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HOUSE BILL 150

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

JOE NESTOR CHAVEZ

FOR THE DWI OVERSIGHT TASK FORCE

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 [~~any~~] a person, including a person licensed pursuant to the provisions of the Liquor Control Act, or [~~any~~] 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 [~~any~~] alcoholic

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1 beverages to a minor or permit a minor to consume alcoholic
2 beverages on the licensed premises;

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

5 (3) deliver alcoholic beverages to a minor;
6 or

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

9 B. It is not a violation of the Liquor Control
10 Act, as provided in Subsection A or C of this section, when a
11 parent or legal guardian of a minor serves alcoholic beverages
12 to that minor on real property, other than licensed premises,
13 under the control of the parent or legal guardian.

14 [~~B.~~] C. It is a violation of the Liquor Control
15 Act for [~~any~~] a minor to buy, attempt to buy, receive, possess
16 or permit himself to be served with [~~any~~] alcoholic beverages.

17 [~~C.~~] D. In the event [~~any~~] a person [~~except~~] other
18 than a minor procures [~~any other~~] another person to sell,
19 serve or deliver [~~any~~] alcoholic beverages to a minor by
20 actual or constructive misrepresentation of [~~any~~] facts
21 calculated to cause, or by a concealment of [~~any~~] facts the
22 concealment of which is calculated to cause, the person
23 selling, serving or delivering the alcoholic beverages to the
24 minor to believe that [~~such~~] the minor is legally entitled to
25 be sold, served or delivered alcoholic beverages and actually

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1 deceiving him by [~~such~~] that misrepresentation or concealment,
2 then that person and not the person so deceived by such
3 misrepresentation or concealment shall have violated the
4 Liquor Control Act.

5 [~~D.~~] E. As used in the Liquor Control Act, "minor"
6 means [~~any~~] a person under twenty-one years of age.

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

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

25 (2) ~~the minor assist in a community project~~

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1 ~~designated by the court, up to fifty hours, whereupon the~~
2 ~~trial court may dismiss the possession of alcoholic beverage~~
3 ~~charge and it shall not be considered a conviction.]~~

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

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

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

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

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

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

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

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

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1 sixty days; and

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

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

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

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

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

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

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

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

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

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

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

7 (c) have his driver's license suspended
8 for a period of ninety days. If the minor is too young to
9 possess a driver's license at the time of the violation, then
10 ninety days shall be added to the date he would otherwise
11 become eligible to obtain a driver's license; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (c) sentenced to a jail term of not

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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.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
3
4
5

6 January 29, 1998
7

8 Mr. Speaker:
9

10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 150
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,
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22 _____
23 Fred Luna, Chairman
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25

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 ~~HBI~~/HB 150

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4 Adopted _____ Not Adopted _____

5
6 (Chief Clerk)

(Chief Clerk)

7
8 Date _____

9
10 The roll call vote was 10 For 0 Against

11 Yes: 10

12 Excused: Getty, Kissner, Varela

13 Absent: None

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1 **FORTY-THIRD LEGISLATURE**
2 **SECOND SESSION, 1998**

3
4 **February 9, 1998**

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7 **Mr. Speaker:**

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9 **Your JUDICIARY COMMITTEE, to whom has been referred**

10 **HOUSE BILL 150**

11
12 **has had it under consideration and reports same with**
13 **recommendation that it DO PASS, and thence referred to the**
14 **APPROPRIATIONS AND FINANCE COMMITTEE.**

15
16 **Respectfully submitted,**

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20 _____
21 **Thomas P. Foy, Chairman**

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: King, Sanchez, Stewart

Absent: None

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 16, 1998

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 150

has had it under consideration and reports same with recommendation that it DO PASS.

Respectfully submitted,

Shannon Robinson, Chairman

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 4 For 1 Against

Yes: 4

No: Robinson

Excused: Boitano, Ingle, Smith, Vernon

Absent: None

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