

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 546

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

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10 AN ACT

11 RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR A CRAFT
12 DISTILLER'S LICENSE; AMENDING THE DOMESTIC WINERY AND SMALL
13 BREWERY ACT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME
14 SECTION OF LAW IN LAWS 1998.

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

17 SECTION 1. Section 60-6A-21 NMSA 1978 (being Laws 1983,
18 Chapter 280, Section 2, as amended) is amended to read:

19 "60-6A-21. SHORT TITLE.--Sections 60-6A-21 through
20 60-6A-28 NMSA 1978 may be cited as the "Domestic Winery, [~~and~~]
21 Small Brewery and Craft Distillery Act"."

22 SECTION 2. Section 60-6A-22 NMSA 1978 (being Laws 1983,
23 Chapter 280, Section 3, as amended) is amended to read:

24 "60-6A-22. DEFINITIONS.--As used in the Domestic Winery,
25 [~~and~~] Small Brewery and Craft Distillery Act:

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1 A. "brandy" means an alcoholic liquor distilled
2 from wine or from fermented fruit juice;

3 B. "beer" means any fermented beverage containing
4 more than one-half percent alcohol obtained by the fermentation
5 of any infusion or decoction of barley, malt and hops or other
6 cereal in water, and includes porter, beer, ale and stout;

7 C. "craft distiller" means a person licensed as a
8 craft distiller who owns or operates a business for the
9 manufacture of spirituous liquors but who does not manufacture
10 more than one hundred fifty thousand proof gallons per license
11 year;

12 ~~[G.]~~ D. "small brewer" means any person who owns or
13 operates a business for the manufacture of beer but does not
14 manufacture more than two hundred thousand barrels of beer per
15 year;

16 E. "proof gallon" means a gallon of liquid at sixty
17 degrees Fahrenheit that contains fifty percent ethyl alcohol by
18 volume or its equivalent;

19 ~~[D.]~~ F. "public celebration" means any state fair,
20 county fair, community fiesta or cultural or artistic
21 performance;

22 ~~[E.]~~ G. "wine" means the product obtained from
23 normal alcoholic fermentation of the juice of sound ripe grapes
24 or other agricultural products containing natural or added
25 sugar, or any such alcoholic beverage to which is added grape

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1 brandy, fruit brandy or spirits of wine [~~which~~] that is
 2 distilled from the particular agricultural products of which
 3 the wine is made, and other rectified wine products by whatever
 4 name [~~which~~] that do not contain more than fifteen percent
 5 added flavoring, coloring and blending material and [~~which~~]
 6 that contain not more than twenty-four percent [~~of~~] alcohol by
 7 volume, and includes vermouth;

8 [~~F.~~] H. "wine blender" means a person authorized to
 9 operate a bonded wine cellar pursuant to a permit issued for
 10 that purpose under the internal revenue laws of the United
 11 States but who does not have facilities or equipment for the
 12 conversion of grapes, berries or other fruit into wine and does
 13 not engage in the production of wine in commercial quantities;
 14 provided that any person who produces or blends not to exceed
 15 three hundred gallons of wine per year shall not, because of
 16 such production or blending, be considered a wine blender; and

17 [~~G.~~] I. "winer" means a person licensed as a
 18 winegrower."

19 **SECTION 3.** A new section of the Domestic Winery, Small
 20 Brewery and Craft Distillery Act is enacted to read:

21 "[NEW MATERIAL] CRAFT DISTILLER'S LICENSE.--

22 A. In any local option district, a person qualified
 23 under the provisions of the Liquor Control Act, except as
 24 otherwise provided in the Domestic Winery, Small Brewery and
 25 Craft Distillery Act, may apply for and be issued a craft

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1 distiller's license subject to the following conditions:

2 (1) the applicant submits evidence to the
3 department that the applicant has a valid and appropriate
4 permit issued by the federal government to be a craft
5 distiller;

6 (2) renewal of the license shall be
7 conditioned upon:

8 (a) no less than sixty percent of the
9 gross receipts from the sale of spirituous liquors for the
10 preceding twelve months of the licensee's operation being
11 derived from the sale of spirituous liquors produced by the
12 licensee;

13 (b) the manufacture of no less than one
14 thousand proof gallons of spirituous liquors per license year
15 at the licensee's premises; and

16 (c) submission to the department by the
17 licensee of a report showing the number of proof gallons of
18 spirituous liquors manufactured by the licensee at the
19 licensee's premises and the annual gross receipts from the sale
20 of spirituous liquors produced by the licensee and from the
21 licensee's sale of distilled spirituous liquors produced by
22 other New Mexico licensed craft distillers;

23 (3) a craft distiller's license shall not be
24 transferred from person to person or from one location to
25 another;

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1 (4) the provisions of Section 60-6A-18 NMSA
2 1978 shall not apply to a craft distiller's license; and

3 (5) nothing in this section shall prevent a
4 craft distiller from receiving other licenses pursuant to the
5 Liquor Control Act.

6 B. A person to whom a craft distiller's license is
7 issued pursuant to this section may do any of the following:

8 (1) manufacture or produce spirituous liquors,
9 including aging, filtering, blending, mixing, flavoring,
10 coloring, bottling and labeling;

11 (2) store, transport, import or export
12 spirituous liquors;

13 (3) sell only spirituous liquors that are
14 packaged by or for the craft distiller to a person holding a
15 wholesaler's license, a craft distiller's license or a
16 manufacturer's license;

17 (4) deal in warehouse receipts for spirituous
18 liquors;

19 (5) buy spirituous liquors from other persons,
20 including licensees and permittees under the Liquor Control
21 Act, for use in blending, flavoring, mixing or bottling of
22 spirituous liquors;

23 (6) be deemed a manufacturer for purposes of
24 the Gross Receipts and Compensating Tax Act;

25 (7) conduct spirituous liquor tastings and

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1 sell, by the glass or by the bottle, or in unbroken packages
2 for consumption off the premises but not for resale, spirituous
3 liquors of the craft distiller's own production or spirituous
4 liquors produced by another New Mexico craft distiller or New
5 Mexico manufacturer on the craft distiller's premises; and

6 (8) at no more than two other locations off
7 the craft distiller's premises, after the craft distiller has
8 paid the applicable fee for a craft distiller's off-premises
9 permit, after the director has determined that the off-premises
10 locations meet the requirements of the Liquor Control Act and
11 department rules for new liquor license locations and after the
12 director has issued a craft distiller's off-premises permit for
13 each off-premises location, conduct spirituous liquor tastings
14 and sell by the glass, or in unbroken packages for consumption
15 and not for resale, spirituous liquors produced and bottled by
16 or for the craft distiller or spirituous liquors produced and
17 bottled by or for another New Mexico craft distiller or
18 manufacturer.

19 C. For a public celebration off the craft
20 distiller's premises in any local option district permitting
21 the sale of alcoholic beverages, a craft distiller shall pay
22 ten dollars (\$10.00) to the department for a "craft distiller's
23 public celebration permit" to be issued under rules adopted by
24 the director. Upon request, the department may issue to a
25 craft distiller a public celebration permit for a location at

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1 the public celebration that is to be shared with other craft
 2 distillers, small brewers and winegrowers. As used in this
 3 subsection, "public celebration" includes any state or county
 4 fair, community fiesta, cultural or artistic event, sporting
 5 competition of a seasonal nature or other activity held on an
 6 intermittent basis.

7 D. Sales and tastings of spirituous liquors
 8 authorized in this section shall be permitted during the hours
 9 set forth in Subsection A of Section 60-7A-1 NMSA 1978 and
 10 between the hours of noon and midnight on Sunday and shall
 11 conform to the limitations regarding Christmas day sales and
 12 the expansion of Sunday sales hours to 2:00 a.m. on January 1,
 13 when December 31 falls on a Sunday as set forth in Section
 14 60-7A-1 NMSA 1978."

15 SECTION 4. Section 60-6A-27 NMSA 1978 (being Laws 1983,
 16 Chapter 280, Section 8, as amended by Laws 1998, Chapter 109,
 17 Section 5 and also by Laws 1998, Chapter 111, Section 2) is
 18 amended to read:

19 "60-6A-27. LICENSE FEES.--Every application for the
 20 issuance or annual renewal of the following licenses and
 21 permits shall be accompanied by a license fee or permit fee in
 22 the following specified amounts:

23 A. brandy manufacturer's license, seven hundred
 24 fifty dollars (\$750);

25 B. small brewer's license, seven hundred fifty

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1 dollars (\$750);

2 C. wine blender's license, seven hundred fifty
3 dollars (\$750);

4 D. wine exporter's license, five hundred dollars
5 (\$500);

6 E. small brewer's public celebrations permit, ten
7 dollars (\$10.00) for each public celebration; ~~and~~

8 ~~F.]~~ F. small brewer's off-premises permit, two
9 hundred dollars (\$200) for each off-premises location;

10 G. craft distiller's license, seven hundred fifty
11 dollars (\$750); and

12 H. craft distiller's off-premises permit, two
13 hundred dollars (\$200) for each off-premises location."

14 SECTION 5. TEMPORARY PROVISION--APPLICATIONS FOR
15 LICENSE.--

16 A. If a person has submitted an application for a
17 manufacturer's license as a distiller to the director of the
18 alcohol and gaming division of the regulation and licensing
19 department and, on July 1, 2011, the application has not yet
20 been approved, the person may submit a request in writing to
21 the director no later than July 31, 2011 to convert the
22 application from a manufacturer's license as a distiller to an
23 application for a craft distiller's license in accordance with
24 procedures adopted by the director.

25 B. If, within one hundred twenty days prior to or

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1 subsequent to July 1, 2011, a person obtains approval for a
 2 manufacturer's license as a distiller, the person may submit a
 3 request in writing to the director of the alcohol and gaming
 4 division of the regulation and licensing department to convert
 5 the manufacturer's license as a distiller to a craft
 6 distiller's license pursuant to procedures adopted by the
 7 director and upon payment of licensing fees as provided in
 8 Section 60-6A-27 NMSA 1978. There shall be no refunds of
 9 application or licensing fees unless otherwise provided by law.

10 SECTION 6. EFFECTIVE DATE.--The effective date of the
 11 provisions of this act is July 1, 2011.

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