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SENATE BILL 1062

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

INTRODUCED BY

MANNY M ARAGON

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING THE DEFINITION OF
DISPENSER; PROVIDING FOR NONCOMMERCIAL BREWING FACILITIES;
AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 60-3A-3 NMSA 1978 (being Laws 1981,
Chapter 39, Section 3, as amended) is amended to read:

"60-3A-3. DEFINITIONS. --As used in the Liquor Control Act:

A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, brandy, whiskey, rum, gin
and aromatic bitters bearing the federal internal revenue strip
stamps or any similar alcoholic beverage, including blended or
fermented beverages, dilutions or mixtures of one or more of the
foregoing containing more than one-half of one percent alcohol,
but excluding medicinal bitters;

Underscored material = new
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1 B. "beer" means any alcoholic beverage obtained by
2 the fermentation of any infusion or decoction of barley, malt
3 and hops or other cereals in water, and includes porter, beer,
4 ale and stout;

5 C. "brewer" means any person who owns or operates a
6 business for the manufacture of beer;

7 D. "club" means:

8 (1) any nonprofit group, including an auxiliary
9 or subsidiary group, organized and operated under the laws of
10 this state with a membership of not less than fifty members who
11 pay membership dues at the rate of not less than five dollars
12 (\$5.00) per year and who, under the constitution and bylaws of
13 the club, have all voting rights and full membership privileges
14 and which group is the owner, lessee or occupant of premises
15 used exclusively for club purposes and which group the director
16 finds:

17 (a) is operated solely for recreation,
18 social, patriotic, political, benevolent or athletic purposes;
19 and

20 (b) the proposed licensee has been
21 granted an exemption by the United States from the payment of
22 the federal income tax as a club under the provisions of Section
23 501(a) of the Internal Revenue Code of 1954, as amended or, if
24 the applicant has not operated as a club for a sufficient time
25 to be eligible for the income tax exemption, it must execute and

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1 file with the director a sworn letter of intent declaring that
2 it will, in good faith, apply for such exemption as soon as it
3 is eligible; or

4 (2) an airline passenger membership club
5 operated by an air common carrier ~~[which]~~ that maintains or
6 operates a clubroom at an international airport terminal. For
7 the purposes of this paragraph, "air common carrier" means a
8 person engaged in regularly scheduled air transportation between
9 fixed termini under a certificate of public convenience and
10 necessity issued by the civil aeronautics board;

11 E. "commission" means the secretary of public safety
12 when the term is used in reference to the enforcement and
13 investigatory provisions of the Liquor Control Act and means the
14 superintendent of regulation and licensing when the term is used
15 in reference to the licensing provisions of the Liquor Control
16 Act;

17 F. "department" means the special investigations
18 division of the department of public safety ~~[department]~~ when
19 the term is used in reference to the enforcement and
20 investigatory provisions of the Liquor Control Act and means the
21 superintendent of regulation and licensing when the term is used
22 in reference to the licensing provisions of the Liquor Control
23 Act;

24 G. "director" means the director of the special
25 investigations division of the department of public safety

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1 [department] when the term is used in reference to the
2 enforcement and investigatory provisions of the Liquor Control
3 Act and means the superintendent of regulation and licensing
4 when the term is used in reference to the licensing provisions
5 of the Liquor Control Act;

6 H. "dispenser" means any person licensed under the
7 provisions of the Liquor Control Act selling, offering for sale
8 or having in his possession with the intent to sell alcoholic
9 beverages both by the drink for consumption on the licensed
10 premises and in unbroken packages for consumption [~~and not for~~
11 ~~resale~~] off the licensed premises;

12 I. "distiller" means any person engaged in
13 manufacturing spirituous liquors;

14 J. "governing body" means the board of county
15 commissioners of a county or the city council or city
16 commissioners of a municipality;

17 K. "hotel" means any establishment or complex having
18 a resident of New Mexico as a proprietor or manager and where,
19 in consideration of payment, meals and lodging are regularly
20 furnished to the general public. The establishment or complex
21 must maintain for the use of its guests a minimum of twenty-five
22 sleeping rooms;

23 L. "licensed premises" means the contiguous areas or
24 areas connected by indoor passageways of a structure and the
25 outside dining, recreation and lounge areas of the structure

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1 [which] that are under the direct control of the licensee and
2 from which the licensee is authorized to sell, serve or allow
3 the consumption of alcoholic beverages under the provisions of
4 its license; provided that in the case of a restaurant, hotel or
5 racetrack, "licensed premises" includes all public and private
6 rooms, facilities and areas in which alcoholic beverages are
7 sold or served in the customary operating procedures of the
8 restaurant, hotel or racetrack;

9 M "local option district" means any county [which]
10 that has voted to approve the sale, serving or public
11 consumption of alcoholic beverages, or any incorporated
12 municipality [which] that falls within a county [which] that has
13 voted to approve the sale, serving or public consumption of
14 alcoholic beverages, or any incorporated municipality of over
15 five thousand population [which] that has independently voted to
16 approve the sale, serving or public consumption of alcoholic
17 beverages under the terms of the Liquor Control Act or any
18 former act;

19 N. "manufacturer" means a distiller, rectifier,
20 brewer or winer;

21 O. "minor" means any person under twenty-one years
22 of age;

23 P. "package" means any immediate container of
24 alcoholic beverages [which] that is filled or packed by a
25 manufacturer or wine bottler for sale by the manufacturer or

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1 wine bottler to wholesalers;

2 Q. "person" means an individual, corporation, firm,
3 partnership, copartnership, association or other legal entity;

4 R. "rectifier" means any person who blends, mixes or
5 distills alcohol with other liquids or substances for the
6 purpose of making an alcoholic beverage for the purpose of sale
7 other than to the consumer by the drink, and includes all
8 bottlers of spirituous liquors;

9 S. "restaurant" means any establishment having a New
10 Mexico resident as a proprietor or manager ~~[which]~~ that is held
11 out to the public as a place where meals are prepared and served
12 primarily for on-premises consumption to the general public in
13 consideration of payment and ~~[which]~~ that has a dining room, a
14 kitchen and the employees necessary for preparing, cooking and
15 serving meals; provided that "restaurant" does not include
16 establishments as defined in regulations promulgated by the
17 director serving only hamburgers, sandwiches, salads and other
18 fast foods;

19 T. "retailer" means any person licensed under the
20 provisions of the Liquor Control Act selling, offering for sale
21 or having in his possession with the intent to sell any
22 alcoholic beverages in unbroken packages for consumption and not
23 for resale off the licensed premises;

24 U. "spirituous liquors" means alcoholic beverages as
25 defined in Subsection A of this section except fermented

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1 beverages such as wine, beer and ale;

2 V. "wholesaler" means any person whose place of
3 business is located in New Mexico and who sells, offers for sale
4 or possesses for the purpose of sale any alcoholic beverages for
5 resale by the purchaser;

6 W. "wine" includes the words "fruit juices" and
7 means alcoholic beverages obtained by the fermentation of the
8 natural sugar contained in fruit or other agricultural products,
9 with or without the addition of sugar or other products, ~~which~~
10 that do not contain less than one-half of one percent nor more
11 than twenty-one percent alcohol by volume;

12 X. "wine bottler" means any New Mexico wholesaler
13 who is licensed to sell wine at wholesale for resale only and
14 who buys wine in bulk and bottles it for wholesale resale; and

15 Y. "winer" means any person who owns or operates a
16 business for the manufacture of wine. "

17 Section 2. Section 60-6A-26.1 NMSA 1978 (being Laws 1985,
18 Chapter 217, Section 5, as amended) is amended to read:

19 "60-6A-26.1. SMALL BREWER'S LICENSE. --

20 A. In any local option district, a person qualified
21 under the provisions of the Liquor Control Act, except as
22 otherwise provided in the Domestic Winery and Small Brewery Act,
23 may apply for and be issued a small brewer's license.

24 B. A small brewer's license authorizes the person to
25 whom it is issued to do any of the following:

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1 (1) become a manufacturer or producer of beer;

2 (2) [~~to~~] package, label and export beer,
3 whether manufactured, bottled or produced by him or any other
4 person;

5 (3) [~~to~~] sell only such beer as is packaged by
6 or for him to a person holding a wholesaler's license or a small
7 brewer's license;

8 (4) [~~to~~] deal in warehouse receipts for beer;

9 (5) [~~to~~] conduct beer tastings and sell for
10 consumption on or off premises, but not for resale, beer
11 produced and bottled by, or produced and packaged for, such
12 licensee on the small brewer's premises; [~~and~~]

13 (6) allow members of the public, on the
14 licensed premises and under the direct supervision of the
15 licensee, to manufacture beer for personal consumption and not
16 for resale, using the licensee's equipment and ingredients;

17 (7) conduct beer tastings of beer produced by
18 members of the public on the licensee's premises pursuant to the
19 provisions of this subsection; and

20 [~~(6) to~~] (8) be deemed a manufacturer for
21 purposes of the Gross Receipts and Compensating Tax Act. "

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FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

SB 1062/a

March 14, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

SENATE BILL 1062

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

1. On page 1, line 12, after the first semicolon insert "DEFINING RESALE DISPENSER;".
2. On page 1, line 13, after "AMENDING" insert "AND ENACTING".
3. On page 6, between lines 8 and 9, insert the following new subsection:

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

SPAC/SB 1062

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"S. "resale dispenser" means a retailer licensed pursuant to the provisions of the Liquor Control Act who purchases alcoholic beverages from a licensed wholesaler for resale to another retailer;".

4. Reletter the succeeding subsections accordingly.

5. On page 8, between lines 21 and 22, insert the following new section:

"Section 3. A new section of the Liquor Control Act is enacted to read:

"[NEW MATERIAL] RESALE DISPENSER-- PERMITS-- CERTAIN SALES PROHIBITED. --

A. A resale dispenser shall apply for and display on the licensed retail premises a resale permit approved by the department. The resale dispenser shall not solicit sales of alcoholic beverages from other retailers. A resale dispenser shall purchase alcoholic beverages only from a licensed wholesaler.

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

SPAC/SB 1062

Page 11

B. A resale dispenser shall not resell more than five hundred dollars (\$500) worth of alcoholic beverages per year per retailer.

C. A retailer shall not purchase alcoholic beverages from a resale dispenser to avoid the credit extension prohibition provided in Section 60-7A-9 NMSA 1978. "

Section 4. EFFECTIVE DATE. --The effective date of the provisions of this act is January 1, 1998. "

Respectfully submitted,

Shannon Robinson, Chairman

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

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

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Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Garcia, Ingle, Rodarte, Smith

Absent: None

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State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 21, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
been referred

SENATE BILL 1062, as amended

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

Respectfully submitted,

Fred Luna, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HBI C/SB 1062, aa

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

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Alwin, Corley, Gubbels, Olguin, J. G. Taylor

Absent: Getty

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