

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; REVISING THE LIQUOR CONTROL ACT TO CREATE RETAIL RECIPROCITY BETWEEN SMALL BREWERS, WINEGROWERS AND CRAFT DISTILLERS; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2001 BY REPEALING LAWS 2001, CHAPTER 248, SECTION 2.

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

**SECTION 1.** Section 60-6A-6.1 NMSA 1978 (being Laws 2011, Chapter 110, Section 3) is amended to read:

"60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

A. In any 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 craft distiller's license subject to the following conditions:

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

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

(a) no less than sixty percent of the gross receipts from the sale of spirituous liquors for the

preceding twelve months of the licensee's operation being derived from the sale of spirituous liquors produced by the licensee;

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

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

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

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

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

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

(1) manufacture or produce spirituous

liquors, including aging, filtering, blending, mixing, flavoring, coloring, bottling and labeling;

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

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

(4) deal in warehouse receipts for spirituous liquors;

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

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

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

(8) conduct spirituous liquor tastings and sell, by the glass or by the bottle, or in unbroken packages for consumption off the premises but not for resale:

(a) spirituous liquors of the craft distiller's own production;

(b) spirituous liquors produced by

another New Mexico craft distiller or New Mexico manufacturer on the craft distiller's premises; and

(c) beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978; provided that no more than thirty percent of the craft distiller's gross receipts shall be from the sale of beer or wine pursuant to this subparagraph; and

(9) at no more than three other locations off the craft distiller's premises, after the craft distiller has paid the applicable fee for a craft distiller'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 craft distiller's off-premises permit for each off-premises location, conduct spirituous liquor tastings and sell by the glass, or in unbroken packages for consumption off premises and not for resale:

(a) spirituous liquors produced and bottled by or for the craft distiller;

(b) spirituous liquors produced and bottled by or for another New Mexico craft distiller or manufacturer;

(c) beer produced and bottled by or

for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978;  
and

(d) wine produced by a winegrower  
pursuant to Section 60-6A-11 NMSA 1978.

C. For a public celebration off the craft distiller's premises in any local option district permitting the sale of alcoholic beverages, a craft distiller shall pay ten dollars (\$10.00) to the department for a "craft distiller's public celebration permit" to be issued under rules adopted by the director. Upon request, the department may issue to a craft distiller a public celebration permit for a location at the public celebration that is to be shared with other craft distillers, small brewers and winegrowers. 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 other activity held on an intermittent basis.

D. Sales and tastings of spirituous liquors, beer and 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 noon and midnight on Sunday and shall conform to the limitations regarding Christmas day sales and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday as set forth in Section 60-7A-1 NMSA 1978."

**SECTION 2.** Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended) is amended to read:

"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;

(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 and spirituous liquors from a craft distiller 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:

(a) wine of the winegrower's own

production;

(b) wine produced by another New Mexico winegrower on the winegrower's premises; and

(c) beer produced and bottled by or for a small brewer pursuant to Section 60-2A-26.1 NMSA 1978 or spirituous liquors produced and packaged by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978; provided that no more than thirty percent of a winegrower's gross receipts shall be from the sale of beer or spiritous liquors pursuant to this subparagraph;

(10) at no more than three off-premises locations, conduct wine tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale:

(a) wine of the winegrower's own production;

(b) wine produced by another New Mexico winegrower;

(c) beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978; and

(d) spirituous liquors produced and packaged by or for a craft distiller pursuant to Section 60-6A-6.1 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; and

(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.

C. Sales of wine, beer and spirituous liquors 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 on the winegrower's premises, beer or spirituous liquors as provided in Paragraphs (9) and (10) of Subsection B of this section between the hours of 12:00 noon and midnight on Sunday.

D. At public celebrations 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 a "winegrower's public 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."

**SECTION 3.** Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended by Laws 2001,

Chapter 248, Section 2 and by Laws 2001, Chapter 260, Section 2) is amended to read:

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

A. In any local option district, a person qualified under 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) become a manufacturer or producer of 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 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:

(a) beer produced and bottled by, or produced and packaged for, the licensee;

(b) beer produced and bottled by or for another New Mexico small brewer on the small brewer's

premises; and

(c) wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978 or spirituous liquors produced and packaged by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978; provided that no more than thirty percent of a small brewer's gross receipts shall be from the sale of wine or spiritous liquors pursuant to this subparagraph;

(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;

(8) buy or otherwise obtain wine from a winegrower and spirituous liquor from a craft distiller;

(9) 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 premises, but not for resale:

(a) beer produced and bottled by or for the small brewer;

(b) beer produced and bottled by or for another New Mexico small brewer;

(c) wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978; and

(d) spirituous liquors produced and packaged by or for a craft distiller pursuant to Section 60-6A-6.1 NMSA 1978; and

(10) 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.

C. At public celebrations off the small brewer's premises in any local option district permitting the sale of alcoholic beverages, the holder of a small brewer's 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" 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 any 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, wine and spirituous liquors 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 noon and midnight on Sunday and shall conform to the limitations regarding Christmas and voting-day 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."

**SECTION 4.** REPEAL.--Laws 2001, Chapter 248, Section 2 is repealed.

**SECTION 5.** EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015. \_\_\_\_\_