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HOUSE BILL 462

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

INTRODUCED BY

MIGUEL P. GARCIA

AN ACT

RELATING TO ALCOHOLIC BEVERAGE REGULATION; PROVIDING FOR
RECUSAL OF HEARING OFFICERS; DECLARING AN EMERGENCY.

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

Section 1. A new section of the Liquor Control Act is
enacted to read:

" [NEW MATERIAL] ADMINISTRATIVE HEARINGS--RECUSAL OF
DIRECTOR OR HEARING OFFICER. --

A. The director or a hearing officer shall recuse
himself in an administrative hearing in which he is unable to
make a fair and impartial decision or in which there is a
reasonable doubt about whether he can make a fair and
impartial decision, including:

(1) when the director or hearing officer has
a personal bias or prejudice concerning a party or its

Underscored material = new
[bracketed material] = delete

1 representative or has prejudged a disputed evidentiary fact
2 involved in a proceeding prior to hearing. For the purposes
3 of this section, "personal bias or prejudice" means a
4 predisposition toward a person based on a previous or on-going
5 relationship, including a professional, personal, familial or
6 other intimate relationship, that may sway judgment and render
7 the hearing officer unable to exercise his functions
8 impartially;

9 (2) when he has a pecuniary interest in the
10 outcome of the proceeding other than as a customer of a party;
11 or

12 (3) when in previous employment he served as
13 an attorney, adviser, consultant or witness in the matter in
14 controversy.

15 B. If the director or a hearing officer fails to
16 recuse himself and it appears that grounds exist, a party
17 shall promptly notify the director or hearing officer of the
18 apparent grounds for recusal. If the director or hearing
19 officer declines to recuse himself upon request of a party, he
20 shall provide full disclosure on the record of all facts in
21 support of his refusal to recuse himself. The party may
22 appeal the decision of the director or the hearing officer to
23 the superintendent of regulation and licensing who shall
24 review the apparent grounds for recusal and attendant evidence
25 submitted by the party and the facts in support of the

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1 director's or hearing officer's refusal to recuse himself and
2 render a decision in writing regarding the recusal of the
3 director or hearing officer. "

4 Section 2. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect
6 immediately.