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HOUSE BILL 972

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Irvin Harrison

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTIONS OF AND
RENAMING THE ALCOHOL SERVER EDUCATION ARTICLE OF THE LIQUOR
CONTROL ACT; PROHIBITING CONSUMPTION OF ALCOHOLIC BEVERAGES
WHILE EMPLOYED AS A SERVER; PROVIDING PENALTIES; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 60-3A-1 NMSA 1978 (being Laws 1981,
Chapter 39, Section 1, as amended) is amended to read:

"60-3A-1. SHORT TITLE. -- Chapter 60, Articles 3A, 4B, 4C,
5A, 6A, 6B, 6C, 6E, 7A, 7B and 8A [~~of Chapter 60~~] NMSA 1978 may
be cited as the "Liquor Control Act". "

Section 2. Section 60-6E-1 NMSA 1978 (being Laws 1999,
Chapter 277, Section 2) is amended to read:

"60-6E-1. [~~ARTICLE DESIGNATION -- ALCOHOL SERVER EDUCATION]~~

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1 SHORT TITLE. -- Chapter 60, Article ~~[6D]~~ 6E NMSA 1978 may be
2 cited as the "Alcohol Server Education ~~[Article of the Liquor~~
3 ~~Control]~~ Act". "

4 Section 3. Section 60-6E-2 NMSA 1978 (being Laws 1999,
5 Chapter 277, Section 3) is amended to read:

6 "60-6E-2. PURPOSE. -- The purpose of ~~[Chapter 60, Article~~
7 ~~6D-NMSA 1978]~~ the Alcohol Server Education Act is to:

8 A. enhance the professionalism of persons employed
9 in the alcoholic beverage service industry;

10 B. establish a program for servers, licensees and
11 their lessees that includes the study of:

12 (1) the effect alcohol has on the body and
13 behavior, including the effect on a person's ability to operate
14 a motor vehicle when intoxicated;

15 (2) state law concerning liquor licensure,
16 liquor liability issues and driving under the influence of
17 intoxicating liquor;

18 (3) methods of recognizing problem drinkers
19 and techniques for intervening with problem drinkers;

20 (4) methods of identifying false drivers'
21 licenses and other documents used as evidence of age and
22 identity to prevent the sale of alcohol to minors; and

23 (5) prevention of fetal alcohol syndrome;

24 C. reduce the number of persons who drive while
25 under the influence of intoxicating liquor and mitigate the

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1 physical and property damage caused by that behavior; and

2 D. reduce the frequency of alcohol-related birth
3 defects. "

4 Section 4. Section 60-6E-3 NMSA 1978 (being Laws 1999,
5 Chapter 277, Section 4) is amended to read:

6 "60-6E-3. DEFINITIONS. -- As used in [~~Chapter 60, Article~~
7 ~~6D-NMSA-1978~~] the Alcohol Server Education Act:

8 A. "director" means the director of the division;

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

11 C. "licensee" means a person issued a license
12 pursuant to the provisions of the Liquor Control Act to sell,
13 serve or dispense alcoholic beverages for consumption and not
14 for resale;

15 D. "program" means an alcohol server education
16 course and examination approved by the director to be
17 administered by providers;

18 E. "provider" means an individual, partnership,
19 corporation, public or private school or any other legal entity
20 certified by the director to provide a program;

21 F. "server" means an individual who sells, serves
22 or dispenses alcoholic beverages for consumption on or off
23 licensed premises, including persons who manage, direct or
24 control the sale or service of alcohol. "Server" does not
25 include officers of a corporate licensee or lessee who do not

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1 manage, direct or control the sale or service of alcohol; and

2 G. "server permit" means an authorization issued by
3 the director for a person to be employed or engaged to sell,
4 serve or dispense alcoholic beverages. "

5 Section 5. Section 60-6E-6 NMSA 1978 (being Laws 1999,
6 Chapter 277, Section 7) is amended to read:

7 "60-6E-6. SERVER PERMITS--FAILURE TO PRODUCE PROOF. --

8 A. Every licensee shall maintain on the licensed
9 premises copies of the server permits of the licensee, his
10 lessee, if any, and each server then employed by the licensee
11 or lessee at all times and make copies available to the
12 director and to the agents or employees of the department of
13 public safety upon request.

14 B. A server shall have on his person his server
15 permit at all times when he is employed selling, serving or
16 dispensing alcoholic beverages. The server shall display his
17 server permit when requested by a peace officer or special
18 investigations officer of the department of public safety.

19 [~~B.~~] C. Failure to produce a copy of a server
20 permit is prima facie evidence that a server permit has not
21 been issued and shall subject the licensee to fines and
22 penalties as determined by rule adopted by the director.

23 D. The director shall fine a server who fails to
24 have his server permit on his person when the server is
25 employed selling, serving or dispensing alcoholic beverages,

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1 when requested to display the server permit by a peace officer
2 or special investigations officer of the department of public
3 safety, an administrative fine of twenty dollars (\$20.00) per
4 violation. "

5 Section 6. Section 60-6E-7 NMSA 1978 (being Laws 1999,
6 Chapter 277, Section 8) is amended to read:

7 "60-6E-7. SERVER PERMITS--ISSUANCE--OWNERSHIP--FEES.--

8 A. The director shall issue a server permit to each
9 applicant who scores eighty percent or more on the examination
10 required to complete a program, obtains a certificate of
11 program completion and provides such other information as may
12 be required by the director. The director may, in the
13 director's discretion, issue temporary server permits if
14 circumstances warrant such issuance.

15 B. Server permits shall not be issued to graduates
16 of programs that are not approved by the director.

17 C. A server permit is the property of the server to
18 whom it is issued.

19 D. The director may charge a fee for the issuance
20 of the server permit.

21 E. Server permits shall be valid for a period of
22 [~~five~~] three years from the date the server permit was issued.

23 To renew a server permit after three years, a
24 server shall attend a program and complete it with a score on
25 the examination of eighty percent or more.

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1 ~~[F-]~~ G. A certificate of completion of an alcohol
2 server education program issued pursuant to previous law shall
3 remain valid until the date of its expiration. "

4 Section 7. Section 60-6E-8 NMSA 1978 (being Laws 1999,
5 Chapter 277, Section 9) is amended to read:

6 "60-6E-8. SERVER PERMIT--SUSPENSION--REVOCATION--
7 ADMINISTRATIVE FINES--PENALTIES.--

8 A. In addition to any other penalties available,
9 the following penalties may be imposed for consumption of
10 alcoholic beverages while employed as a server and for sales to
11 minors or intoxicated persons in violation of the provisions of
12 the Liquor Control Act or rules of the division:

13 ~~[A-]~~ (1) the director may suspend a server's
14 server permit for a period of thirty days or fine the server in
15 an amount not to exceed five hundred dollars (\$500), or both,
16 when he finds that the server is guilty of a first offense of
17 selling, serving or dispensing an alcoholic beverage to an
18 intoxicated person in violation of Section 60-7A-16 NMSA 1978
19 or to a minor in violation of Section 60-7B-1 NMSA 1978 or for
20 a first offense of consuming alcoholic beverages when employed
21 as a server;

22 (2) the director shall suspend a server's
23 server permit for a period of six months when he finds that the
24 server is guilty of a second offense of consuming alcoholic
25 beverages when employed as a server;

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1 ~~[B.-]~~ (3) the director shall suspend a server's
2 server permit for a period of one year when he finds that the
3 server is guilty of a second offense of selling, serving or
4 dispensing alcoholic beverages to intoxicated persons in
5 violation of Section 60-7A-16 NMSA 1978 or to minors in
6 violation of Section 60-7B-1 NMSA 1978 arising separately from
7 the incident giving rise to his first offense or a third
8 offense of consuming alcoholic beverages when employed as a
9 server;

10 ~~[C.-]~~ (4) the director shall permanently revoke
11 a server's server permit when he finds that the server is
12 guilty of a third offense of selling, serving or dispensing
13 alcoholic beverages to intoxicated persons in violation of
14 Section 60-7A-16 NMSA 1978 or to minors in violation of Section
15 60-7B-1 NMSA 1978 arising separately from the incidents giving
16 rise to his first and second offenses or a fourth offense of
17 consuming alcoholic beverages when employed as a server;

18 ~~[D.-]~~ (5) no person whose server permit is
19 suspended or revoked pursuant to the provisions of this section
20 may be a server of alcoholic beverages on a licensed premises
21 during the period of suspension or revocation; and

22 ~~[E.-]~~ (6) no person whose server permit is
23 suspended may serve alcoholic beverages on or after the date of
24 suspension unless the person obtains a new server permit in
25 accordance with the provisions of ~~[Article 6D of Chapter 60]~~

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1 the Alcohol Server Education Act.

2 [F-] B. Nothing in this [aet] section shall be
3 interpreted to waive any license holder's liability that may
4 arise pursuant to the provisions of this [aet] section. "

5 Section 8. A new section of the Chapter 60, Article 7A
6 NMSA 1978 is enacted to read:

7 "[NEW MATERIAL] ALCOHOLIC BEVERAGE SERVERS--ON THE JOB
8 CONSUMPTION PROHIBITED. --A person who sells, serves or
9 dispenses alcoholic beverages on or off licensed premises,
10 including a person who manages, directs or controls the sale or
11 service of alcoholic beverages, shall not consume alcoholic
12 beverages when employed as a server as described in Section
13 60-6E-3 NMSA 1978. "

14 Section 9. EMERGENCY. --It is necessary for the public
15 peace, health and safety that this act take effect immediately.