New Mexico Regulation and Licensing Department
ALCOHOL AND GAMING DIVISION
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Susana Martinez
GOVERNOR

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SUPERINTENDENT

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DIRECTOR

March 2, 2011

Liquor License Holders

RE: Bottle Service

It has recently come to the attention of the Division that some licensees operating nightclubs, bars or lounges are allowing "Bottle Service" in which they rent out a room, table, or couch area that includes a bottle of distilled spirits with various mixers for a fixed price. This practice is not permitted under New Mexico law. AGD wishes to provide you with some guidance in this regard in order to ensure that license holders remain in compliance with the Liquor Control Act and its rules.

Not all license types permit package liquor sales. If your license allows on-premise consumption only, this practice would be a violation of the Liquor Control Act and its rules. Additionally, open containers of spirits or beer may not be removed from the licensed premises. A partially consumed bottle of wine may be removed from a licensed premises when purchased with a meal, subject to the requirements set forth in NMSA 1978 60-3A-12. Spirits are defined in the Liquor Control Act as "distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters bearing the federal internal revenue strip stamps or any other similar alcoholic beverage…"

NMAC 15.10.51.11 prohibits several practices including the sale or delivery of an unlimited number of drinks for a fixed price and allowing any person to have more than two unconsumed alcoholic beverage drinks at any one time. The rule allows the service of a bottle of wine or a pitcher of beer to more than one person. It does NOT authorize the sale of a bottle of spirits. Licensees should only provide spirituous alcohol by the drink, served by a certified server, and should charge per drink – not a fixed price.

If there are further questions or concerns regarding this practice, please contact me at (505) 476-4550 or via e-mail at gary.tomada@state.nm.us .

Sincerely,

Gary Tomada

Gary Tomada, Director
Alcohol and Gaming Division

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