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SENATE BILL 1028

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; BROADENING THE SCOPE OF INTER-LOCAL OPTION DISTRICT TRANSFER OF LIQUOR LICENSES; ELIMINATING REFERENCES TO OBSOLETE CANOPY LICENSES; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 60-6A-15 NMSA 1978 (being Laws 1981, Chapter 39, Section 32, as amended) is amended to read:

"60-6A-15. LICENSE FEES.--Every application for the issuance or renewal of the following licenses shall be accompanied by a license fee in the following specified amounts:

A. manufacturer's license as a distiller, except a brandy manufacturer, three thousand dollars (\$3,000);

B. manufacturer's license as a brewer, three

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1 thousand dollars (\$3,000);

2 C. manufacturer's license as a rectifier, one  
3 thousand fifty dollars (\$1,050);

4 D. wholesaler's license to sell all alcoholic  
5 beverages for resale only, two thousand five hundred dollars  
6 (\$2,500);

7 E. wholesaler's license to sell spirituous liquors  
8 and wine for resale only, one thousand seven hundred fifty  
9 dollars (\$1,750);

10 F. wholesaler's license to sell spirituous liquors  
11 for resale only, one thousand five hundred dollars (\$1,500);

12 G. wholesaler's license to sell beer and wine for  
13 resale only, one thousand five hundred dollars (\$1,500);

14 H. wholesaler's license to sell beer for resale  
15 only, one thousand dollars (\$1,000);

16 I. wholesaler's license to sell wine for resale  
17 only, seven hundred fifty dollars (\$750);

18 J. retailer's license, one thousand three hundred  
19 dollars (\$1,300);

20 K. dispenser's license, one thousand three hundred  
21 dollars (\$1,300);

22 ~~[L. canopy license, one thousand three hundred~~  
23 ~~dollars (\$1,300);~~

24 M.] L. restaurant license, one thousand fifty  
25 dollars (\$1,050);

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1           ~~[N-]~~ M. club license, for clubs with more than two  
2 hundred fifty members, one thousand two hundred fifty dollars  
3 (\$1,250), and for clubs with two hundred fifty members or  
4 fewer, two hundred fifty dollars (\$250);

5           ~~[O-]~~ N. wine bottler's license to sell to  
6 wholesalers only, five hundred dollars (\$500);

7           ~~[P-]~~ O. public service license, one thousand two  
8 hundred fifty dollars (\$1,250);

9           ~~[Q-]~~ P. nonresident licenses, for a total billing  
10 to New Mexico wholesalers:

- 11                           (1) in excess of:
- |    |                                |           |
|----|--------------------------------|-----------|
| 12 | \$3,000,000 annually . . . . . | \$10,500; |
| 13 | 1,000,000 annually . . . . .   | 5,250;    |
| 14 | 500,000 annually . . . . .     | 3,750;    |
| 15 | 200,000 annually . . . . .     | 2,700;    |
| 16 | 100,000 annually . . . . .     | 1,800;    |

17 and

18           50,000 annually . . . . . 900;

19 and

20                           (2) of \$50,000 or less . . . . . \$300;

21           ~~[R-]~~ Q. wine wholesaler's license, for persons with  
22 sales of five thousand gallons of wine per year or less,  
23 twenty-five dollars (\$25.00), and for persons with sales in  
24 excess of five thousand gallons of wine per year, one hundred  
25 dollars (\$100); and

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1                   [~~S-~~] R. beer bottler's license, two hundred dollars  
2                   (\$200)."

3                   Section 2. Section 60-6A-18 NMSA 1978 (being Laws 1981,  
4                   Chapter 39, Section 35, as amended) is amended to read:

5                   "60-6A-18. LIMITATION ON NUMBER OF LICENSES--  
6                   EXCEPTIONS.--

7                   A. The maximum number of licenses to be issued  
8                   under the provisions of Sections 60-6A-2 and 60-6A-3 NMSA 1978  
9                   shall be as follows:

10                                 (1) in incorporated municipalities, not more  
11                   than one dispenser's or one retailer's license [~~including~~  
12                   ~~canopy licenses which are replaced by dispenser's licenses as~~  
13                   ~~provided in Section 60-6B-16 NMSA 1978]~~ for each two thousand  
14                   inhabitants or major fraction thereof; and

15                                 (2) in unincorporated areas of each county,  
16                   not more than one dispenser's or one retailer's license  
17                   [~~including canopy licenses which are replaced by dispenser's~~  
18                   ~~licenses as provided in Section 60-6B-16 NMSA 1978]~~ for each  
19                   two thousand inhabitants or major fraction thereof, excluding  
20                   the population of incorporated municipalities within the  
21                   county.

22                   B. For the purpose of this section, the number of  
23                   inhabitants of a local option district shall be determined by  
24                   annual population estimates published by the economic  
25                   development department.

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1 C. Subsection A of this section shall not be  
2 construed to prevent ~~[any]~~ a licensee holding a valid license  
3 issued under the Liquor Control Act, or ~~[his]~~ the licensee's  
4 transferee, from continuing the licensed business or from  
5 renewing ~~[his]~~ the license, subject to compliance with the  
6 Liquor Control Act and department ~~[regulations]~~ rules  
7 notwithstanding that the continuance or renewal may result in  
8 an excess over the maximum number of licenses permitted in  
9 Subsection A of this section."

10 Section 3. Section 60-6A-19 NMSA 1978 (being Laws 1981,  
11 Chapter 39, Section 36, as amended) is amended to read:

12 "60-6A-19. NO PROPERTY RIGHT IN LICENSE--EXCEPTION.--

13 A. The holder of any license issued under the  
14 Liquor Control Act or any former act has no vested property  
15 right in the license, which is the property of the state;  
16 provided that retailer's licenses and dispenser's licenses ~~[and~~  
17 ~~canopy licenses that were replaced by dispenser's licenses~~  
18 ~~pursuant to Section 60-6B-16 NMSA 1978]~~:

19 (1) shall be considered property subject to  
20 execution, attachment, a security transaction, liens,  
21 receivership and ~~[all]~~ other incidents of tangible personal  
22 property under the laws of this state, except as otherwise  
23 provided in the Liquor Control Act;

24 (2) may be assigned, transferred from person  
25 to person or leased, provided all requirements of the Liquor

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1 Control Act and department [~~regulations~~] rules are fulfilled;  
2 and

3 (3) shall be transferred as personal property  
4 upon attachment, execution, repossession by a secured party or  
5 lienor, foreclosure by a creditor, appointment of a receiver  
6 for the licensee, death of the licensee, filing of a petition  
7 of bankruptcy by or for the licensee, incapacity of the  
8 licensee or dissolution of the licensee. The director may, by  
9 rule [~~or regulation~~], determine [~~any~~] an application or notice  
10 requirement for a person who temporarily holds a license  
11 pursuant to this subsection.

12 B. [~~Any~~] A license issued under the Liquor Control  
13 Act may be transferred to any location not otherwise contrary  
14 to law within the same local option district where the license  
15 is then located, provided all requirements of the Liquor  
16 Control Act and department [~~regulations~~] rules are fulfilled."

17 Section 4. Section 60-6A-30 NMSA 1978 (being Laws 1991,  
18 Chapter 68, Section 1) is amended to read:

19 "60-6A-30. POSTING OF WARNINGS.--Any licensee holding a  
20 retailer's, dispenser's, restaurant or club license [~~pursuant~~  
21 ~~to Sections 60-6A-2 through 60-6A-5 NMSA 1978 or Section~~  
22 ~~60-6B-16 NMSA 1978~~] shall post in a conspicuous place a sign in  
23 both English and Spanish that reads as follows:

24 "Warning: Drinking alcoholic beverages during pregnancy  
25 can cause birth defects."

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1           The director shall prescribe the form of such warning and  
2 shall make warning signs available to all such license  
3 holders."

4           Section 5. Section 60-6B-9 NMSA 1978 (being Laws 1981,  
5 Chapter 39, Section 75) is amended to read:

6           "60-6B-9. DISCONTINUANCE OF BUSINESS OR DEATH OF  
7 LICENSEE--JUDICIAL SALES.--

8           A. If a retailer, dispenser [~~canopy licensee~~],  
9 restaurant licensee, club licensee or governmental licensee or  
10 its lessee discontinues business for any reason or the licensee  
11 dies, the stock of alcoholic beverages owned at the time of the  
12 discontinuation of business or the death of the licensee may be  
13 sold in whole or in part to any other retailer, dispenser  
14 [~~canopy licensee~~], restaurant licensee, club licensee or  
15 governmental licensee or its lessee or to a New Mexico  
16 wholesaler without the seller incurring criminal or civil  
17 liability under the provisions of the Liquor Control Act.

18           B. If the stock of alcoholic beverages is sold  
19 under execution or attachment or by order of a court, the stock  
20 shall be sold only to other New Mexico retailers, dispensers  
21 [~~canopy licensees~~], restaurant licensees, club licensees,  
22 governmental licensees or their lessees or to a New Mexico  
23 wholesaler."

24           Section 6. Section 60-6B-12 NMSA 1978 (being Laws 1981,  
25 Chapter 39, Section 113, as amended) is amended to read:

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1 "60-6B-12. INTER-LOCAL OPTION DISTRICT TRANSFERS.--

2 A. ~~[All]~~ Dispenser's ~~[and]~~, retailer's, rural  
3 dispenser's and rural retailer's licenses originally issued  
4 before July 1, 1981 ~~[except rural dispenser's and rural~~  
5 ~~retailer's licenses and canopy licenses that were replaced by~~  
6 ~~dispenser's licenses pursuant to Section 60-6B-16 NMSA 1978]~~  
7 may be transferred to any location within the state, except  
8 class [B] A counties having a population of between ~~[fifty-six]~~  
9 one hundred thirteen thousand and ~~[fifty-seven]~~ one hundred  
10 fourteen thousand and class B counties having a population of  
11 between seventy-four thousand and seventy-five thousand  
12 according to the ~~[1980]~~ 2000 federal decennial census, the  
13 municipalities located within those ~~[class B]~~ counties and any  
14 municipality or county that prohibits by election the transfer  
15 of a license from another local option district, without regard  
16 to the limitations on the maximum number of licenses provided  
17 in Section 60-6A-18 NMSA 1978, not otherwise contrary to law  
18 subject to the approval of transferring locations of ~~[such]~~  
19 those liquor licenses ~~[of]~~ by the governing body for that  
20 location and provided ~~[all]~~ the requirements of the Liquor  
21 Control Act and department ~~[regulations]~~ rules for the transfer  
22 of licenses are fulfilled and provided further:

23 ~~[(1) the transfer of location does not lower~~  
24 ~~the number of dispenser's and retailer's licenses below that~~  
25 ~~number allowed by law in the local option district from which a~~

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1 ~~license will be transferred;~~

2 ~~(2)~~ (1) beginning in calendar year 1997, no  
3 more than ten ~~[dispenser's or retailer's]~~ licenses shall be  
4 transferred to any local option district in any calendar year;

5 ~~(3)~~ (2) the ~~[dispenser's or retailer's]~~  
6 licenses transferred under this section shall count in the  
7 computation of the limitation of the maximum number of licenses  
8 that may be issued in the future in any local option district  
9 as provided in Section 60-6A-18 NMSA 1978 for the purpose of  
10 determining whether additional licenses may be issued in the  
11 local option district under the provisions of Subsection [E] H  
12 of Section 60-6B-2 NMSA 1978; and

13 ~~(4)~~ (3) the ~~[dispenser's or retailer's]~~  
14 licenses transferred under this section shall ~~[be operated or~~  
15 ~~leased by the person who transfers the license to the]~~ remain  
16 in that local option district for at least a period of one year  
17 from the date of the approval of the transfer by the  
18 department.

19 B. ~~[Transfers]~~ Transfer of location of ~~[each]~~ a  
20 liquor license pursuant to Subsection A of this section shall  
21 become effective upon approval of the local governing body,  
22 unless within one hundred twenty days after the effective date  
23 of the Liquor Control Act a petition requesting an election on  
24 the question of approval of statewide transfers of liquor  
25 licenses into that local option district is filed with the

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1 clerk of the local option district and the petition is signed  
2 by at least five percent of the number of registered voters of  
3 the district. The clerk of the district shall verify the  
4 petition signatures. If the petition is verified as containing  
5 the required number of signatures of registered voters, the  
6 governing body shall adopt a resolution calling an election on  
7 the question of approving or disapproving statewide transfers  
8 of liquor licenses into that district. Notice of such election  
9 shall be published as provided in Section 3-8-35 NMSA 1978, and  
10 the election shall be held within sixty days after the date the  
11 petition is verified or it may be held in conjunction with a  
12 regular election of the governing body if such election occurs  
13 within sixty days after the date of verification. If a  
14 majority of the registered voters of the district voting in  
15 such election votes to approve statewide transfers of liquor  
16 licenses into the local option district, each license proposing  
17 to be transferred shall be subject to the approval of the  
18 governing body. If the voters of the district voting in the  
19 election vote against the approval, then all statewide  
20 transfers of liquor licenses pursuant to Subsection A of this  
21 section shall be prohibited in that district, unless a petition  
22 is filed requesting the question be again submitted to the  
23 voters as provided in this subsection. The question of  
24 approving or disapproving statewide transfers of liquor  
25 licenses into the local option district shall not be submitted

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1 again within two years from the date of the last election on  
2 the question.

3 ~~[G. Any dispenser's license transferred pursuant to~~  
4 ~~this section outside its local option district shall only~~  
5 ~~entitle the licensee to sell, serve or permit the consumption~~  
6 ~~of alcoholic beverages by the drink on the licensed premises.~~

7 ~~D. Rural dispenser's, rural retailer's and rural~~  
8 ~~club licenses issued under any former act may be transferred to~~  
9 ~~any location, subject to the restrictions as to location~~  
10 ~~contained in the Liquor Control Act, within the unincorporated~~  
11 ~~area of the county in which they are currently located;~~  
12 ~~provided they shall not be transferred to any location within~~  
13 ~~ten miles of another licensed premises; and provided further~~  
14 ~~that all requirements of the Liquor Control Act and department~~  
15 ~~regulations for the transfer of licenses are fulfilled.]"~~

16 Section 7. Section 60-7A-1 NMSA 1978 (being Laws 1981,  
17 Chapter 39, Section 47, as amended) is amended to read:

18 "60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--  
19 CHRISTMAS DAY SALES--SUNDAY SALES FOR CONSUMPTION OFF THE  
20 LICENSED PREMISES--ELECTIONS.--

21 A. Alcoholic beverages shall be sold, served and  
22 consumed on licensed premises only during the following hours  
23 and days:

- 24 (1) on Mondays from 7:00 a.m. until midnight;  
25 (2) on other weekdays from after midnight of

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1 the previous day until 2:00 a.m., then from 7:00 a.m. until  
2 midnight, except as provided in Subsections D and F of this  
3 section; and

4 (3) on Sundays only after midnight of the  
5 previous day until 2:00 a.m., except as provided in Subsections  
6 C and E of this section and Section 60-7A-2 NMSA 1978;  
7 provided, however, nothing in this section shall prohibit the  
8 consumption at any time of alcoholic beverages in guest rooms  
9 of hotels.

10 B. Alcoholic beverages shall be sold by a dispenser  
11 or a retailer in unbroken packages, for consumption off the  
12 licensed premises and not for resale, on Mondays through  
13 Saturdays from 7:00 a.m. until 12:00 a.m. on the following day,  
14 except as provided in Subsections D and F of this section.

15 C. A dispenser, restaurant licensee or club may,  
16 upon payment of an additional fee of one hundred dollars  
17 (\$100), obtain a permit to sell, serve or permit the  
18 consumption of alcoholic beverages by the drink on the licensed  
19 premises on Sundays from 12:00 noon until midnight and in those  
20 years when December 31 falls on a Sunday from 12:00 noon until  
21 2:00 a.m. of the following day, except as otherwise provided in  
22 Subsection E of this section. The permit shall expire on June  
23 30 of each year and may be renewed from year to year upon  
24 application for renewal and payment of the required fee. The  
25 permit fee shall not be prorated. Sales made pursuant to this

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1 subsection or Subsection G of this section shall be called  
2 "Sunday sales".

3 D. Retailers, dispensers [~~canopy licensees that~~  
4 ~~were replaced by dispenser's licensees pursuant to Section~~  
5 ~~60-6B-16 NMSA 1978~~], restaurant licensees, club licensees and  
6 governmental licensees or their lessees shall not sell, serve,  
7 deliver or allow the consumption of alcoholic beverages on the  
8 licensed premises from 2:00 a.m. on Christmas day until 7:00  
9 a.m. on the day after Christmas, except as permitted pursuant  
10 to Subsection F of this section.

11 E. Sunday sales pursuant to the provisions of  
12 Subsection C of this section are permitted in a local option  
13 district that voted to permit them. If in that election a  
14 majority of the voters in a local option district voted "no" on  
15 the question "Shall Sunday sales of alcoholic beverages by the  
16 drink for consumption on the licensed premises of licensees be  
17 allowed in this local option district?", Sunday sales are  
18 unlawful in that local option district upon certification of  
19 the election returns unless the provisions of Subsection J of  
20 this section apply. The question shall not again be placed on  
21 the ballot in that local option district until:

22 (1) at least one year has passed; and

23 (2) a petition is filed with the local  
24 governing body bearing the signatures of registered qualified  
25 electors of the local option district equal in number to ten

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1 percent of the number of votes cast and counted in the local  
2 option district for governor in the last preceding general  
3 election in which a governor was elected. The signatures on  
4 the petition shall be verified by the clerk of the county in  
5 which the local option district is situated.

6 F. On and after July 1, 2002, dispensers [~~canopy~~  
7 ~~licensees that were replaced by dispenser's licensees pursuant~~  
8 ~~to Section 60-6B-16 NMSA 1978~~], restaurant licensees, club  
9 licensees and governmental licensees or lessees of these  
10 licensees; provided that the licensees have current, valid food  
11 service establishment permits, may sell, serve or allow the  
12 consumption of alcoholic beverages by the drink on licensed  
13 premises from noon until 10:00 p.m. on Christmas day, except in  
14 a local option district in which, pursuant to petition and  
15 election under this subsection, [~~a~~] the majority of the voters  
16 voting on the question [~~votes~~] vote against continuing such  
17 sales or consumption on Christmas day. An election shall be  
18 held on the question of whether to continue to allow the sale,  
19 service or consumption of alcoholic beverages by the drink on  
20 licensed premises from noon until 10:00 p.m. on Christmas day  
21 in a local option district, if a petition requesting the  
22 governing body of that district to call the election is signed  
23 by at least ten percent of the registered voters of the  
24 district and is filed with the clerk of the governing body of  
25 the district. Upon verification by the clerk that the petition

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1 contains the required number of signatures of registered  
2 voters, the governing body shall adopt a resolution calling an  
3 election on the question of allowing the sale, service or  
4 consumption of alcoholic beverages by the drink on licensed  
5 premises from noon until 10:00 p.m. on Christmas day. The  
6 election shall be held within sixty days after the date the  
7 petition is verified, or it may be held in conjunction with a  
8 regular election of the governing body if that election occurs  
9 within sixty days of such verification. The election shall be  
10 called, conducted, counted and canvassed in substantially the  
11 same manner as provided for general elections in the county  
12 under the Election Code or for special municipal elections in a  
13 municipality under the Municipal Election Code. If [a] the  
14 majority of the voters voting on the question [~~votes~~] vote  
15 against continuing the sale, service or consumption of  
16 alcoholic beverages by the drink on licensed premises from noon  
17 until 10:00 p.m. on Christmas day, then such sales and  
18 consumption shall be prohibited. If [a] the majority of the  
19 voters voting on the question [~~votes~~] vote to allow continued  
20 sale, service and consumption of alcoholic beverages by the  
21 drink on licensed premises from noon until 10:00 p.m. on  
22 Christmas day, then such sales and consumption shall be allowed  
23 to continue. The question then shall not be submitted again to  
24 the voters within two years of the date of the last election on  
25 the question.

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1           G. Notwithstanding the provisions of Subsection E  
2 of this section, any Indian tribe or pueblo whose lands are  
3 wholly situated within the state that has, by statute,  
4 ordinance or resolution, elected to permit the sale, possession  
5 or consumption of alcoholic beverages on lands within the  
6 territorial boundaries of the tribe or pueblo may, by statute,  
7 ordinance or resolution of the governing body of the Indian  
8 tribe or pueblo, permit Sunday sales by the drink on the  
9 licensed premises of licensees on lands within the territorial  
10 boundaries of the tribe or pueblo; provided that a certified  
11 copy of such enactment is filed with the office of the director  
12 and of the secretary of state.

13           H. Subject to the provisions of Subsection I of  
14 this section, a dispenser or retailer, upon payment of an  
15 additional fee of one hundred dollars (\$100), may obtain a  
16 permit to sell alcoholic beverages in unbroken packages for  
17 consumption off the licensed premises on Sundays from 12:00  
18 noon until midnight, and in those years when December 31 falls  
19 on a Sunday, from 12:00 noon on December 31 until 2:00 a.m. of  
20 the following day. The permit shall expire on June 30 of each  
21 year and may be renewed from year to year upon application for  
22 renewal and payment of the required fee. The permit fee shall  
23 not be prorated. Sales made pursuant to the provisions of this  
24 subsection shall be called "Sunday package sales".

25           I. If a petition requesting the governing body of a

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1 local option district to call an election on the question of  
2 continuing to allow sales of alcoholic beverages in unbroken  
3 packages for consumption off the licensed premises on Sundays  
4 is filed with the clerk of the governing body and that petition  
5 is signed by at least ten percent of the number of registered  
6 voters of the local option district and the clerk of the  
7 governing body verifies the petition signatures, the governing  
8 body shall adopt a resolution calling an election on the  
9 question. The election shall be held within sixty days of the  
10 date the petition is verified, or it may be held in conjunction  
11 with a regular election of the governing body, if the regular  
12 election occurs within sixty days of the petition verification.  
13 The election shall be called, conducted, counted and canvassed  
14 substantially in the manner provided by law for general  
15 elections within a county or special municipal elections within  
16 a municipality. If [a] the majority of the voters of the local  
17 option district voting in the election [~~votes~~] vote to allow  
18 the sale of alcoholic beverages in unbroken packages for  
19 consumption off the licensed premises, then those sales shall  
20 continue to be allowed. If [a] the majority of the voters of  
21 the local option district voting in the election [~~votes~~] vote  
22 not to allow the Sunday package sales, then those Sunday  
23 package sales shall be prohibited commencing the first Sunday  
24 after the results of the election are certified. Following the  
25 election, the question of allowing the Sunday package sales

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1 shall not be submitted again to the voters within two years of  
2 the date of the last election on the question.

3 J. Sunday sales of alcoholic beverages shall be  
4 permitted at resorts and at horse racetracks statewide pursuant  
5 to the provisions of Section 60-7A-2 NMSA 1978."

6 Section 8. Section 60-7A-9 NMSA 1978 (being Laws 1981,  
7 Chapter 39, Section 71, as amended) is amended to read:

8 "60-7A-9. CREDIT EXTENSION BY WHOLESALERS.--It is a  
9 violation of the Liquor Control Act for any wholesaler to  
10 extend credit or to agree to extend credit for the sale of  
11 alcoholic beverages to any retailer, dispenser [~~canopy~~  
12 ~~licensee~~], restaurant licensee, club licensee or governmental  
13 licensee or its lessee for any period more than thirty calendar  
14 days from the date of the invoice required under the provisions  
15 of Section 60-8A-3 NMSA 1978. A violation of this section does  
16 not bar recovery by the wholesaler for the total indebtedness  
17 of the retailer, dispenser [~~canopy licensee~~], restaurant  
18 licensee, club licensee or governmental licensee or its  
19 lessee."

20 Section 9. Section 60-7A-12 NMSA 1978 (being Laws 1981,  
21 Chapter 39, Section 78, as amended) is amended to read:

22 "60-7A-12. OFFENSES BY DISPENSERS [~~CANOPY LICENSEES~~],  
23 RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES  
24 AND CLUBS.--It is a violation of the Liquor Control Act for  
25 [~~any~~] a dispenser [~~canopy licensee~~], restaurant licensee,

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1 governmental licensee or its lessee or club to:

2 A. receive [~~any~~] alcoholic beverages for the  
3 purpose of or with the intent of reselling the same from [~~any~~]  
4 a person other than one duly licensed to sell alcoholic  
5 beverages to dispensers for resale;

6 B. sell, possess for the purpose of sale or bottle  
7 [~~any~~] bulk wine for sale other than by the drink for immediate  
8 consumption on [~~his~~] its licensed premises;

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

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

22 E. employ or engage a person to sell, serve or  
23 dispense alcoholic beverages if the person has not received  
24 alcohol server training within thirty days of employment; or

25 F. employ or engage a person to sell, serve or

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underscored material = new  
[bracketed material] = delete

1 dispense alcoholic beverages during a period when the server  
2 permit of that person is suspended or revoked."

3 Section 10. Section 60-8A-1 NMSA 1978 (being Laws 1981,  
4 Chapter 39, Section 60) is amended to read:

5 "60-8A-1. UNFAIR COMPETITION--EXCLUSIVE OUTLET--TIED  
6 HOUSE--CONSIGNMENT SALES.--It is unlawful for [~~any~~] an  
7 importer, manufacturer, nonresident licensee or any kind or  
8 class of wholesaler, directly or indirectly, or through an  
9 affiliate:

10 A. to require by agreement or otherwise that [~~any~~]  
11 a wholesaler, retailer, dispenser [~~canopy licensee~~], restaurant  
12 licensee, club licensee or governmental licensee or its lessee  
13 engaged in the sale of alcoholic beverages [~~in the state~~]  
14 purchase alcoholic beverages from [~~such~~] that person to the  
15 exclusion in whole or in part of alcoholic beverages sold or  
16 offered for sale by other persons;

17 B. to induce through any of the following means,  
18 [~~any~~] a wholesaler, retailer, dispenser [~~canopy licensee~~],  
19 restaurant licensee, club licensee or governmental licensee or  
20 its lessee engaged in the sale of any kind or class of  
21 alcoholic beverages to purchase alcoholic beverages from [~~such~~]  
22 that person to the exclusion in whole or in part of alcoholic  
23 beverages sold or offered for sale by other persons:

24 (1) by acquiring or holding, after the  
25 expiration of [~~any~~] an existing license, [~~any~~] an interest in

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[bracketed material] = delete

1 [any] a license with respect to the premises of the wholesaler,  
2 retailer, dispenser [~~canopy licensee~~], restaurant licensee,  
3 club licensee or governmental licensee or its lessee;

4 (2) by acquiring [any] an interest in [any]  
5 real or personal property owned, occupied or used by [any] a  
6 wholesaler, retailer, dispenser, restaurant licensee or club  
7 licensee in the conduct of the buying wholesaler's, retailer's,  
8 dispenser's [~~canopy licensee's~~], restaurant licensee's, club  
9 licensee's or governmental licensee's or its lessee's business,  
10 subject to [~~such~~] exceptions [~~as~~] the director [~~shall~~] may  
11 prescribe by rule, having due regard [~~to~~] for the free flow of  
12 commerce, the purposes of this subsection and established trade  
13 customs not contrary to the public interest;

14 (3) by furnishing, giving, renting, lending or  
15 selling to [any] a wholesaler, retailer, dispenser [~~canopy~~  
16 ~~licensee~~], restaurant licensee, club licensee or governmental  
17 licensee or its lessee [any] equipment, fixtures, signs,  
18 supplies, money, services or other thing of value, subject to  
19 [~~such~~] exceptions [~~as~~] the director [~~shall by regulation~~] may  
20 prescribe by rule, having due regard for public health and  
21 welfare, the quantity and value of the articles involved and  
22 established trade customs not contrary to the public interest  
23 and the purposes of this subsection;

24 (4) by paying or crediting the wholesaler,  
25 retailer, dispenser [~~canopy licensee~~], restaurant licensee,

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1 club licensee or governmental licensee or its lessee for ~~[any]~~  
2 advertising, display or distribution services;

3 (5) by requiring ~~[any]~~ a wholesaler, retailer,  
4 dispenser ~~[canopy licensee]~~, restaurant licensee, club licensee  
5 or governmental licensee or its lessee to take and dispose of a  
6 certain quota or combination of alcoholic beverages; or

7 (6) by commercial bribery by offering or  
8 giving ~~[any]~~ a bonus, premium or compensation to ~~[any]~~ an  
9 officer, employee, agent or representative of ~~[any]~~ a  
10 wholesaler, retailer, dispenser ~~[canopy licensee]~~, restaurant  
11 licensee, club licensee or governmental licensee or its lessee;  
12 or

13 C. to sell, offer for sale or contract to sell to  
14 ~~[any]~~ a retailer, dispenser ~~[canopy licensee]~~, restaurant  
15 licensee, club licensee or governmental licensee or its lessee  
16 ~~[any]~~ alcoholic beverages of any kind or class on consignment  
17 or under a conditional sale or on ~~[any]~~ basis other than a bona  
18 fide sale; provided that this subsection shall not apply to  
19 transactions involving solely the bona fide return of  
20 merchandise for ordinary and usual commercial reasons arising  
21 after the merchandise has been sold."

22 Section 11. Section 60-8A-3 NMSA 1978 (being Laws 1981,  
23 Chapter 39, Section 70) is amended to read:

24 "60-8A-3. INVOICES.--Whenever a New Mexico wholesaler  
25 delivers ~~[any item of]~~ alcoholic beverages to a New Mexico

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1 retailer, dispenser [~~canopy licensee~~], restaurant licensee,  
2 club licensee or governmental licensee or its lessee, the  
3 delivery shall be accompanied by an invoice [~~which~~] that  
4 accurately and clearly shows the date of the sale and the  
5 quantity of each item of merchandise delivered. The retailer,  
6 dispenser [~~canopy licensee~~], restaurant licensee, club licensee  
7 or governmental licensee or its lessee receiving the alcoholic  
8 beverages shall retain the invoice for a period of two years.  
9 The invoices shall be open for inspection and examination by  
10 [~~any~~] an employee of the department or the taxation and revenue  
11 department during all usual business hours."

12 Section 12. REPEAL.--Sections 60-6B-14 through 60-6B-16  
13 NMSA 1978 (being Laws 1988, Chapter 12, Sections 2 through 4)  
14 are repealed.

15 Section 13. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2007.