The Legislature
of the
State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 124

SENATE BILL 440

Introduced by

SENATOR RICHARD C. MARTINEZ
AN ACT

RELATING TO ALCOHOLIC BEVERAGES; REVISING THE LIQUOR CONTROL
ACT TO CREATE RETAIL RECIPROCITY BETWEEN SMALL BREWERS AND
WINEGROWERS; 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-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."
E. 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 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, wine of the winegrower's own production, wine produced by another New Mexico winegrower on the winegrower's premises or beer produced and bottled by or for a small brewer pursuant to Section 60-2A-26.1 NMSA 1978;

(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, wine of the winegrower's own production, wine produced by another New Mexico winegrower or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 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 or beer 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 or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 on the winegrower's premises 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.

B. 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 2. 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."
E. 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, beer produced and bottled by, or produced and packaged for, the licensee, beer produced and bottled by or for another New Mexico small brewer on the small brewer's premises or wine produced by a winemaker pursuant to Section 60-6A-11 NMSA 1978;

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

(8) buy or otherwise obtain wine from a
winegrower;

(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
the small brewer's off-premises location, but not for resale,
beer produced and bottled by or for the small brewer, beer
produced and bottled by or for another New Mexico small
brewer or wine produced by a winegrower pursuant to
Section 60-6A-11 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 or 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 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 3. REPEAL.--Laws 2001, Chapter 248, Section 2
is repealed.

SECTION 4. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2015.
John A. Sanchez, President
Senate

Lenore M. Naranjo, Chief Clerk
Senate

Don L. Tripp, Speaker
House of Representatives

Denise Ramonas, Chief Clerk
House of Representatives

Approved by me this 9th day of April, 2015

Governor Susana Martinez
State of New Mexico