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HOUSE BILL 625

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JOE NESTOR CHAVEZ

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING THE LIQUOR CONTROL ACT TO CHANGE THE PENALTIES FOR SELLING OR GIVING ALCOHOLIC BEVERAGES TO MINORS AND FOR POSSESSION OF ALCOHOL BY A MINOR.

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) is amended to read:

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

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

- (1) sell, serve or give any alcoholic beverages

Underscored material = new
[bracketed material] = delete

1 to a minor or permit a minor to consume alcoholic beverages on
2 the licensed premises;

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

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

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

8 B. It is a violation of the Liquor Control Act for
9 any minor to buy, attempt to buy, receive, possess or permit
10 himself to be served with any alcoholic beverages.

11 C. In the event any person except a minor procures
12 any other person to sell, serve or deliver any alcoholic
13 beverages to a minor by actual or constructive misrepresentation
14 of any facts calculated to cause, or by a concealment of any
15 facts the concealment of which is calculated to cause, the
16 person selling, serving or delivering the alcoholic beverages to
17 the minor to believe that such minor is legally entitled to be
18 sold, served or delivered alcoholic beverages and actually
19 deceiving him by such misrepresentation or concealment, then
20 that person and not the person so deceived by such
21 misrepresentation or concealment shall have violated the Liquor
22 Control Act.

23 D. As used in the Liquor Control Act, "minor" means
24 any person under twenty-one years of age.

25 ~~[E. Violation of this section by a minor with~~

1 ~~respect to possession is a petty misdemeanor. Upon conviction,~~
2 ~~the offender may be sentenced in accordance with Section 31-19-1~~
3 ~~NMSA 1978. Any sentence imposed pursuant to this subsection may~~
4 ~~be suspended in the discretion of the court upon the condition~~
5 ~~that:~~

6 ~~(1) the minor accepts the suspension of his~~
7 ~~driver's license for a period not to exceed three months,~~
8 ~~whereupon the trial court may dismiss the possession of~~
9 ~~alcoholic beverage charge and it shall not be considered a~~
10 ~~conviction. In the event the minor's driver's license is to be~~
11 ~~suspended, the trial court shall inform the motor vehicle~~
12 ~~division of the taxation and revenue department of the action;~~
13 ~~provided, however, if the minor drives during the period of~~
14 ~~suspension, then the court may impose a fine, jail sentence or~~
15 ~~both, such fine and sentence not to exceed the maximums imposed~~
16 ~~for petty misdemeanors or may impose punishment pursuant to~~
17 ~~Paragraph (2) of this subsection; and~~

18 ~~(2) the minor assist in a community project~~
19 ~~designated by the court, up to fifty hours, whereupon the trial~~
20 ~~court may dismiss the possession of alcoholic beverage charge~~
21 ~~and it shall not be considered a conviction.]~~

22 E. A violation of Subsection A of this section is a
23 misdemeanor, and shall, in addition to the penalties available
24 under Section 60-6C-1 NMSA 1978, be punishable as follows:

25 (1) for the first violation, by a fine of not

1 less than two hundred fifty dollars (\$250) and not more than
2 seven hundred fifty dollars (\$750) and by thirty hours of
3 community service, designated by the court, related to reducing
4 the incidence of driving under the influence of intoxicating
5 liquor;

6 (2) for the second violation, by a fine of not
7 less than five hundred dollars (\$500) and not more than one
8 thousand dollars (\$1,000) and by forty hours of community
9 service, designated by the court, related to reducing the
10 incidence of driving under the influence of intoxicating liquor;
11 and

12 (3) for each subsequent violation, by a fine of
13 not less than one thousand dollars (\$1,000) and not more than
14 two thousand dollars (\$2,000) and by sixty hours of community
15 service, designated by the court, related to reducing the
16 incidence of driving under the influence of intoxicating liquor.

17 F. A violation of Subsection B of this section is a
18 misdemeanor and shall be punishable as follows:

19 (1) for the first violation, by a fine of not
20 less than two hundred fifty dollars (\$250) and not more than
21 seven hundred fifty dollars (\$750) and by thirty hours of
22 community service, designated by the court, related to reducing
23 the incidence of driving under the influence of intoxicating
24 liquor;

25 (2) for the second violation, by a fine of not

1 less than five hundred dollars (\$500) and not more than one
2 thousand dollars (\$1,000), by forty hours of community service,
3 designated by the court, related to reducing the incidence of
4 driving under the influence of intoxicating liquor and by:

5 (a) suspension of the minor's driver's
6 license for a period of ninety days; or

7 (b) if the minor is too young to possess
8 a driver's license, by adding ninety days to the date on which
9 the minor becomes eligible to obtain a driver's license; and

10 (3) for each subsequent offense, by a fine of
11 not less than seven hundred fifty dollars (\$750) and not more
12 than one thousand five hundred dollars (\$1,500), by fifty hours
13 of community service, designated by the court, related to
14 reducing the incidence of driving under the influence of
15 intoxicating liquor and by suspension of the minor's driver's
16 license for a period of two years or until the minor reaches the
17 age of twenty-one, whichever is greater.

18 G. A violation of Subsection C of this section is a
19 misdemeanor and shall be punishable as follows:

20 (1) for the first violation, by a fine of not
21 less than two hundred fifty dollars (\$250) and not more than
22 seven hundred fifty dollars (\$750) and by thirty hours of
23 community service, designated by the court, related to reducing
24 the incidence of driving under the influence of intoxicating
25 liquor;

1 (2) for the second violation, by a fine of not
2 less than five hundred dollars (\$500) and not more than one
3 thousand dollars (\$1,000) and by sixty hours of community
4 service, designated by the court, related to reducing the
5 incidence of driving under the influence of intoxicating liquor:
6 and

7 (3) for each subsequent offense, by a fine of
8 not less than one thousand dollars (\$1,000) and not more than
9 two thousand dollars (\$2,000), by one hundred hours of community
10 service, designated by the court, related to reducing the
11 incidence of driving under the influence of intoxicating liquor
12 and by imprisonment in the county jail for a definite period of
13 not less than two and not more than five days."

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State of New Mexico
House of Representatives

1
2
3 FORTY-THIRD LEGISLATURE
4
5 FIRST SESSION, 1997
6
7

8 February 20, 1997
9

10
11 Mr. Speaker:
12

13 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to
14 whom has been referred

15 HOUSE BILL 625
16

17 has had it under consideration and reports same with
18 recommendation that it DO PASS, amended as follows:
19

20 1. On page 2, line 10, after "beverages" insert "or to enter
21 any licensed premise with the intent to commit the foregoing
22 acts".

23 2. On page 4, line 6, after "by" insert "a sixty-day
24 suspension of the New Mexico alcohol and gaming division server
25 certificate,".

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FORTY-THIRD LEGISLATURE
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HCPAC/HB 625

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3. On page 4, line 12, after "by" insert "a one-year suspension of the New Mexico alcohol and gaming division server certificate,".,
and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Gary King, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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[bracketed material] = delete

FORTY-THIRD LEGISLATURE
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The roll call vote was 7 For 0 Against

Yes: 7

Excused: Heaton, Rios, Trujillo

Absent: None

M \H0625

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[bracketed material] = delete

**State of New Mexico
House of Representatives**

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 12, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 625, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Thomas P. Foy, Chairman

Underscored material = new
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FORTY-THIRD LEGISLATURE
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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Pederson, Rios, Sanchez, Stewart

Absent: None

M \H0625

1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997

HB 625/a

3
4 March 20, 1997

5
6 Mr. President:

7
8 Your JUDICIARY COMMITTEE, to whom has been referred

9 HOUSE BILL 625, as amended

10
11 has had it under consideration and reports same with
12 recommendation that it DO PASS, amended as follows:

13
14 1. Strike House Consumer and Public Affairs Committee
15 Amendment 1.

16
17 2. On page 1, line 23, after the comma insert "except the
18 parent or guardian or adult spouse of any minor, or adult person
19 into whose custody any court has committed the minor for the
20 time,".

21 3. On page 2, line 10, after "beverages" insert "or to enter
22 any licensed premise with the intent to commit the foregoing acts,
23 unless the minor is in the actual, visible, personal presence of
24 the minor's parent, guardian or adult spouse or the adult person
25 into whose custody any court has committed the minor for the
time".

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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Respectfully submitted,

Fernando R. Macias, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 1 Against

Yes: 6

No: Sanchez

Excused: Tsosie

Absent: None

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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