

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR  
2 SENATE BILL 228

3 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

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10 AN ACT

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

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

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

19 "60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO  
20 MINORS--POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS.--

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

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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,

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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 fourth degree felony for an offender,  
13 other than a server, who shall be sentenced pursuant to Section  
14 31-18-15 NMSA 1978;

15 (2) a petty misdemeanor for a first violation  
16 if the offender is a server, who shall be sentenced pursuant to  
17 the provisions of Section 31-19-1 NMSA 1978;

18 (3) a misdemeanor for a second violation if  
19 the offender is a server, who shall be sentenced pursuant to  
20 the provisions of Section 31-19-1 NMSA 1978; and

21 (4) a fourth degree felony for a third or  
22 subsequent violation if the offender is a server, [~~and the~~  
23 offender] who shall be sentenced pursuant to the provisions of  
24 Section 31-18-15 NMSA 1978.

25 G. A violation of the provisions of Subsection C of  
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1 this section is a misdemeanor and the offender shall be  
2 punished as follows:

3 (1) for a first violation, the offender shall  
4 be:

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

7 (b) ordered by the sentencing court to  
8 perform thirty hours of community service related to reducing  
9 the incidence of driving while under the influence of  
10 intoxicating liquor;

11 (2) for a second violation, the offender  
12 shall:

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

15 (b) be ordered by the sentencing court  
16 to perform forty hours of community service related to reducing  
17 the incidence of driving while under the influence of  
18 intoxicating liquor; and

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

25 (3) for a third or subsequent violation, the

1 offender shall:

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

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

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

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

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