



New Mexico Regulation and Licensing Department
ALCOHOL AND GAMING DIVISION
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RENEWAL MEMORANDUM
2012-2013

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Steven A. Reinhart, Esq.
DIRECTOR

To: All License Holders

From: Steven A. Reinhart, Director

Date: April 23, 2012

Re: AGD – What's New for 2012-2013

A Message from the Director – Steven A. Reinhart, Esq.:

What an adventurous year it has been. Last year at this time, I was the owner / GM of a structural steel fabrication company, now I am the Sultan of Sin! I have a greater respect for Alice and the rabbit hole!

For those that don't know me, I am a native New Mexican (Eldorado HS – Albuquerque). I received my Bachelor of Arts in Public Relations and a Doctor of Jurisprudence (law degree) from Texas Tech University in Lubbock, Texas. I practiced law in Albuquerque for five years before starting New Mexico Metal Systems with my father in 1996. Prior to my appointment by Governor Martinez last September, I thought there was nothing to going into a store or bar and buying a six-pack or drink – boy was I wrong!

I have learned so much during the past seven months. Thanks goes out to all those who have been patient with me while I have attempted to learn the in's and out's of the Liquor Control Act! Every time I think I have it figured out, I get a question that blows my socks off!

I especially want to thank the staff at AGD – they have been very helpful in the transition. I look forward to serving the industry and the great people of New Mexico in this ever complex area of alcohol control!

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Boards and Commissions Division
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Financial Institutions Division
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Securities Division
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Administrative Services Division
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Legislative Recap – Session 2012:

Not much in the way of Liquor Bills this year – most of the legislation got caught in the 3rd Grade Retention cross fire and died a painful death on the House floor.

HB175 / SB111

These identical bills (HB175 sponsored by Representative Thomas Taylor and SB111 sponsored by Senator William Burt) were designed to amend the frequency of server training (from once every five years to once every three years) while decreasing the penalty for first time serving of alcohol to a minor, by a certified server, from a fourth degree felony to a misdemeanor. This bill was supported by the industry and AGD. Through the hard work of Rueben Baca and Allyson Smith, these bills made it through all the committees without a single “no” vote. Unfortunately, both bills were stalled on the floor and failed to get approved before the session ended. On two different occasions SB111 was within three bills of being heard when the calendars were changed. HB175 got out of the house and was prepared to be blasted out of the Senate Public Affairs Committee, but would not be placed on the floor by the Senate Majority Leader. These were good bills that ran out of time – we will try again next year.

HB200

A bill that changes the definition of licensed premises to include two separate buildings operated under a Rural Dispenser license located in the unincorporated areas of a county with a population of less than 30,000. The buildings must already be in existence and must be under the direct control of the license holder. This bill did get through the process and was signed by the Governor. This bill was sponsored by Representative Donna Irwin.

SB144

This bill would change the hours of serving alcohol beverages on Sundays from noon to 10:00 am. This bill was sponsored by Senator John Ryan. There was a floor amendment to change the time to 11:00 am and it passed out of the Senate the day before the session ended. It never made it to the House floor.

SB282

A bill to allow tastings to be conducted on someone else’s licensed premises sponsored by Senator Phil Griego. This bill would allow for wholesalers, winegrowers, small brewers, etc. to secure permits from AGD to allow them to pour at tastings located on licensed premise other than their own. The bill did not get out of the Senate.

SB302

A bill to allow the service of wine and/or beer to guests at a Bed and Breakfast, with a meal, was sponsored by Senator Phil Griego. This bill made it through the Senate. It was heard in the House Business and Industry Committee the night before the session ended. During that hearing, language was added to restrict the use of beer and wine to those produced in New Mexico. This restriction violates the Commerce Clause of the United States Constitution. Even though the bill was passed out of the House, it was vetoed by the Governor because it is unconstitutional on its face.

What Constitutes a Drink:

There have been some questions with regard to what constitutes a drink and whether a free drink is allowed under certain circumstances:

Drink Size:

Pursuant to the guidelines used in our server training classes the following constitutes one drink:

- 12 oz. of Beer
- 5 oz. of Table Wine
- 1-½ oz. of liquor (80 proof)

Under NMAC 15.10.51.11 C (4) it is impermissible to allow more than two unconsumed alcoholic beverage drinks at any one time. The question becomes, what constitutes a drink. Pursuant to the above guidelines, it is permissible for an individual to have 24 oz. of Beer, 10 oz. of Table Wine or 3 oz. of distilled spirits. These amounts can be broken down into different containers, i.e. a flight of beer that contains 5 ea. 4 oz. servings; or a flight of wine that includes 4 ea. 2 oz. servings; or a flight of Tequila that includes 4 ea. ½ oz. servings. All of these situations are allowable under the regulations.

Free Drinks:

Under NMAC 15.10.51.11 D (6) it is allowable to give a patron a free drink as a gesture of good will or friendship. There are limitations, you cannot advertise these free drinks or give them out on an interval basis (like every fifth drink is free) or based on the purchase by a customer. It is acceptable to give a free drink to a patron that has been waiting a long time or has had a problem with another drink. It is acceptable to give a (one) free drink to a patron per day "just because."

Large Premises Licenses / Satellite Displays:

A large license premises is considered to be any licensee whose alcohol sales constitute less than 60% of total sales and whose establishment consists of more than 20,000 square feet of merchandise display space.

Per regulation NMAC 15.10.52.8, a large license premises must segregate the alcohol display in a clearly designated area on the premises. This area must contain all the required signage that goes with the sale of alcohol (the four posters). Besides this clearly designated area, the licensee is allowed to display alcohol in two (2) satellite displays. In these areas, only one sign is required ("liquor department – no one under 21 unless accompanied by parent, legal guardian or adult spouse"). There is no requirement of any additional signage at these 2 satellite locations.

Pursuant to statute 60-6B-19, table wines with alcohol content of less than 14% are excluded from the 2 satellite locations restriction. There can be as many table wine displays as the store wants (we do ask that you use common sense in placing these displays, i.e., don't place a display in the cereal aisle or candy aisle). Further, these displays are not governed by the signage requirement; therefore, these displays do not need to have any signage.

Concealed Carry and Liquor Establishments – The Truth:

Pursuant to amendments to Section 30-7-3 NMSA 1978 (Unlawful Carrying of a Firearm in Licensed Liquor Establishments), a person who is carrying a concealed handgun and who is in possession of a valid concealed handgun license for that gun, pursuant to the Concealed Handgun Carry Act (19-19-1 NMSA 1978), is no longer prohibited from carrying that handgun into a liquor licensed establishment that dispenses alcoholic beverages for off-premises consumption, such as a package liquor stores, grocery stores, convenience stores. Further, it is not prohibitive to carry a concealed handgun in a restaurant licensed to only sell beer and wine.

Off-premise licensees or restaurant license holders are no longer required to post the “No Firearms Allowed on Premises” signage. However, licensees who wish to prohibit firearms on their premises are allowed to post signs “No Firearms Allowed”, these signs are not covered under the Liquor Control Act.

Carrying of any firearm is NOT allowed into liquor establishments where on-premises consumption is taking place. These establishments include bars, restaurants with dispenser’s licenses, nightclubs, lounges, etc. On-premises license holders are required to display the “No Firearms Allowed on Premises” sign as provided by AGD.

Sample Pouring’s and Tasting’s:

The law is clear – only employees of a licensed premise are allowed to pour and served alcoholic beverages. See NMAC 15.10.70.8(A), “No person other than the approved operator or employees of the approved operator shall sell or serve alcoholic beverages at the licensed premises.” An employee of any manufacture or producer of alcoholic beverages cannot pour on another licensee’s premises. They can be present to teach or answer questions; however, the one doing the pouring must be an employee of the licensee at whose premise the tasting is taking place. Further, all those that pour must be alcohol server certified as defined by the New Mexico Liquor Control Act.

It is also important to know the type of license one holds. A retailer license holder may not have tasting’s on their premises because a retail license does not allow for on-site consumption of alcoholic beverages.