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HOUSE BILL 465

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Raymond G. Sanchez

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; CLARIFYING THE AREA OF
LICENSED PREMISES ON A GOLF COURSE; AMENDING A SECTION OF THE
LIQUOR CONTROL ACT.

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

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1 percent alcohol, but excluding medicinal bitters;

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

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

8 D. "club" means:

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

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

21 (b) the proposed licensee has been
22 granted an exemption by the United States from the payment of
23 the federal income tax as a club under the provisions of
24 Section 501(a) of the Internal Revenue Code of 1986, as
25 amended or, if the applicant has not operated as a club for a

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1 sufficient time to be eligible for the income tax exemption,
2 it must execute and file with the director a sworn letter of
3 intent declaring that it will, in good faith, apply for such
4 exemption as soon as it is eligible; or

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

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

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

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1 G. "director" means the director of the special
2 investigations division of the department of public safety
3 when the term is used in reference to the enforcement and
4 investigatory provisions of the Liquor Control Act and means
5 the superintendent of regulation and licensing when the term
6 is used in reference to the licensing provisions of the Liquor
7 Control Act;

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

14 I. "distiller" means any person engaged in
15 manufacturing spirituous liquors;

16 J. "golf course" means a tract of land and
17 facilities used for playing golf and other recreational
18 activities that includes tees, fairways, greens, hazards,
19 putting greens, driving ranges, recreational facilities,
20 patios, pro shops, cart paths and public and private roads
21 that are located within the tract of land;

22 ~~[J.]~~ K. "governing body" means the board of county
23 commissioners of a county or the city council or city
24 commissioners of a municipality;

25 ~~[K.]~~ L. "hotel" means any establishment or complex

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1 having a resident of New Mexico as a proprietor or manager and
2 where, in consideration of payment, meals and lodging are
3 regularly furnished to the general public. The establishment
4 or complex must maintain for the use of its guests a minimum
5 of twenty-five sleeping rooms;

6 [L-] M "licensed premises" means the contiguous
7 areas or areas connected by indoor passageways of a structure
8 and the outside dining, recreation and lounge areas of the
9 structure [~~which~~] that are under the direct control of the
10 licensee and from which the licensee is authorized to sell,
11 serve or allow the consumption of alcoholic beverages under
12 the provisions of its license; provided that in the case of a
13 restaurant, hotel, golf course or racetrack, "licensed
14 premises" includes all public and private rooms, facilities
15 and areas in which alcoholic beverages are sold or served in
16 the customary operating procedures of the restaurant, hotel,
17 golf course or racetrack;

18 [M-] N. "local option district" means any county
19 which has voted to approve the sale, serving or public
20 consumption of alcoholic beverages, or any incorporated
21 municipality which falls within a county which has voted to
22 approve the sale, serving or public consumption of alcoholic
23 beverages, or any incorporated municipality of over five
24 thousand population which has independently voted to approve
25 the sale, serving or public consumption of alcoholic beverages

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1 under the terms of the Liquor Control Act or any former act;

2 [N-] O. "manufacturer" means a distiller,
3 rectifier, brewer or winer;

4 [O-] P. "minor" means any person under twenty-one
5 years of age;

6 [P-] Q. "package" means any immediate container of
7 alcoholic beverages which is filled or packed by a
8 manufacturer or wine bottler for sale by the manufacturer or
9 wine bottler to wholesalers;

10 [Q-] R. "person" means an individual, corporation,
11 firm, partnership, copartnership, association or other legal
12 entity;

13 [R-] S. "rectifier" means any person who blends,
14 mixes or distills alcohol with other liquids or substances for
15 the purpose of making an alcoholic beverage for the purpose of
16 sale other than to the consumer by the drink, and includes all
17 bottlers of spirituous liquors;

18 [S-] T. "restaurant" means any establishment
19 having a New Mexico resident as a proprietor or manager which
20 is held out to the public as a place where meals are prepared
21 and served primarily for on-premises consumption to the
22 general public in consideration of payment and which has a
23 dining room, a kitchen and the employees necessary for
24 preparing, cooking and serving meals; provided that
25 "restaurant" does not include establishments as defined in

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1 regulations promulgated by the director serving only
2 hamburgers, sandwiches, salads and other fast foods;

3 ~~[T.]~~ U. "retailer" means any person licensed under
4 the provisions of the Liquor Control Act selling, offering for
5 sale or having in his possession with the intent to sell any
6 alcoholic beverages in unbroken packages for consumption and
7 not for resale off the licensed premises;

8 ~~[U.]~~ V. "spirituous liquors" means alcoholic
9 beverages as defined in Subsection A of this section except
10 fermented beverages such as wine, beer and ale;

11 ~~[V.]~~ W. "wholesaler" means any person whose place
12 of business is located in New Mexico and who sells, offers for
13 sale or possesses for the purpose of sale any alcoholic
14 beverages for resale by the purchaser;

15 ~~[W.]~~ X. "wine" includes the words "fruit juices"
16 and means alcoholic beverages obtained by the fermentation of
17 the natural sugar contained in fruit or other agricultural
18 products, with or without the addition of sugar or other
19 products, which do not contain less than one-half of one
20 percent nor more than twenty-one percent alcohol by volume;

21 ~~[X.]~~ Y. "wine bottler" means any New Mexico
22 wholesaler who is licensed to sell wine at wholesale for
23 resale only and who buys wine in bulk and bottles it for
24 wholesale resale;

25 ~~[Y.]~~ Z. "winegrower" means any person who owns or

1 operates a business for the manufacture of wine; and

2 ~~[Z.]~~ AA. "winer" means a winegrower. "

3 Section 2. EFFECTIVE DATE. --The effective date of the
4 provisions of this act is July 1, 1999.

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 February 23, 1999

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8 Mr. Speaker:

9
10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILL 465

14
15 has had it under consideration and reports same with
16 recommendation that it DO NOT PASS, but that

17 HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE
18 FOR HOUSE BILL 465

19
20 DO PASS.

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HBIC/HB 465

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Respectfully submitted,

Debbie A. Rodella, Chairwoman

Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Chavez

Absent: Kissner, Mohorovic, Taylor, T.

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1 HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
2 HOUSE BILL 465
3 **44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

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8 AN ACT
9 RELATING TO ALCOHOLIC BEVERAGES; CLARIFYING THE AREA OF
10 LICENSED PREMISES ON A GOLF COURSE; AMENDING A SECTION OF THE
11 LIQUOR CONTROL ACT.

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20 and aromatic bitters bearing the federal internal revenue
21 strip stamps or any similar alcoholic beverage, including
22 blended or fermented beverages, dilutions or mixtures of one
23 or more of the foregoing containing more than one-half of one
percent alcohol, but excluding medicinal bitters;

24 B. "beer" means any alcoholic beverage obtained by
25 the fermentation of any infusion or decoction of barley, malt

1 and hops or other cereals in water, and includes porter, beer,
2 ale and stout;

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

5 D. "club" means:

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

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

18 (b) the proposed licensee has been
19 granted an exemption by the United States from the payment of
20 the federal income tax as a club under the provisions of
21 Section 501(a) of the Internal Revenue Code of 1986, as
22 amended or, if the applicant has not operated as a club for a
23 sufficient time to be eligible for the income tax exemption,
24 it must execute and file with the director a sworn letter of
25 intent declaring that it will, in good faith, apply for such
26 exemption as soon as it is eligible; or

27 (2) an airline passenger membership club
28 operated by an air common carrier which maintains or operates

1 a clubroom at an international airport terminal. For the
 2 purposes of this paragraph, "air common carrier" means a
 3 person engaged in regularly scheduled air transportation
 4 between fixed termini under a certificate of public
 5 convenience and necessity issued by the civil aeronautics
 6 board;

7 E. "commission" means the secretary of public
 8 safety when the term is used in reference to the enforcement
 9 and investigatory provisions of the Liquor Control Act and
 10 means the superintendent of regulation and licensing when the
 11 term is used in reference to the licensing provisions of the
 12 Liquor Control Act;

13 F. "department" means the special investigations
 14 division of the department of public safety when the term is
 15 used in reference to the enforcement and investigatory
 16 provisions of the Liquor Control Act and means the
 17 superintendent of regulation and licensing when the term is
 18 used in reference to the licensing provisions of the Liquor
 19 Control Act;

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 22 when the term is used in reference to the enforcement and
 23 investigatory provisions of the Liquor Control Act and means
 24 the superintendent of regulation and licensing when the term
 25 is used in reference to the licensing provisions of the Liquor
 Control Act;

H. "dispenser" means any person licensed under the
 provisions of the Liquor Control Act selling, offering for

1 sale or having in his possession with the intent to sell
2 alcoholic beverages both by the drink for consumption on the
3 licensed premises and in unbroken packages for consumption and
4 not for resale off the licensed premises;

5 I. "distiller" means any person engaged in
6 manufacturing spirituous liquors;

7 J. "golf course" means a tract of land and
8 facilities used for playing golf and other recreational
9 activities that includes tees, fairways, greens, hazards,
10 putting greens, driving ranges, recreational facilities,
11 patios, pro shops, cart paths and public and private roads
12 that are located within the tract of land;

13 [~~J.~~] K. "governing body" means the board of county
14 commissioners of a county or the city council or city
15 commissioners of a municipality;

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

22 [~~L.~~] M. "licensed premises" means the contiguous
23 areas or areas connected by indoor passageways of a structure
24 and the outside dining, recreation and lounge areas of the
25 structure [~~which~~] that are under the direct control of the
licensee and from which the licensee is authorized to sell,
serve or allow the consumption of alcoholic beverages under
the provisions of its license; provided that in the case of a

1 restaurant, hotel, golf course or racetrack, "licensed
 2 premises" includes all public and private rooms, facilities
 3 and areas in which alcoholic beverages are sold or served in
 4 the customary operating procedures of the restaurant, hotel,
golf course or racetrack;

5 [M-] N. "local option district" means any county
 6 which has voted to approve the sale, serving or public
 7 consumption of alcoholic beverages, or any incorporated
 8 municipality which falls within a county which has voted to
 9 approve the sale, serving or public consumption of alcoholic
 10 beverages, or any incorporated municipality of over five
 11 thousand population which has independently voted to approve
 12 the sale, serving or public consumption of alcoholic beverages
 under the terms of the Liquor Control Act or any former act;

13 [N-] O. "manufacturer" means a distiller,
 14 rectifier, brewer or winer;

15 [O-] P. "minor" means any person under twenty-one
 16 years of age;

17 [P-] Q. "package" means any immediate container of
 18 alcoholic beverages which is filled or packed by a
 19 manufacturer or wine bottler for sale by the manufacturer or
 wine bottler to wholesalers;

20 [Q-] R. "person" means an individual, corporation,
 21 firm, partnership, copartnership, association or other legal
 22 entity;

23 [R-] S. "rectifier" means any person who blends,
 24 mixes or distills alcohol with other liquids or substances for
 25 the purpose of making an alcoholic beverage for the purpose of

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1 sale other than to the consumer by the drink, and includes all
2 bottlers of spirituous liquors;

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

12 [F.] U. "retailer" means any person licensed under
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14 sale or having in his possession with the intent to sell any
15 alcoholic beverages in unbroken packages for consumption and
16 not for resale off the licensed premises;

16 [U.] V. "spirituous liquors" means alcoholic
17 beverages as defined in Subsection A of this section except
18 fermented beverages such as wine, beer and ale;

19 [V.] W. "wholesaler" means any person whose place
20 of business is located in New Mexico and who sells, offers for
21 sale or possesses for the purpose of sale any alcoholic
22 beverages for resale by the purchaser;

22 [W.] X. "wine" includes the words "fruit juices"
23 and means alcoholic beverages obtained by the fermentation of
24 the natural sugar contained in fruit or other agricultural
25 products, with or without the addition of sugar or other

1 products, which do not contain less than one-half of one
2 percent nor more than twenty-one percent alcohol by volume;

3 [X-] Y. "wine bottler" means any New Mexico
4 wholesaler who is licensed to sell wine at wholesale for
5 resale only and who buys wine in bulk and bottles it for
6 wholesale resale;

7 [Y-] Z. "winegrower" means any person who owns or
8 operates a business for the manufacture of wine; and

9 [Z-] AA. "winer" means a winegrower. "

10 Section 2. Section 60-6A-31 NMSA 1978 (being Laws 1993,
11 Chapter 68, Section 37) is amended to read:

12 "60-6A-31. STATE FAIR-- GOLF COURSES-- ALCOHOLIC BEVERAGE
13 SALES RESTRICTIONS. --Sales, service, delivery or consumption
14 of alcoholic beverages shall be permitted on the grounds of
15 the state fair and on the grounds of golf courses only on the
16 licensed premises in controlled access areas of the state fair
17 and golf courses, the designation of which has been negotiated
18 as part of the license application or renewal process. "

19 Section 3. EFFECTIVE DATE. --The effective date of the
20 provisions of this act is July 1, 1999.

underscoring material = new
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