

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; INCREASING THE PENALTIES FOR PROVIDING ALCOHOL TO A MINOR AND FOR POSSESSION OF ALCOHOL BY A MINOR; AMENDING A SECTION OF THE LIQUOR CONTROL ACT.

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

Section 1. Section 60-7B-1 NMSA 1978 (being Laws 1993, Chapter 68, Section 22) is amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO MINORS-- POSSESSION. --

A. It is a violation of the Liquor Control Act for a person, including a person licensed pursuant to the provisions of the Liquor Control Act, or an employee, agent or lessee of that person, if he knows or has reason to know that he is violating the provisions of this section, to:

(1) sell, serve or give alcoholic beverages to a minor or permit a minor to consume alcoholic beverages on the licensed premises;

(2) buy alcoholic beverages for or procure the sale or service of alcoholic beverages to a minor;

(3) deliver alcoholic beverages to a minor;  
or

(4) aid or assist a minor to buy, procure or be served with alcoholic beverages.

B. It is not a violation of the Liquor Control

Act, as provided in Subsection A or C of this section, when a parent or legal guardian of a minor serves alcoholic beverages to that minor on real property, other than licensed premises, under the control of the parent or legal guardian.

C. It is a violation of the Liquor Control Act for a minor to buy, attempt to buy, receive, possess or permit himself to be served with alcoholic beverages.

D. In the event a person other than a minor procures another person to sell, serve or deliver alcoholic beverages to a minor by actual or constructive misrepresentation of facts calculated to cause, or by a concealment of facts the concealment of which is calculated to cause, the person selling, serving or delivering the alcoholic beverages to the minor to believe that the minor is legally entitled to be sold, served or delivered alcoholic beverages and actually deceiving him by that misrepresentation or concealment, then that person and not the person so deceived by such misrepresentation or concealment shall have violated the Liquor Control Act.

E. As used in the Liquor Control Act, "minor" means a person under twenty-one years of age.

F. In addition to the penalties provided in Section 60-6C-1 NMSA 1978, a violation of the provisions of Subsection A of this section is a misdemeanor and the offender shall be punished as follows:

(1) for a first violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to perform thirty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor;

(2) for a second violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform forty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have his license, issued pursuant to the Alcohol Server Education Act, suspended for a period of sixty days; and

(3) for a third or subsequent violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform sixty hours of community service related to

reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have his license, issued pursuant to the Alcohol Server Education Act, suspended for a period of one year.

G. A violation of the provisions of Subsection C of this section is a misdemeanor and the offender shall be punished as follows:

(1) for a first violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to perform thirty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor;

(2) for a second violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform forty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have his driver's license

suspended for a period of ninety days. If the minor is too young to possess a driver's license at the time of the violation, then ninety days shall be added to the date he would otherwise become eligible to obtain a driver's license; and

(3) for a third or subsequent violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform sixty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have his driver's license suspended for a period of two years or until the offender reaches twenty-one years of age, whichever period of time is greater.

H. A violation of the provisions of Subsection D of this section is a misdemeanor and the offender shall be punished as follows:

(1) for a first violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to

perform thirty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor;

(2) for a second violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to perform forty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(3) for a third or subsequent violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000);

(b) ordered by the sentencing court to perform sixty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) sentenced to a jail term of not less than two days and not more than five days."

Section 2. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1998. \_\_\_\_\_

