

SENATE BILL 204

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

John Arthur Smith

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR WINE AND BEER SALES AT PRIVATE CELEBRATIONS; DEFINING "PRIVATE CELEBRATIONS"; ALLOWING WINEGROWER SCORC→**AND SMALL BREWER**←SCORC SUNDAY SALES TO BEGIN AT 11:00 A.M.

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

SECTION 1. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended by Laws 2015, Chapter 102, Section 4 and by Laws 2015, Chapter 105, Section 1 and also by Laws 2015, Chapter 124, Section 1) is amended to read:

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"60-6A-11. WINEGROWER'S LICENSE.--

A. A person in this state who produces wine is exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license. Except during periods of shortage or reduced availability, at least fifty percent of a winegrower's overall annual production of wine shall be produced from grapes or other agricultural products grown in this state pursuant to rules adopted by the director; provided, however, that, for purposes of determining annual production and compliance with the fifty percent New Mexico grown provision of this subsection, the calculation of a winegrower's overall annual production of wine shall not include the winegrower's production of wine for out-of-state wine producer license holders.

B. A person issued a winegrower's license pursuant to this section may do any of the following:

(1) manufacture or produce wine, including blending, mixing, flavoring, coloring, bottling and labeling, whether the wine is manufactured or produced for a winegrower or an out-of-state wine producer holding a permit issued pursuant to the Federal Alcohol Administration Act and a valid license in a state that authorizes the wine producer to manufacture, produce, store or sell wine;

(2) store, transport, import or export wines;

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(3) sell wines to a holder of a New Mexico winegrower's, wine wholesaler's, wholesaler's or wine exporter's license or to a winegrower's agent;

(4) transport not more than two hundred cases of wine in a calendar year to another location within New Mexico by common carrier;

(5) deal in warehouse receipts for wine;

(6) sell wines in other states or foreign jurisdictions to the holders of a license issued under the authority of that state or foreign jurisdiction authorizing the purchase of wine;

(7) buy wine or distilled wine products from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, mixing or bottling of wines;

(8) buy or otherwise obtain beer from a small brewer for the purposes described in this subsection;

(9) conduct wine tastings and sell, by the glass or by the bottle, or sell in unbroken packages for consumption off the premises, but not for resale, wine of the winegrower's own production, wine produced by another New Mexico winegrower on the winegrower's premises or beer produced and bottled by or for a small brewer pursuant to Section ~~[60-2A-26.1]~~ 60-6A-26.1 NMSA 1978;

(10) at no more than three off-premises

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locations, conduct wine tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale, wine of the winegrower's own production, wine produced by another New Mexico winegrower or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and the department rules for new liquor license locations;

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

(12) at public celebrations on or off the winegrower's premises, after the winegrower has paid the applicable fees and been issued the appropriate permit, to conduct wine tastings, sell by the glass or the bottle, or sell in unbroken packages, for consumption off premises, but not for resale, wine produced by or for the winegrower;

(13) at private celebrations on or off the winegrower's premises after the winegrower has paid the applicable fees and been issued the appropriate permit, sell:

(a) by the glass Sfl→, or←Sfl bottle Sfl→~~or in unbroken packages for consumption off the licensed premises, but not for resale~~←Sfl, wine produced by or for the winegrower; or

(b) by the glass Sfl→~~or in unbroken packages for consumption off the licensed premises, but not for~~

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~~resale~~ ← Sfl, beer produced by a small brewer pursuant to Section
60-6A-26.1 NMSA 1978;

[~~(13)~~] (14) sell wine or cider in a growler
for consumption off premises; and

[~~(14)~~] (15) in accordance with the provisions
of this section that relate to the sale of wine, accept and
fulfill an order for wine that is placed via an internet [~~web~~
~~site~~] website, whether the financial transaction related to the
order is administered by the licensee or the licensee's agent.

C. Sales of wine or beer as provided for in this
section shall be permitted between the hours of 7:00 a.m. and
midnight Monday through Saturday, and the holder of a
winegrower's license or public celebration permit may conduct
wine tastings and sell, by the glass or bottle, or sell in
unbroken packages for consumption off premises, but not for
resale, wine of the winegrower's own production or beer
produced and bottled by or for a small brewer pursuant to
Section 60-6A-26.1 NMSA 1978 on the winegrower's premises
between the hours of [~~12:00 noon~~] 11:00 a.m. and midnight on
Sunday.

D. At public and private celebrations on or off the
winegrower's premises in any local option district permitting
the sale of alcoholic beverages, the holder of a winegrower's
license shall pay ten dollars (\$10.00) to the alcohol and
gaming division of the regulation and licensing department for

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a "winegrower's public celebration permit" or a "winegrower's private celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other winegrowers and small brewers. [~~As used in this subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.~~]

E. Every application for the issuance or annual renewal of a winegrower's license shall be on a form prescribed by the director and accompanied by a license fee to be computed as follows on the basis of total annual wine produced or blended:

(1) less than five thousand gallons per year, twenty-five dollars (\$25.00) per year;

(2) between five thousand and one hundred thousand gallons per year, one hundred dollars (\$100) per year; and

(3) over one hundred thousand gallons per year, two hundred fifty dollars (\$250) per year.

F. As used in this section:

(1) "private celebration" means any

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celebratory activity that is held in a private or public venue not open to the general public and for which attendance is subject to private invitation; and

(2) "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis."

SECTION 2. Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended by Laws 2015, Chapter 102, Section 5 and by Laws 2015, Chapter 124, Section 2) is amended to read:

"60-6A-26.1. SMALL BREWER'S LICENSE.--

A. In a local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a small brewer's license.

B. A small brewer's license authorizes the person to whom it is issued to:

- (1) manufacture or produce beer;
- (2) package, label and export beer, whether manufactured, bottled or produced by the licensee or any other person;
- (3) sell only beer that is packaged by or for the licensee to a person holding a wholesaler's license or a

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small brewer's license;

(4) deal in warehouse receipts for beer;

(5) conduct beer tastings and sell for consumption on or off premises, but not for resale, beer produced and bottled by, or produced and packaged for, the licensee, beer produced and bottled by or for another New Mexico small brewer on the small brewer's premises or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

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

(7) at public celebrations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's public celebration permit, conduct tastings and sell by the glass or in unbroken packages, but not for resale, beer produced and bottled by or for the small brewer or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

(8) at private celebrations on or off the small brewer's premises after the small brewer has paid the applicable fees for a private celebration permit, sell by the glass Sfl→~~or in unbroken packages for consumption off the licensed premises, but not for resale~~←Sfl, beer produced and bottled by or for the small brewer or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

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~~[(8)]~~ (9) buy or otherwise obtain wine from a winegrower;

~~[(9)]~~ (10) for the purposes described in this subsection, at no more than three other locations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a small brewer's off-premises permit for each off-premises location, conduct beer tastings and sell by the glass or in unbroken packages for consumption off the small brewer's off-premises location, but not for resale, beer produced and bottled by or for the small brewer, beer produced and bottled by or for another New Mexico small brewer or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

~~[(10)]~~ (11) allow members of the public, on the licensed premises and under the direct supervision of the licensee, to manufacture beer for personal consumption and not for resale using the licensee's equipment and ingredients; and

~~[(11)]~~ (12) sell beer in a growler for consumption off premises.

C. At public and private celebrations on or off the small brewer's premises in a local option district permitting the sale of alcoholic beverages, the holder of a small brewer's

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license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "small brewer's public celebration permit" or a "small brewer's private celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a small brewer's license a public celebration permit for a location at the public celebration that is to be shared with other small brewers and winegrowers. [~~As used in this subsection, "public celebration" includes a state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.~~]

D. Sales and tastings of beer or wine authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of SCORC→noon 11:00 a.m.←SCORC and midnight on Sunday and shall conform to the limitations regarding Christmas HBIC→day←HBIC HBIC→and voting-day←HBIC sales found in Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday.

E. As used in this section:

(1) "private celebration" means any celebratory activity that is held in a private or public venue not open to the general public and for which attendance is

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subject to private invitation; and

(2) "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis."

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