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HOUSE BILL 451

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

INTRODUCED BY

JAMES G. TAYLOR

AN ACT

RELATING TO ALCOHOLIC BEVERAGE SERVERS; CREATING A SERVER
PERMIT; ESTABLISHING PENALTIES AND FINES.

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

Section 1. Section 60-6D-3 NMSA 1978 (being Laws 1993,
Chapter 68, Section 30) is amended to read:

"60-6D-3. DEFINITIONS. -- As used in the Alcohol Server
Education Act:

A. "director" means the director of the alcohol
and gaming division of the regulation and licensing
department;

B. "division" means the alcohol and gaming
division of the regulation and licensing department;

C. "licensee" means a person in possession of a
license issued pursuant to the provisions of the Liquor

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1 Control Act;

2 D. "program" means an alcohol education server
3 program and examination administered to servers and licensees
4 pursuant to the provisions of the Alcohol Server Education
5 Act;

6 E. "provider" means an individual, partnership,
7 corporation, public or private school or any other legal
8 entity certified by the director to provide a program; [~~and~~]

9 F. "server" means an individual who sells, [~~or~~]
10 serves or dispenses alcoholic beverages for consumption on or
11 off the premises of a business licensed pursuant to the
12 provisions of the Liquor Control Act; and

13 G. "server permit" means an authorization issued
14 pursuant to the provisions of the Alcohol Server Education Act
15 for the holder to be employed or used in, or to engage in, the
16 sale, service or dispensing of alcoholic beverages. "

17 Section 2. A new section of the Alcohol Server Education
18 Act is enacted to read:

19 "[NEW MATERIAL] CERTIFICATES OF COURSE COMPLETION AND
20 SERVER PERMITS REQUIRED--ALCOHOL SERVICE OR SALES.--No person
21 shall be employed as a server or in any other way be used in
22 or engage in the sale, service or dispensing of alcoholic
23 beverages on a licensed premises unless that person has
24 obtained a server permit and a certificate of course
25 completion pursuant to the provisions of the Alcohol Server

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1 Education Act. "

2 Section 3. A new section of the Alcohol Server Education
3 Act is enacted to read:

4 "[NEW MATERIAL] CERTIFICATES OF COURSE COMPLETION AND
5 SERVER PERMITS-- FAILURE TO PRODUCE PROOF. --

6 A. Any person licensed pursuant to the provisions
7 of the Liquor Control Act shall make available to the director
8 and to the agents or employees of the department of public
9 safety, upon request, valid proof that the licensee, his
10 lessee and each server then employed by the licensee or lessee
11 has completed an alcohol server education course certified by
12 the alcohol server education advisory committee and that each
13 server or other person required to has obtained a server
14 permit issued pursuant to the provisions of the Alcohol Server
15 Education Act.

16 B. Failure to produce proof of course completion
17 or a server permit is prima facie evidence that the licensee,
18 lessee or employee has not been issued a certificate or server
19 permit pursuant to the provisions of the Alcohol Server
20 Education Act and shall subject the licensee to fines and
21 penalties as determined by rule adopted by the director. "

22 Section 4. Section 60-6D-8 NMSA 1978 (being Laws 1993,
23 Chapter 68, Section 35) is amended to read:

24 "60-6D-8. [~~COURSE~~] CERTIFICATES OF COURSE COMPLETION--
25 SERVER PERMITS-- ISSUANCE-- FEES-- SURETY BOND. -- The alcohol

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1 server education advisory committee shall:

2 A. prescribe forms for and supply serially
3 numbered uniform certificates of course completion to
4 providers of courses approved by the alcohol server education
5 advisory committee and charge a fee not to exceed one dollar
6 (\$1.00) per certificate. The uniform certificates of course
7 completion shall be printed in a manner that will provide a
8 control copy of the certificate that shall be retained by the
9 course provider. Each certificate shall include an
10 identifying number that will allow the director to verify its
11 authenticity with the course provider and the date the
12 certificate will expire. Upon successful completion of a
13 course, providers shall issue to each student a certificate of
14 completion;

15 B. require each provider to post a surety bond
16 with the alcohol server education advisory committee in the
17 amount of five thousand dollars (\$5,000); [and]

18 C. issue a server permit to each student who
19 obtains a certificate of course completion pursuant to the
20 provisions of the Alcohol Server Education Act and charge a
21 fee for the issuance of the server permit that does not exceed
22 twenty-five dollars (\$25.00); and

23 [~~C.~~] D. certify servers, licensees and their
24 lessees for a period of five years from the date on which the
25 course was completed. "

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1 Section 5. A new section of the Alcohol Server Education
2 Act is enacted to read:

3 "[NEW MATERIAL] SERVER PERMIT--SUSPENSION--
4 REVOCATION--ADMINISTRATIVE FINES--PENALTIES.--In addition to
5 any other penalties available, the following penalties may be
6 imposed for sales to minors or intoxicated persons in
7 violation of the provisions of the Liquor Control Act or rules
8 of the department:

9 A. the director may suspend a server's server
10 permit or fine the server in an amount not to exceed one
11 hundred dollars (\$100), or both, when he finds that the server
12 has sold, served or given an alcoholic beverage to a minor in
13 violation of Section 60-7B-1 NMSA 1978 or to an intoxicated
14 person in violation of Section 60-7A-16 NMSA 1978;

15 B. the director shall suspend or revoke a server's
16 server permit or fine the server in an amount not to exceed
17 five hundred dollars (\$500), or both, when he finds that on
18 three separate occasions within a twenty-four month period the
19 server has sold, served or given alcoholic beverages to minors
20 in violation of Section 60-7B-1 NMSA 1978 or to intoxicated
21 persons in violation of Section 60-7A-16 NMSA 1978;

22 C. in addition to other penalties provided in this
23 section, a server who violates the provisions of Section
24 60-7A-16 or 60-7B-1 NMSA 1978 by selling, serving or
25 delivering alcoholic beverages to minors or intoxicated

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1 persons shall have:

2 (1) upon a second violation, the server's
3 server permit suspended by the director for a period of two
4 consecutive weeks;

5 (2) upon a third violation, the server's
6 server permit suspended by the director for a period of one
7 month; and

8 (3) upon a fourth violation within any
9 twenty-four-month period, the server's server permit revoked
10 by the director;

11 D. no person whose server permit is suspended
12 pursuant the provisions of this section may be employed or
13 used in, or may engage in, the sale, service or dispensing of
14 alcoholic beverages on a licensed premises during the period
15 of suspension; and

16 E. no person whose server permit is revoked may be
17 employed or used or may engage in the sale, service or
18 dispensing of alcoholic beverages on or after the date of
19 revocation unless the person obtains a new server permit in
20 accordance with the provisions of the Alcohol Server Education
21 Act. If his server permit is revoked, a person shall not be
22 issued a new server permit within six months of the revocation
23 and then only after the person successfully completes another
24 alcohol server education course approved by the alcohol server
25 education advisory committee. "

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1 Section 6. A new section of the Alcohol Server Education
2 Act is enacted to read:

3 "[NEW MATERIAL] ADMINISTRATIVE PROCEEDINGS--HEARINGS. --

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

8 B. As used in those sections, "licensee" includes
9 a server who has been certified and has obtained a server
10 permit pursuant to the provisions of the Alcohol Server
11 Education Act, and "license" includes the server permit
12 obtained by the server under that act.

13 C. No server shall be subject to suspension or
14 revocation of the server permit or to a fine, or both,
15 pursuant to the provisions of the Alcohol Server Education Act
16 except for violation of Section 60-7B-1 or 60-7A-16 NMSA
17 1978. "

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

20 "60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES,
21 RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES
22 AND CLUBS.--It is a violation of the Liquor Control Act for
23 any dispenser, canopy licensee, restaurant licensee,
24 governmental licensee or its lessee or club to:

25 A. receive any alcoholic beverages for the purpose

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1 of or with the intent of reselling the same from any person
2 other than one duly licensed to sell alcoholic beverages to
3 dispensers for resale;

4 B. sell, possess for the purpose of sale or to
5 bottle any bulk wine for sale other than by the drink for
6 immediate consumption on his licensed premises;

7 C. directly, indirectly or through any subterfuge
8 own, operate or control any interest in any wholesale liquor
9 establishment or liquor manufacturing or wine bottling firm;
10 provided that this section shall not prevent a dispenser from
11 owning an interest in any legal entity, directly or indirectly
12 or through an affiliate, that wholesales alcoholic beverages
13 and that operates or controls an interest in an establishment
14 operating [~~under~~] pursuant to the provisions of Subsection B
15 of Section 60-7A-10 NMSA 1978; [~~or~~]

16 D. sell or possess for the purpose of sale any
17 alcoholic beverages at any location or place except his
18 licensed premises or the location permitted [~~under~~] pursuant
19 to Section 60-6A-12 NMSA 1978;

20 E. employ, use or allow a person to engage in the
21 sale, service or dispensing of alcoholic beverages if the
22 person has not completed an alcohol server education course
23 approved by the alcohol server education advisory committee
24 and been issued a certificate of course completion and a
25 server permit by the department pursuant to the provisions of

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the Alcohol Server Education Act; or

F. employ, use or allow a person to engage in the sale, service or dispensing of alcoholic beverages during a period when the alcoholic beverage server permit of that person is suspended or revoked. "

Section 8. 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
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6 February 12, 1998
7

8 Mr. Speaker:
9

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

13 HOUSE BILL 451
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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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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

3 HBIC/HB 451

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4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 7 For 0 Against

11 Yes: 7

12 Excused: Alwin, Chavez, Gubbels, Lutz, Varela

13 Absent: Getty

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