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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; INCREASING LIQUOR EXCISE TAX RATES;
ELIMINATING RATE DIFFERENTIALS FOR MICROBREWERS, SMALL
WINEGROWERS AND CRAFT DISTILLERS; INDEXING THE RATES TO
INFLATION.

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

SECTION 1. Section 7-17-5 NMSA 1978 (being Laws 1993,
Chapter 65, Section 8, as amended) is amended to read:

"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

A. There is imposed on a wholesaler who sells
alcoholic beverages on which the tax imposed by this section
has not been paid an excise tax, to be referred to as the
"liquor excise tax", at the following rates on alcoholic
beverages sold:

~~[(1) on spirituous liquors, except as provided~~

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1 ~~in Paragraph (9) of this subsection, one dollar sixty cents~~
2 ~~(\$1.60) per liter;~~

3 ~~(2) on beer, except as provided in Paragraph~~
4 ~~(5) of this subsection, forty-one cents (\$.41) per gallon;~~

5 ~~(3) on wine, except as provided in Paragraphs~~
6 ~~(4) and (6) of this subsection, forty-five cents (\$.45) per~~
7 ~~liter;~~

8 ~~(4) on fortified wine, one dollar fifty cents~~
9 ~~(\$1.50) per liter;~~

10 ~~(5) on beer manufactured or produced by a~~
11 ~~microbrewer and sold in this state, provided that proof is~~
12 ~~furnished to the department that the beer was manufactured or~~
13 ~~produced by a microbrewer, eight cents (\$.08) per gallon on the~~
14 ~~first thirty thousand barrels sold, twenty-eight cents (\$.28)~~
15 ~~per gallon for all barrels sold over thirty thousand barrels~~
16 ~~but less than sixty thousand barrels and forty-one cents (\$.41)~~
17 ~~per gallon for sixty thousand or more barrels sold;~~

18 ~~(6) on wine manufactured or produced by a~~
19 ~~small winegrower and sold in this state, provided that proof is~~
20 ~~furnished to the department that the wine was manufactured or~~
21 ~~produced by a small winegrower:~~

22 ~~(a) ten cents (\$.10) per liter on the~~
23 ~~first eighty thousand liters; sold;~~

24 ~~(b) twenty cents (\$.20) per liter on~~
25 ~~each liter sold over eighty thousand liters but not over nine~~

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1 ~~hundred fifty thousand liters; and~~

2 ~~(c) thirty cents (\$.30) per liter on~~
3 ~~each liter sold over nine hundred fifty thousand liters but not~~
4 ~~over one million five hundred thousand liters;~~

5 ~~(7) on cider, except as provided in Paragraph~~
6 ~~(8) of this subsection forty-one cents (\$.41) per gallon~~

7 ~~(8) on cider manufactured or produced by a~~
8 ~~small winegrower and sold in this state, provided that proof is~~
9 ~~furnished to the department that the cider was manufactured or~~
10 ~~produced by a small winegrower, eight cents (\$.08) per gallon~~
11 ~~on the first thirty thousand barrels sold, twenty-eight cents~~
12 ~~(\$.28) per gallon for all barrels sold over thirty thousand~~
13 ~~barrels but less than sixty thousand barrels and forty-one~~
14 ~~cents (\$.41) per gallon for sixty thousand or more barrels~~
15 ~~sold; and~~

16 ~~(9) on spirituous liquors manufactured or~~
17 ~~produced by a craft distiller licensed pursuant to Section~~
18 ~~60-6A-6.1 NMSA 1978, provided that proof is provided to the~~
19 ~~department that the spirituous liquors were manufactured or~~
20 ~~produced by a craft distiller, for products up to ten percent~~
21 ~~alcohol by volume, eight cents (\$.08) per liter for the first~~
22 ~~two hundred fifty thousand liters sold and twenty-eight cents~~
23 ~~(\$.28) per liter for the next two hundred fifty thousand liters~~
24 ~~sold and for products over ten percent alcohol by volume,~~
25 ~~thirty-two cents (\$.32) per liter on the first one hundred~~

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1 ~~seventy-five thousand liters sold and sixty-five cents (\$.65)~~
2 ~~per liter on the next two hundred thousand liters sold;]~~

3 (1) from July 1, 2023 through June 30, 2027:

4 (a) on spirituous liquors, twenty-five
5 cents (\$.25) per one and one-half ounce serving;

6 (b) on beer and cider, twenty-five cents
7 (\$.25) per twelve ounce serving;

8 (c) on wine, twenty-five cents (\$.25)
9 per five ounce serving; and

10 (d) on fortified wine, twenty-five cents
11 (\$.25) per three and one-half ounce serving; and

12 (2) on and after July 1, 2027, the rates as
13 determined pursuant to Subsection B of this section.

14 B. No later than April 30, 2027 and April 30 of
15 each subsequent year, the department shall calculate the rates
16 of liquor excise tax to be imposed as of July 1 of that year.
17 The rates of the liquor excise tax shall be equal to the
18 product, rounded down to the nearest whole cent, of the rates
19 provided in Paragraph (1) of Subsection A of this section,
20 multiplied by a fraction with a numerator equal to the consumer
21 price index for the previous calendar year and a denominator
22 equal to the consumer price index for the most current calendar
23 year available.

24 ~~[B-]~~ C. The volume of wine transferred from one
25 winegrower to another winegrower for processing, bottling or

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1 storage and subsequent return to the transferor shall be
2 excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable
3 volume of wine of the transferee. Wine transferred from an
4 initial winegrower to a second winegrower remains a tax
5 liability of the transferor, provided that if the wine is
6 transferred to the transferee for the transferee's use or for
7 resale, the transferee then assumes the liability for the tax
8 due pursuant to this section.

9 ~~[G.]~~ D. A transfer of wine from a winegrower to a
10 wholesaler for distribution of the wine transfers the liability
11 for payment of the liquor excise tax to the wholesaler upon the
12 sale of the wine by the wholesaler.

13 E. As used in this section, "consumer price index"
14 means the consumer price index for all urban consumers
15 published by the United States department of labor for the
16 month ending September 30."

17 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
18 provisions of this act is July 1, 2023.