

NM REGULATION AND LICENSING DEPARTMENT
ALCOHOL AND GAMING DIVISION

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PERSONAL REPRESENTATIVE
APPLICATION



INSTRUCTIONS FOR PERSONAL REPRESENTATIVE APPLICATION

1. The non-refundable application fee of \$200.00, must be enclosed or the application will be returned to you.
Keep a copy of the complete application packet for your records.
2. **Checklist**, included in the packet to assist you in submitting all the required documentation.
3. Pages 1, and 6 of the application must be signed and notarized.
4. Must include supporting documentation, in the name of the **APPLICANT**.
5. Requires all the following applicable documents: Death Certificate, Last Will and Testament, Letters of Testamentary and Court Order/Decree
6. **Fingerprints:** Because the Liquor Control Act does not allow for a Convicted Felon to own or be an officer on a Liquor License, this Agency requires such persons to be fingerprinted to receive the background reports from the State and Federal level.

Fingerprints are required for the Applicant and each Principal Officer/Director/Resident Agent listed, *only if they have never submitted Fingerprints to this agency before*, or if there has been an arrest record, they'll need to register with Cogent online at www.cogentid.com If fingerprints cannot be done by Livescan with Cogent, please contact AGD at (505) 476-4875 or consult AGD website for instructions.

EXPLANATION OF REQUIRED DOCUMENTS:

PAGE 1 – APPLICATION

Include Supporting Documentation – Must provide a copy of any and all supporting documentation such as: Death Certificate, Last Will and Testament, Letters of Testamentary and Court Order/Decree.

PAGE 6 – PERSONAL DATA AFFIDAVIT

Submit this page for each individual applicant, each Principal Officer and Director of a Corporation, each Stockholder (individual) owning 10% or more of the stock in Applicant Corporation, each individual Limited or General Partner, and each Resident Agent for a Corporation, and each Manager and Member of LLC with 10% or more interest.

As part of the application, EACH individual, Principal Officer, Director, and Shareholder who owns a 10% interest or more, applying for license must complete the Personal Data Affidavit form.

All Owners, on site Managers and Resident Agents must obtain or maintain a valid Alcohol Server Certification Permit. Everyone who sells or serves alcohol in the state of New Mexico is required to obtain a permit by taking a New Mexico approved Alcohol Server Education class. This includes all Bartenders, Waiters, Managers, Liquor License Owners, Convenience or Grocery Store Clerks, and the Designated Resident Agent for the License.

Please Note: The Director may require additional information or supporting documentation to complete the application.

Overview of Applicable New Mexico State Laws and Rules:

NMSA¹⁹⁷⁸ §60-6A-19. NO PROPERTY RIGHT IN LICENSE; EXCEPTION.

A. The holder of any license issued under the Liquor Control Act [^{60-3A-1}NMSA 1978] or any former act has no vested property right in the license, which is the property of the state; provided that retailer's licenses, dispenser's licenses and canopy licenses that were replaced by dispenser's licenses pursuant to Section 60-6B-16NMSA 1978:

(1) shall be considered property subject to execution, attachment, a security transaction, liens, receivership and all other incidents of tangible personal property under the laws of this state, except as otherwise provided in the Liquor Control Act; (2) may be assigned, transferred from person to person or leased, provided all requirements of the Liquor Control Act and department regulations are fulfilled; and

(3) shall be transferred as personal property upon attachment, execution, repossession by a secured party or lienor, foreclosure by a creditor, **appointment of a receiver for the licensee, death of the licensee**, filing of a petition of bankruptcy by or for the licensee, **incapacity of the licensee** or dissolution of the licensee. The director may by rule or regulation determine any application or notice requirement for a person who temporarily holds a license pursuant to this subsection.

B. Any license issued under the Liquor Control Act [^{60-3A-1}NMSA 1978] may be transferred to any location not otherwise contrary to law within the same local option district where the license is then located, provided all requirements of the Liquor Control Act and department regulations are fulfilled.

§60-6B-9. DISCONTINUANCE OF BUSINESS OR DEATH OF LICENSEE; JUDICIAL SALES.

A. If a retailer, dispenser, canopy licensee, restaurant licensee, club licensee or governmental licensee or its lessee discontinues business for any reason or the licensee dies, the stock of alcoholic beverages owned at the time of the discontinuation of business or the death of the licensee may be sold in whole or in part to any other retailer, dispenser, canopy licensee, restaurant licensee, club licensee or governmental licensee or its lessee or to a New Mexico wholesaler without the selling incurring criminal or civil liability under the provisions of the Liquor Control Act [^{60-3A-1}NMSA 1978].

B. If the stock of alcoholic beverages is sold under execution or attachment or by order of a court, the stock shall be sold only to other New Mexico retailers, dispensers, canopy licensees, restaurant licensees, club licensees, governmental licensees or their lessees or to a New Mexico wholesaler.

NMAC 15.11.23.10 TRANSFER UPON DEATH, FORECLOSURE, OR BANKRUPTCY:

A. Dispenser's licenses and retailer's licenses may be transferred as personal property upon attachment, execution, repossession by a secured party or lienor, foreclosure by a creditor, appointment of a receiver for the licensee, death of the licensee, filing of a petition of bankruptcy by or for the licensee, incapacity of the licensee or dissolution of the licensee.

B. **Any receiver, trustee, conservator, personal representative, special master or other person obtaining possession of a license** because of any circumstances described in Paragraph 10.1 [now Subsection A of 15.11.23.10^{NMAC}] above **shall, within ten days of possession, notify the department, in writing, of his possession and provide the department with all relevant documents relating to the possession, including, but not limited to, death certificates, pleading, wills, court orders, appointments, executions, attachments, foreclosure documents, bankruptcy filings, and any other document**, whether or not filed in a court of competent jurisdiction, indicating the person's right to possession of the license.

C. Any person who obtains possession of a license because of the circumstances described in Paragraph 10.1 [now Subsection A of 15.11.23.10^{NMAC}] above shall, within 10 days of obtaining or being granted possession, request, in writing, that the operation of the license be suspended pursuant to §60-6B-7 NMSA 1978.

D. Any person who obtains possession of a license because of the circumstances described in Paragraph 10.1 [now Subsection A of 15.11.23.10^{NMAC}] above **who intends to operate said license, shall file all applications, submit to all reviews, and obtain all necessary approvals required** by the Liquor Control Act **prior to commencing operation** of the license.

E. Any subsequent transfer by a person who obtains possession of a license because of circumstances described in Paragraph 10.1 [now Subsection A of 15.11.23.10^{NMAC}] above **shall be subject to all provisions of the Liquor Control Act relating to the transfer of licenses**.

F. Provision of the documents required by Paragraphs 10.2 and 10.3 [now Subsections B and C of 15.11.23.10^{NMAC}] above will be sufficient notice to the department as to the change in ownership of the license.

G. If a license is owned by more than one person as individuals, and **one owner dies leaving a will which devises that owner's interest in the license to the other owners and to no other persons not already owners**, the personal representative of the deceased owner shall provide the department a copy of the probated will and any other documents required by the department. **The department will revise the ownership disclosure documents based on the will** and any associated documents, and **will not require the surviving owners to complete an application for transfer of ownership** as otherwise provided in these regulations.

H. No license will be issued when the applicant is delinquent in the payment of any taxes, fees, fines, costs or penalties collected by the state of New Mexico, the liability for which arises out of the exercise of the privilege of a liquor license; or if citations for violations of the Liquor Control Act are unresolved at the time of filing the application, unless the licensee and the department are involved in a formal administrative or judicial resolution process.

[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.23.8 CHANGE OF OWNERSHIP; CHANGE IN STRUCTURE:

A. All licensees must notify the department of **any change of ownership of the licensee** by filing an application with the department, together with the filing fee shown on the fee schedule of these regulations. A reportable change of ownership arises when any of the following events occurs since the last application filed with the department:

(1) **if the licensee is a corporation:** more than 10 percent of its stock is transferred through one or more transactions or when there is a merger or consolidation of the licensee with another entity;

(2) **if the licensee is a limited liability company:** more than 10 percent of the membership interests is transferred through one or more transactions or when there is a merger or consolidation of the licensee with another entity;

(3) **if the licensee is a general partnership:** there is any change of general partners through one or more transactions;

(4) **if the licensee is a limited partnership:** through one or more transactions, there is any change of general partners, or any change of limited partners contributing 10 percent or more of the total value of the contributions made to the limited partnership or any change in the limited partners entitled to 10 percent or more of the profits earned, or other compensation by way of income paid by the limited partnership; or

(5) **if the licensee is any other legal entity** that is not a corporation, limited liability company, general partnership, or limited partnership: any person or entity becomes the owner of more than 10 percent interest through one or more transactions, or when a total of more than a 10 percent interest in the licensee entity or license has transferred.

B. All licensees must notify the department of changes in the structure of the licensee by filing an application with the department, together with the filing fee shown on the fee schedule of these regulations. A reportable change in structure arises when any of the following occurs;

(1) any change in the manager;

(2) any change in a principal officer or directors of a licensee that is a corporation or limited liability company;

(3) any change in the legal entity under which the licensee operates, for example, an individual licensee changing to a corporation which is wholly-owned by the individual licensee;

(4) any change in general partners, or in limited partners who own more than 10 percent, of a partnership;

(5) any change in the trustee or beneficiary of a trust.

C. A change of structure does not require a hearing by the department or by the local governing body.

D. This regulation does not authorize the transfer of any stock or other ownership interest of any licensee whose license is not otherwise transferable under the provisions of the Liquor Control Act.

E. The director, upon notification of any change in ownership or structure, may require any entity or person who has obtained an interest in any license, or other entity, to complete and provide all documents and information the director deems necessary to ensure the full disclosure and qualification of all persons and entities, including the information required under 15 NMAC 11.2.2.10 [now 15.11.22.10 NMAC], concerning disclosure of ownership.

F. **No license will be issued when the applicant is delinquent in the payment of any taxes, fees, fines, costs or penalties** collected by the state of New Mexico, the liability for which arises out of the exercise of the privilege of a liquor license; or if citations for violations of the Liquor Control Act are unresolved at the time of filing the application, unless the licensee and the department are involved in a formal administrative or judicial resolution process.

G. If a person who owns more than 10 percent interest in a license acquires any additional interest, no transfer of ownership application is required, but the department must be notified within 10 days of such acquisition by filing an amended page 4 of the application.

[3/31/97; 7/15/99; Recompiled 12/31/01]

15.11.23.9 CORPORATION NAME CHANGE; BUSINESS NAME CHANGE:

A. **A licensee that is a corporation** that changes the name of the corporation must send written notification to the department, together with a fee of \$50. The licensee must also file with the department a copy of the application filed with the New Mexico corporation commission requesting a name change and a copy of the certificate issued by the New Mexico corporation commission reflecting the name change.

B. **Any licensee that changes the name under which it operates** a liquor license must file an application for change of DBA (“doing business as”) name with the department.

C. The department, upon review and acceptance, shall change the name on its records and issue a license which reflects the new name. The licensee may not use the new name until a license is issued.

D. Upon receipt of the license reflecting the new name, the licensee shall return the old license to the department.

[3/31/97; 7/15/99; Recompiled 12/31/01]



AGD USE ONLY: Payment| Application Fee \$ _____ Received on: _____ Receipt No. _____

Application Number: _____ Local Option District: _____

PERSONAL REPRESENTATIVE APPLICATION

\$200.00 Application Fee, non-refundable.

License No. _____ Type of License: _____ Expires on: _____

If currently being Lease, Lessee: _____

Term of Lease, Begins on: _____ Ends on: _____

Record Owner of Existing License: _____

Current D/B/A Name: _____

Current Premises Address: _____

Check appropriate boxes: Applicant is: Individual Limited Liability Company Corporation Partnership (General/Limited)

NAME OF APPLICANT: _____

Mailing Address: _____

Contact Number: _____ Business Phone #: _____

Email Address (required): _____

D/B/A Name to be used: _____

Physical location where license is to be used: (Include street number / highway number / state road, city and county, state, and zip code)

Are alcoholic beverages currently being dispensed at the proposed location? Yes No If Yes, License # / Type: _____

I, (print name) _____, as (title) _____
being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application;
that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations
herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

You must sign and date this form before a Notary Public.

Signature of Applicant: _____ Date: _____

NOTARY PUBLIC USE ONLY: (State of _____, County of _____)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____

By: _____ Notary Public: _____

SEAL

My Commission Expires: _____

FOR ALCOHOL AND GAMING DIVISION USE ONLY: Approved Disapproved

Signed by Director: _____ Date: _____



AGD use only| Fingerprints #/Received on: _____ Cleared on: _____ Server Permit# _____ Expires: _____
Liquor License # _____ or Application # _____

PERSONAL DATA AFFIDAVIT

INSTRUCTIONS: Submit this page for Each Individual Applicant, Each Principal Officer and Director of a Corporation, Each Stockholder (individual) owning 10% or more of the stock in Applicant Corporation, Each individual Limited Liability or General Partner, Each Resident Agent for a Corporation, and Each Manager and Member of LLC with 10% or more interest. Make additional copies of this page if necessary. *Print clearly.*

First Name: _____ Last Name: _____

SS # _____ - _____ - _____ Birth Date: ____/____/____ Contact #: _____

Email Address: _____

Business Address: _____ Business Phone: _____

Residence Address: _____

City: _____ State: _____ Zip Code: _____

Driver's License, Issued in the State of: _____ DL No. _____

U.S. Citizenship or Citizen of: _____ Resident Alien # _____

Male Female Are you at least 21 years of age? Yes No Are you married? Yes No, *If yes,*

has your spouse ever been convicted of a felony in any jurisdiction? Yes No *If yes, provide details:* _____

ALIAS: If you have been known by any other name, list date and reason for other name(s). Attach additional pages if necessary.

Name(s) Used: _____ Date(s) of Change: _____

Reason for Change (such as Marriage/Divorce/Decree): _____

Have you been Convicted of a Felony? Yes No *If yes, provide details:* _____ and,

has the Governor restored your privilege to receive and hold a Liquor License? Yes, *copy attached* No N/A

Have you been convicted of two separate misdemeanor violations of the New Mexico Liquor Control Act in any calendar year?

Yes No *If yes, provide details:* _____

Have you ever had an Application for a Liquor License, in any State, suspended or revoked? Yes No *If yes, provide details:* _____

Do you directly or indirectly own any interest in a Liquor License? Yes, *list all License No.(s) and State(s):* _____

Yes, *see attached* No

If your response is Yes to the following two questions, you need to be alcohol server certified.

- 1. Will you manage, direct or control the sale of alcohol? Yes No
- 2. Will you be present on the licensed premises on a regular basis? Yes No

You must sign before a Notary Public, and ALL questions must be answered.

I, (print name) _____ swear that I have answered each question honestly, that the information provided in my responses are true and correct, and understand that if any information contained herein is false or found to be false, the Division may revoke the Liquor License issued under this Application.

Affiant Signature: _____ Date: _____

Note: For fingerprint procedures, review information provided on the website.

NOTARY PUBLIC USE ONLY: (State of _____, County of _____)

SUBSCRIBED & SWORN TO before me, this _____ day of _____, 20____

By: _____ Notary Public: _____

My Commission Expires: _____

SEAL

PERSONAL REPRESENTATIVE APPLICATION CHECKLIST **No Hearing or Posting required*

Date Stamp: _____ LIC. No. _____ Type: _____ Expires on: _____

Application Number: _____ LOD: _____ County: _____

APPLICANT NAME: _____

D/B/A: _____

PROPOSED LOCATION: _____

MAILING ADDRESS: _____

Contact Person/Agent: _____ Ph: _____

Email: _____

LICENSEE: _____

INFO: _____

TAX HOLD? _____

OUTSTANDING CITATIONS? _____

PAGE 1 |APPLICATION completed? ___Y ___N Application Fee of \$200? ___Y ___N
 Appointment of Personal Representative submitted? ___Y ___N Comment: _____

Attached, if applicable:

Death Certificate? ___Y ___N Comment: _____

Last Will & Testament, if available? ___Y ___N Comment: _____

Letters of Testamentary? ___Y ___N Comment: _____

PAGE 6 |PERSONAL DATA AFFIDAVIT submitted for Personal Representative? ___Yes ___No
 Comment: _____

%	Title / Name	FPs submitted on / Date Cleared	Server#