

Proposed

1 SENATE _____ COMMITTEE SUBSTITUTE FOR
SENATE BILL 280

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

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6 DISCUSSION DRAFT

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10 AN ACT

11 RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
12 IMPOSING A LIQUOR EXCISE SURTAX ON RETAILERS; AMENDING
13 DEFINITIONS AND CONFORMING SECTIONS OF THE LIQUOR EXCISE TAX
14 ACT.

15

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

17 SECTION 1. Section 7-17-2 NMSA 1978 (being Laws 1966,
18 Chapter 49, Section 2, as amended) is amended to read:

19 "7-17-2. DEFINITIONS.--As used in the Liquor Excise
20 Tax Act:

21 A. "alcoholic beverages" means distilled or
22 rectified spirits, potable alcohol, brandy, whiskey, rum, gin,
23 aromatic bitters or any similar beverage, including blended or
24 fermented beverages, dilutions or mixtures of one or more of
25 the foregoing containing more than one-half of one percent

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underscored material = new
[bracketed material] = delete

1 alcohol by volume, but "alcoholic beverages" does not include
2 medicinal bitters;

3 B. "barrel" means the equivalent of thirty-one
4 gallons;

5 [B.] C. "beer" means an alcoholic beverage obtained
6 by the fermentation of any infusion or decoction of barley,
7 malt and hops or other cereals in water and includes porter,
8 beer, ale and stout;

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

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

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

22 (1) wine that is sealed or capped by cork
23 closure and aged two years or more;

24 (2) wine that contains more than fourteen
25 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;

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

[G.] 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;

I. "retailer" means a person having a place of business in New Mexico that sells alcoholic beverages in New Mexico, offers alcoholic beverages for sale in New Mexico or possesses alcoholic beverages for the purpose of selling the alcoholic beverages in New Mexico;

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

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

[J-] L. "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;

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

7 [L.] N. "winegrower" means a person licensed
8 pursuant to Section 60-6A-11 NMSA 1978."

9 **SECTION 2.** A new section of the Liquor Excise Tax Act,
10 Section 7-17-5.2 NMSA 1978, is enacted to read:

11 **"7-17-5.2. [NEW MATERIAL] IMPOSITION AND RATE OF LIQUOR**
12 **EXCISE SURTAX.--Beginning July 1, 2027, there is imposed on a**
13 **retailer that sells alcoholic beverages not for resale an**
14 **excise surtax, to be referred to as the "liquor excise surtax",**
15 **at the rate of three percent of the price paid for alcoholic**
16 **beverages sold by the retailer."**

17 **SECTION 3.** Section 7-17-6 NMSA 1978 (being Laws 1984,
18 Chapter 85, Section 4, as amended) is amended to read:

19 **"7-17-6. DEDUCTION--INTERSTATE SALES--WINEGROWER-TO-**
20 **WINEGROWER TRANSFERS.--**

21 A. A wholesaler may deduct the liters of spirituous
22 liquors, gallons of beer and liters of wine sold and shipped to
23 a person in another state from the units of alcoholic beverages
24 subject to the [tax] taxes imposed by the Liquor Excise Tax
25 Act; provided that the department may require the wholesaler to

1 submit evidence satisfactory to the department that the units
2 have been sold and shipped to a person in another state.

3 B. A winegrower may deduct the liters of wine
4 transferred to the winegrower from another winegrower for
5 processing, bottling or storage and subsequent return to the
6 transferor from the units of wine subject to the [liquor
7 ~~excise tax~~] taxes imposed by the Liquor Excise Tax Act on the
8 licensed premises of the winegrower."

9 SECTION 4. Section 7-17-9 NMSA 1978 (being Laws 1966,
10 Chapter 49, Section 7, as amended) is amended to read:

11 "7-17-9. EXEMPTION--CERTAIN SALES TO OR BY
12 INSTRUMENTALITIES OF ARMED FORCES.--Exempted from the [tax]
13 taxes imposed by [Section 7-17-5 NMSA 1978] the Liquor Excise
14 Tax Act are alcoholic beverages sold to or by any
15 instrumentality of the armed forces of the United States
16 engaged in resale activities."

17 SECTION 5. Section 7-17-10 NMSA 1978 (being Laws 1966,
18 Chapter 49, Section 8, as amended) is amended to read:

19 "7-17-10. DATE PAYMENT DUE.--The [tax] taxes imposed by
20 the Liquor Excise Tax Act [is] are to be paid on or before the
21 twenty-fifth day of the month following the month in which the
22 taxable event occurs."

23 SECTION 6. Section 7-17-11 NMSA 1978 (being Laws 1969,
24 Chapter 80, Section 1, as amended) is amended to read:

25 "7-17-11. REFUND OR CREDIT OF [TAX] TAXES.--The

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1 department shall allow a claim for refund or credit as provided
2 in Sections 7-1-26 and 7-1-29 NMSA 1978 for the [tax] taxes
3 imposed by [Section 7-17-5 NMSA 1978] the Liquor Excise Tax Act
4 and paid on alcoholic beverages destroyed in shipment, spoiled
5 or otherwise damaged as to be unfit for sale or consumption
6 upon submission of proof satisfactory to the department of such
7 destruction, spoilage or damage."

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

10 "7-17-12. INTERPRETATION OF ACT--ADMINISTRATION AND
11 ENFORCEMENT OF [TAX] TAXES.--

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

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

18 SECTION 8. Section 60-6A-11.1 NMSA 1978 (being Laws 2011,
19 Chapter 109, Section 1) is amended to read:

20 "60-6A-11.1. DIRECT WINE SHIPMENT PERMIT--
21 AUTHORIZATION--RESTRICTIONS.--

22 A. A licensee with a winegrower's license or a
23 person licensed in a state other than New Mexico that holds a
24 winery license may apply to the director for and the director
25 may issue to the applicant a direct wine shipment permit. An

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1 application for a direct wine shipment permit shall include:

2 (1) contact information for the applicant in a
3 form required by the department;

4 (2) an annual application fee of fifty dollars
5 (\$50.00) if the applicant does not hold a winegrower's license;

6 (3) the number of the applicant's winegrower's
7 license if the applicant is located in New Mexico or a copy of
8 the applicant's winery license if the applicant is located in a
9 state other than New Mexico; and

10 (4) any other information or documents
11 required by the director. Upon approval of an applicant for a
12 permit, the director shall forward to the taxation and revenue
13 department the name of each permittee and the contact
14 information for the permittee.

15 B. A direct wine shipment permit shall be valid for
16 a permit year. A permittee shall renew a direct wine shipment
17 permit annually as required by the department to continue
18 making direct shipments of wine to New Mexico residents.

19 C. A permittee may ship:

20 (1) not more than two nine-liter cases of wine
21 monthly to a New Mexico resident who is twenty-one years of age
22 or older for the recipient's personal consumption or use, but
23 not for resale; and

24 (2) wine directly to a New Mexico resident
25 only in containers that are conspicuously labeled with the

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1 words:

2 "CONTAINS ALCOHOL

3 SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED

4 FOR DELIVERY".

5 D. A permittee shall:

6 (1) register with the taxation and revenue
7 department for the payment of the liquor excise tax, liquor
8 excise surtax and gross receipts taxes due on the sales of wine
9 pursuant to the permittee's activities in New Mexico;

10 (2) submit to the jurisdiction of New Mexico
11 courts to resolve legal actions that arise from the shipping by
12 the permittee of wine into New Mexico to New Mexico residents;

13 (3) monthly, by the twenty-fifth day of each
14 month following the month in which the permittee was issued a
15 direct wine shipment permit, pay to the taxation and revenue
16 department the liquor excise tax, [due] liquor excise surtax
17 and [the] gross receipts tax due; and

18 (4) submit to an audit by an agent of the
19 taxation and revenue department of the permittee's records of
20 the wine shipped pursuant to this section to New Mexico
21 residents upon notice and during usual business hours.

22 E. As used in this section:

23 (1) "permit year" means the period between
24 July 1 and June 30 of a year; and

25 (2) "permittee" means a person that is the

1 holder of a direct wine shipment permit."

2 **SECTION 9. EFFECTIVE DATE.--**The effective date of the
3 provisions of this act is July 1, 2026.

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