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AN ACT
RELATING TO ALCOHOLIC BEVERAGES; AMENDING THE REQUIREMENTS
FOR AN ALCOHOLIC BEVERAGE DELIVERY PERMIT; MAKING THE
REQUIREMENTS GENERALLY APPLICABLE TO LICENSE HOLDERS;
PROHIBITING THE ACCEPTANCE OF ADVERTISING MONEY TO
PREFERENTIALLY LIST A PRODUCT.

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

SECTION 1. Section 60-6A-37 NMSA 1978 (being Laws 2021,
Chapter 7, Section 4) is amended to read:

"60-6A-37. ALCOHOLIC BEVERAGE DELIVERY PERMIT--THIRD-
PARTY DELIVERY LICENSE.--

A. A person otherwise qualified pursuant to the
provisions of the Liquor Control Act may apply for and the
department may issue an alcoholic beverage delivery permit
authorizing the person to deliver alcoholic beverages if:

(1) the applicant holds a valid retailer's,
dispenser's, craft distiller's, winegrower's, small brewer's
or restaurant license;

(2) the liquor liability endorsement
required pursuant to Paragraph (2) of Subsection H of this
section is in an amount of not less than five million dollars
(\$5,000,000); and

(3) the license holder agrees not to accept
advertising money to preferentially list a product in the

1 license holder's delivery ordering system; provided that this
2 paragraph shall not apply to internal promotions sponsored by
3 the license holder.

4 B. An alcoholic beverage delivery permit issued to
5 a valid restaurant licensee shall only convey the authority
6 to deliver alcoholic beverages concurrently with the delivery
7 of a minimum of ten dollars (\$10.00) worth of food; provided
8 that under no circumstances shall the delivery of alcoholic
9 beverages be more than seven hundred fifty milliliters of
10 wine, six twelve-ounce containers of prepackaged wine, beer,
11 cider or spirituous liquors or one locally produced growler.

12 C. An alcoholic beverage delivery permit is not
13 transferable from person to person or from one location to
14 another.

15 D. An alcoholic beverage delivery permit issued
16 pursuant to this section is valid for one year from the date
17 of issuance. An alcoholic beverage delivery permittee may
18 renew an alcoholic beverage delivery permit annually as
19 required by the department.

20 E. The director shall promulgate rules to
21 implement the provisions of this section, which shall include
22 the following requirements and restrictions:

23 (1) an alcoholic beverage delivery permittee
24 shall deliver alcoholic beverages only in unbroken packages
25 or growlers;

1 (2) payment for alcoholic beverages shall be
2 received only at the licensed premises of the selling
3 licensee personally or by other means, including
4 telephonically, electronically, via website, application or
5 internet platform;

6 (3) a licensee shall not change the price
7 charged for an alcoholic beverage because that beverage is
8 purchased for delivery; provided that a separate fee may be
9 charged for delivery; and further provided that the fee shall
10 be disclosed to the customer at the time of the purchase;

11 (4) deliveries of alcoholic beverages shall
12 occur only during the hours the selling licensee is
13 authorized to sell alcoholic beverages;

14 (5) an alcoholic beverage delivery permittee
15 shall not deliver an alcoholic beverage to a business, a
16 commercial establishment, a college or university campus or a
17 school campus that is not a home school;

18 (6) an alcoholic beverage delivery permittee
19 delivering alcoholic beverages shall use an identification
20 verification system that meets the department's requirements
21 to obtain valid proof of the recipient's identity and age;

22 (7) deliveries of alcoholic beverages shall
23 not be made to an intoxicated person in violation of Section
24 60-7A-16 NMSA 1978 or to a minor in violation of Section
25 60-7B-1 NMSA 1978;

1 (8) while delivering alcoholic beverages, an
2 alcoholic beverage delivery permittee shall have in the
3 permittee's possession only alcoholic beverages that have
4 been purchased for delivery; and

5 (9) while delivering alcoholic beverages, an
6 alcoholic beverage delivery permittee shall have in the
7 permittee's possession the original or an electronic or
8 physical copy of the permittee's alcoholic beverage delivery
9 permit.

10 F. A licensee that holds an alcoholic beverage
11 delivery permit issued pursuant to this section may utilize
12 an employee who is at least twenty-one years of age and who
13 holds a valid server permit to deliver alcoholic beverages.

14 G. A licensee that holds an alcoholic beverage
15 delivery permit issued pursuant to this section may contract
16 with a third-party alcohol delivery service licensed by the
17 department; provided that the licensee, the third-party
18 alcohol delivery service and the server who delivers alcohol
19 may be separately liable for violations of the Liquor Control
20 Act, including for the delivery of alcohol to an intoxicated
21 person or to a minor.

22 H. The department, by rule, shall create a third-
23 party alcohol delivery permit and, at a minimum, condition
24 the issuance of a third-party alcohol delivery permit on:

25 (1) requiring that all delivery employees or

1 independent contractors of the third-party alcohol delivery
2 service hold a valid New Mexico alcohol server permit; and

3 (2) requiring proof of general liability
4 insurance coverage with a liquor liability endorsement in an
5 amount not less than one million dollars (\$1,000,000) per
6 occurrence, which endorsement shall provide coverage for
7 employees or independent contractors of the third-party
8 alcohol delivery service.

9 I. A person, company or licensee that wishes to
10 deliver retail sales of alcohol in New Mexico on behalf of
11 valid retailer's, dispenser's, craft distiller's,
12 winegrower's, small brewer's or restaurant licensees that
13 also hold a valid alcoholic beverage delivery permit shall
14 obtain a third-party alcohol delivery license from the
15 department.

16 J. An applicant for a third-party alcohol delivery
17 license is required to be authorized to do business in this
18 state, may not share in the profits of the sale of alcohol
19 with a licensee and may only charge a delivery fee that is
20 disclosed to the buyer at the time of sale.

21 K. A third-party alcohol delivery licensee shall
22 not have the ability to buy, hold or deliver alcohol under
23 its own license but to only allow for delivery of alcohol
24 from a licensed premises and from a qualified licensee with a
25 valid alcoholic beverage delivery permit to the buyer.

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L. A third-party alcohol delivery licensee shall be independently liable for the delivery of alcoholic beverages to an intoxicated person or to a minor or for any violation of the Liquor Control Act and be subject to suspension, revocation or administrative fine pursuant to Sections 60-6C-1 through 60-6C-6 NMSA 1978.

M. A third-party alcohol delivery license shall be valid for one year and may be renewed." _____