcoholic beverages to licensees holding a dispenser's, retailer's, restaurant, club, small brewer, winegrower, craft distiller, manufacturer's, rectifier or any other license that allows for the purchase and delivery of alcoholic beverages by a licensed wholesaler, as long as the minor delivers sealed, unbroken packages, including containers such as bottles, cans and kegs. A person under the age of twenty-one shall not be allowed to sample alcoholic beverages to accounts."

SECTION 35. REPEAL.--Sections 60-6A-25, 60-6A-28, 60-6B-1.1, 60-6B-10, 60-6B-11, 60-6B-15, 60-6E-6 and 60-7A-18 NMSA 1978 (being Laws 1983, Chapter 280, Sections 6 and 9, Laws .218143.5

- 74 -
1989, Chapter 292, Section 2, Laws 1981, Chapter 39, Sections 45 and 46, Laws 1988, Chapter 12, Section 3, Laws 1999, Chapter 277, Section 7 and Laws 1981, Chapter 39, Section 95, as amended) are repealed.

SECTION 36. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.