

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 228

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Clinton D. Harden

AN ACT

RELATING TO ALCOHOL; AMENDING A SECTION OF THE LIQUOR CONTROL ACT TO REDUCE THE PENALTY FOR SERVING ALCOHOLIC BEVERAGES TO MINORS; CHANGING THE KNOWLEDGE REQUIREMENT FOR PROVIDING ALCOHOL TO MINORS.

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

**SECTION 1.** Section 60-7B-1 NMSA 1978 (being Laws 1993, Chapter 68, Section 22, as amended) is amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO MINORS--POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS.--

A. It is a violation of the Liquor Control Act for a person, including a person licensed pursuant to the provisions of the Liquor Control Act, or an employee, agent or lessee of that person, if ~~he~~ the person knows ~~or has reason to know~~ that ~~he~~ the person is violating the provisions of

underscoring material = new  
~~bracketed material~~ = delete

1 this section, to:

2 (1) sell, serve or give alcoholic beverages to  
3 a minor or permit a minor to consume alcoholic beverages on the  
4 licensed premises;

5 (2) buy alcoholic beverages for or procure the  
6 sale or service of alcoholic beverages to a minor;

7 (3) deliver alcoholic beverages to a minor; or

8 (4) aid or assist a minor to buy, procure or  
9 be served with alcoholic beverages.

10 B. It is not a violation of the Liquor Control Act,  
11 as provided in Subsection A or C of this section, when:

12 (1) a parent, legal guardian or adult spouse  
13 of a minor serves alcoholic beverages to that minor on real  
14 property, other than licensed premises, under the control of  
15 the parent, legal guardian or adult spouse; or

16 (2) alcoholic beverages are used in the  
17 practice of religious beliefs.

18 C. It is a violation of the Liquor Control Act for  
19 a minor to buy, attempt to buy, receive, possess or permit  
20 [~~himself~~] the minor's self to be served with alcoholic  
21 beverages.

22 D. When a person other than a minor procures  
23 another person to sell, serve or deliver alcoholic beverages to  
24 a minor by actual or constructive misrepresentation of facts or  
25 concealment of facts calculated to cause the person selling,

underscored material = new  
[bracketed material] = delete

1 serving or delivering the alcoholic beverages to the minor to  
2 believe that the minor is legally entitled to be sold, served  
3 or delivered alcoholic beverages, and actually deceives that  
4 person by that misrepresentation or concealment, then the  
5 procurer and not the person deceived shall have violated the  
6 provisions of the Liquor Control Act.

7 E. As used in the Liquor Control Act, "minor" means  
8 a person under twenty-one years of age.

9 F. In addition to the penalties provided in Section  
10 60-6C-1 NMSA 1978, a violation of the provisions of Subsection  
11 A of this section is:

12 (1) a petty misdemeanor for a first violation,  
13 and the offender shall be sentenced pursuant to the provisions  
14 of Section 31-19-1 NMSA 1978;

15 (2) a misdemeanor for a second violation, and  
16 the offender shall be sentenced pursuant to the provisions of  
17 Section 31-19-1 NMSA 1978; and

18 (3) a fourth degree felony for a third or  
19 subsequent violation, and the offender shall be sentenced  
20 pursuant to the provisions of Section 31-18-15 NMSA 1978.

21 G. A violation of the provisions of Subsection C of  
22 this section is a misdemeanor and the offender shall be  
23 punished as follows:

24 (1) for a first violation, the offender shall  
25 be:

underscored material = new  
[bracketed material] = delete

1 (a) fined an amount not more than one  
2 thousand dollars (\$1,000); and

3 (b) ordered by the sentencing court to  
4 perform thirty hours of community service related to reducing  
5 the incidence of driving while under the influence of  
6 intoxicating liquor;

7 (2) for a second violation, the offender  
8 shall:

9 (a) be fined an amount not more than one  
10 thousand dollars (\$1,000);

11 (b) be ordered by the sentencing court  
12 to perform forty hours of community service related to reducing  
13 the incidence of driving while under the influence of  
14 intoxicating liquor; and

15 (c) have [~~his~~] the offender's driver's  
16 license suspended for a period of ninety days. If the minor is  
17 too young to possess a driver's license at the time of the  
18 violation, then ninety days shall be added to the date [~~he~~] the  
19 offender would otherwise become eligible to obtain a driver's  
20 license; and

21 (3) for a third or subsequent violation, the  
22 offender shall:

23 (a) be fined an amount not more than one  
24 thousand dollars (\$1,000);

25 (b) be ordered by the sentencing court

underscoring material = new  
~~[bracketed material] = delete~~

1 to perform sixty hours of community service related to reducing  
2 the incidence of driving while under the influence of  
3 intoxicating liquor; and

4 (c) have ~~[his]~~ the offender's driver's  
5 license suspended for a period of two years or until the  
6 offender reaches twenty-one years of age, whichever period of  
7 time is greater.

8 H. A violation of the provisions of Subsection D of  
9 this section is a fourth degree felony and the offender shall  
10 be sentenced pursuant to the provisions of Section 31-18-15  
11 NMSA 1978."