

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PRESCRIBING CRIMINAL
PENALTIES FOR PROVIDING ALCOHOLIC BEVERAGES TO A MINOR;
PROVIDING AN EXCEPTION; 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; provided that the parent or legal guardian ensures that the minor remains on the real property under the control of the parent or legal guardian until the minor is no longer under the influence of the alcoholic beverages.

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 the 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. Violation of this section by a minor with respect to possession is a petty misdemeanor. Upon conviction, the offender may be sentenced in accordance with Section 31-19-1 NMSA 1978. Any sentence imposed pursuant to this subsection may be suspended in the discretion of the court upon the condition that:

(1) the minor accept the suspension of his driver's license for a period not to exceed three months, whereupon the trial court may dismiss the possession of alcoholic beverage charge and it shall not be considered a conviction. In the event the minor's driver's license is to be suspended, the trial court shall inform the motor vehicle division of the taxation and revenue department of the action; provided, however, if the minor drives during the period of suspension, then the court may impose a fine, jail sentence or both, the fine and sentence not to exceed the maximums imposed for petty misdemeanors or may impose punishment pursuant to Paragraph (2) of this subsection; and

(2) the minor assist in a community project designated by the court, up to fifty hours, whereupon the trial court may dismiss the possession of alcoholic beverage charge and it shall not be considered a conviction."

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